



To: Honorable City Council
From: John Moreno, City Manager
By: Grissel Chavez, Assistant City Manager
Date: July 9, 2024

SUBJECT: AGREEMENT WITH BARON & BUDD, P.C. AND COSSICH, SUMICH, PARSIOLA & TAYLOR LLC FOR SPECIAL LEGAL SERVICES

BACKGROUND

The City of Paramount's water supply is rigorously tested and continually meets or exceeds strict State and Federal standards to ensure that the drinking water we provide is safe. However, as with many water providers in our region, the State, and the nation, certain levels of the chemicals per- and polyfluoroalkyl substances ("PFAS"), perfluorooctanoic acid ("PFOA") and/or perfluoro octane sulfonic acid ("PFOS") have been detected at one source of Paramount's groundwater supply. This source is Water Well No. 14. (These chemicals have not been detected at the two other City water wells). On February 20, 2020, out of an abundance of caution, the City voluntarily turned off Well 14 due to exceedances of the Notification Levels for PFOS. This action was not required by State or Federal drinking water laws; the City chose to take such action on its own.

With Water Well 14 turned off, the City water system has been purchasing water from the Metropolitan Water District of Southern California (MWD) at a cost increase of \$2 million annually.

DISCUSSION

The City learned of several pending lawsuits related to PFAS, in which 3M and Dupont among others have been named as defendants for their role in manufacturing PFAS. These cases have all been removed to federal court and have now been consolidated into MDL (multi district litigation) Case No. 2873 before Judge Richard M. Gergel in the United States District Court for the District of South Carolina. The Judge overseeing the case appointed law firms Baron & Budd, P.C. and Cossich, Sumich, Parsiola & Taylor LLC (the "Firms") to the Plaintiffs' Executive Committee. The firms are representing hundreds of municipal water systems across the country in this MDL. Settlements between 3M and DuPont and public water providers were approved in June 2023. Most recently, BASF Corporation and Tyco Fire Products, LP, and its related entities announced separate settlements with public water providers. Public water provider cases continue to move forward against several other telomer defendants in the MDL.

Cities can join in the lawsuit to recover any and all past and future compensatory and/or consequential damages for the investigation, remediation, removal, disposal, and monitoring of the ongoing impacts to its surface, groundwater, soil, and sediment caused and/or created by defendants' products, as well as any and all punitive damages available as a result of the actions and/or inactions of defendants. It is believed that since the 1960s, defendants manufactured, marketed, and/or sold PFAS including but not limited to PFOA and/or PFOS and/or the precursors to PFOS and PFOA or products made with those constituents including Teflon, Scotchguard, waterproofing compounds, stain proofing compounds, paper and cloth coatings, waxes, and various other products.

The firms will provide legal services to the City of Paramount with respect to damages, compensation, and other relief to which the City may be entitled as a result of an Action to be filed by the firms on behalf of the City against the manufacturer(s) and supplier(s) of firefighting foam products (known as "aqueous film forming foam" or "AFFF") and/or other products containing PFAS, PFOA or PFOS, and any other related compounds.

Staff recommends that the City of Paramount join in this litigation action and seek to recover the substantial costs necessary to ensure a safe and reliable drinking water supply from wells that have been impacted by PFAS including but not limited to PFOA and/or PFOS.

If the litigation participation is approved, the City Attorney and Director of Public Works will work with the firms to provide data and necessary information, allow for inspections, and respond to requests related to the City water system. The first filing deadline for the City to submit a claim in response to the settlement is July 12, 2024. Additional filing deadlines for future claims will take place later this summer. The Firms will incur any and all costs associated with litigation based a contingency agreement.

FISCAL IMPACT

None. The special legal services agreement operates under a 25% contingency basis, which means there is no cost to the City. If the City were to succeed, Baron & Budd, P.C. and Cossich, Sumich, Parsiola & Taylor LLC will recover 25% of any recovery.

VISION, MISSION, VALUES, AND STRATEGIC OUTCOMES

The City's Vision, Mission, and Values set the standard for the organization, establish priorities, uniformity and guidelines; and provide the framework for policy decision making. The Strategic Outcomes were implemented to provide a pathway to achieving the City's Vision. This item aligns with Strategic Outcome No 6: Efficient, Effective, and Fiscally Responsible - Deliver an efficient and effective City government in a fiscally responsible, transparent and collaborative manner.

RECOMMENDED ACTION

Approve a contingency agreement with Baron & Budd, P.C. and Cossich, Sumich, Parsiola & Taylor LLC for Special Legal Services and authorize the City Manager to execute the agreement.