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August 14, 2024

VIA ELECTRONIC MAIL

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Dear Ms. Haley and Ms. Crose:

I am writing to ask the consent of the City of Los Angeles to TC representing Western Metals Corporation and ABB, Inc. in Please let me know if you will consent or if you have any questions. Thank you.

Nature of Case, Site & City of Los Angeles Involvement:

Thompson Coburn ("TC") has been asked to represent Western Metals in environmental litigation in the Central District of California (the "BKK Litigation"). The case in which Western Metals is now a Defendant involves the former BKK landfill located in West Covina, California. The landfill was operated between the early 1960s and 1987 and received numerous hazardous wastes which have now contaminated the surrounding properties and groundwater. In the early 2000s the State of California initiated a cleanup action against several of the largest generators of waste to the landfill, including the City of Los Angeles ("City"). The State alleged that the City, through its Department of Water and Power, arranged for the disposal of hazardous substances at the BKK landfill.

The City's Participation in the BKK Working Group:

The generators then formed a joint-defense group named the BKK Working Group ("BKK Group"), which consists of 40+ members and includes several TC clients, including the City. The BKK group entered into a number of consent decrees with the State to perform certain cleanup activities at the site and have incurred approximately \$250 Million in costs doing so. In 2018, the BKK Group filed two lawsuits in the Central District of California against other generators of waste to the landfill. Those cases were stayed while the State sought settlements from the thousands of other generators to the site. TC client, ABB, Inc., received three of these settlement demands from the State in 2022 (for former ABB entities) and since that time TC has represented ABB in

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negotiations with the State of California. Last summer, the Central District of California ruled that it would not stay the federal cases beyond July of 2024. In anticipation of the stay expiring, the BKK Group has prepared a 6th Amended Complaint to add more parties to the two cases, including Western Metals.

The Current Action for which TC Requests a Waiver:

The BKK Group filed its 6th Amended Complaint on April 29, 2024, on behalf of itself (an unincorporated California association) and in the individual name of each of the 40+ members of the BKK Group. See *BKK Working Group et al. v 1700 Santa Fe LTD, et al.*, No. 2:18-cv-05810, ECF 83 (C.D. Cal.). The City is a named plaintiff in the lawsuit. TC has been asked to represent Western Metals in the lawsuit. Further, ABB expects to be added to the lawsuit in the near term. Because the suit is brought by the individual members of the BKK Group, including the City (in its individual capacity), TC cannot proceed with the representation of Western Metals and ABB in the lawsuit without a conflict waiver from the City. Western Metals and ABB have agreed to limit TC's engagement and waive any potential conflict under the following conditions:

1. No confidential City information will be shared with Western Metals and ABB or vice versa;
2. In the unlikely event that individualized claims or discovery (either written discovery or depositions) are pursued in the BKK Litigation between Western Metals and/or ABB and City, any such claims or discovery will not be handled by TC; and
3. Neither Western Metals and/or ABB nor the City will seek to disqualify TC from its representation of the City in any unrelated matter or of Western Metals and/or ABB in the BKK Litigation.

It is expected that there will be thousands of Defendants before the pleadings close. Although it is uncertain what the Court will do with cross-claims, typically the Court will deem all potential cross-claims "asserted and denied" because of the nature of the contribution/allocation of claims under CERCLA.

With the limitations and measures set forth above our commitment and dedication to the City's interests will not be adversely affected by our representation of Western Metals and ABB in the BKK Litigation and we will continue to provide competent and diligent representation to the City. If the City decides to consent to TC's representation of Western Metals and ABB in the BKK Litigation, waiving the conflict of interest under the terms set forth above, please respond to this email confirming the City's understanding of the circumstances and its consent and waiver.

Best regards,

Thompson Coburn LLP



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***Signature electronically applied**

By

C. Jonathan Benner

Cc : Joyce Pratt
Ryan Kemper