

Referrals
1/15/19

INTERNAL
OPERATIONS
STANDING
COMMITTEE



CITY OF DETROIT
LAW DEPARTMENT

13
COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE, SUITE 500
DETROIT, MICHIGAN 48226-3437
PHONE 313•224•4550
FAX 313•224•5505
WWW.DETROITMI.GOV

January 7, 2019

HONORABLE CITY COUNCIL

RE: Katrice Sullivan v City of Detroit
Case No: 18-000711-NI
File No: L18-00101(PH)

We have reviewed the above-captioned lawsuit, the facts and particulars of which are set forth in a confidential memorandum that is being separately hand-delivered to each member of Your Honorable Body. From this review, it is our considered opinion that a settlement in the amount of **Six Thousand Dollars and ^{NO}/Cents (\$6,000.00)** is in the best interest of the City of Detroit.

We, therefore, request authorization to settle this matter in the amount of **Six Thousand Dollars and ^{NO}/Cents (\$6,000.00)** and that Your Honorable Body direct the Finance Director to issue a draft in that amount payable to **Katrice Sullivan** and her attorney, **The Lobb Law Firm**, to be delivered upon receipt of properly executed Releases and Stipulation and Order of Dismissal entered in Lawsuit No. 18-000711-NI, approved by the Law Department.

Respectfully submitted,

Philip Hiltner
Assistant Corporation Counsel

APPROVED JAN 07 2019

LAWRENCE GARCIA
Corporation Counsel

BY:

KRYSTAL A. CRITTENDON
Supervising Assistant Corporation Counsel

Attachments

CITY CLERK 2019 JAN 9 9:43:00

R E S O L U T I O N

BY COUNCIL MEMBER _____:

RESOLVED, that settlement of the above matter be and is hereby authorized in the amount of **Six Thousand Dollars and ^{NO}/Cents (\$6,000.00)**; and be it further

RESOLVED, that the Finance Director be and is hereby authorized and directed to draw a warrant upon the proper account in favor of **Katrice Sullivan** and her attorney, **The Lobb Law Firm**, in the amount of **Six Thousand Dollars and ^{NO}/Cents (\$6,000.00)** in full payment for any and all claims which Katrice Sullivan may have against the City of Detroit and any other City of Detroit employees by reason of alleged injuries sustained in an automobile accident sustained on or about May 24, 2017, and that said amount be paid upon receipt of properly executed Releases, Stipulation and Order of Dismissal entered in Lawsuit No.18-000711-NI and, where it is deemed necessary or desirable by the Law Department, a properly executed Medicare Reporting and Indemnification Affidavit, approved by the Law Department.

APPROVED:

LAWRENCE GARCIA
Corporation Counsel

BY: _____

Krystal A. Crittendon
KRYSTAL A. CRITTENDON

Supervising Assistant Corporation Counsel



CITY OF DETROIT
LAW DEPARTMENT

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November 15, 2018

HONORABLE CITY COUNCIL

**RE: Eldreed Berry v City of Detroit
Civil Action Case No: 17-00807**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

Sgt. Roy Harris	Badge No: S216
P.O. Joseph Castro	Badge No: 2979
P.O. William Morrison	Badge No: 628
P.O. Bashawn Gaines	Badge No: 1160
P.O. Ryan Paul	Badge No: 1056
P.O. Jeffrey Wawrzyniak (resigned)	Badge No: 3743
P.O. Sadie Howell	Badge No: 3599

Respectfully submitted,

Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY:

LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 8 AM 9:52

RESOLUTION

By Council Member

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Eldreedy Berry v City of Detroit, Civil Case No. 17-00807**.

Sgt. Roy Harris	Badge No: S216
P.O. Joseph Castro	Badge No: 2979
P.O. William Morrison	Badge No: 628
P.O. Bashawn Gaines	Badge No: 1160
P.O. Ryan Paul	Badge No: 1056
P.O. Jeffrey Wawrzyniak (resigned)	Badge No: 3743
P.O. Sadie Howell	Badge No: 3599

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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November 15, 2018

HONORABLE CITY COUNCIL

**RE: D'Marco Craft and Michael Jackson v City of Detroit
Civil Action Case No: 17-cv-12752**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

P.O. Hakeem Patterson Badge No: 3639

Respectfully submitted,

Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY:
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 8 AM 9:52

RESOLUTION

By Council Member

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **D'Marco Craft and Michael Jackson v City of Detroit, Civil Case No. 18-cv-12752.**

P.O. Hakeem Patterson Badge No: 3639

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

16
COLEMAN A. YOUNG MUNICIPAL CENTER
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November 14, 2018

HONORABLE CITY COUNCIL

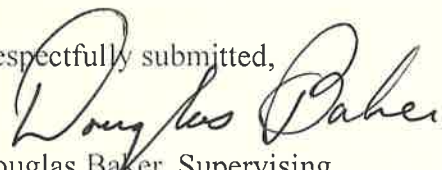
**RE: D'Marco Craft and Michael Jackson vs City of Detroit
Civil Action Case No: 17-cv-12752**

Representation and indemnification by the City of Detroit of the City employee(s) or officer(s) listed below is hereby not recommended. We agree with the recommendation of the Head of the Department, and believe that the City Council should find and determine that the suit against the Defendants does not arise out of or involve the performance in good faith of the official duties of such Defendants. The Defendants violated department procedure, the criminal law and was not in the performance of his official duties at the time the acts complained of were committed. We, therefore, recommend a "NO" vote on the attached resolution. **Copies of the relevant documents** are submitted under separate cover.

Employees or Officers requesting representation:

P.O. Richard Billingslea Badge No: 971

Respectfully submitted,


Douglas Baker, Supervising
Assistant Corporation Counsel

APPROVED:

BY: 
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb
Attachments

CITY CLERK 2019 JAN 8 AM 9:52

BY COUNCIL MEMBER: _____

Resolution Setting
Required Hearings
Regarding Defense and Indemnification of
Certain Members of the Detroit Police Department

- Whereas, Section 7.5-203, *Civil Litigation*, of the 2012 Detroit City Charter provides, in relevant part, that “[upon request, the Corporation Counsel may represent any officer or employee of the city in any action or proceeding involving official duties[;]” and,
- Whereas, Section 13-1 1-5, *Civil Service and Personnel Regulations*, of the 1984 Detroit City Code provides, in pertinent part, that “the city council shall consider and determine whether the corporation counsel shall represent the officer or employee in the matter and find and determine whether or not the claim, demand or suit arises out of or involves the performance in good faith of the official duties of such officer or employee [;]” and,
- Whereas, Arbitration awards issued by the Voluntary Labor Arbitration Tribunal recognize the past practice of City Council holding hearings for police officers who have been denied representation (*see* Grievance Nos. 79-237, 82-055, 90-047, and 92-200/92-202); **Now Therefore Be It**
- Resolved, That, pursuant to the above and MCL 15.268(a), closed sessions are to be held on _____ for the purpose of conducting hearings related to the following:
- Legal Representation and Indemnification in lawsuit of *D'Marco Craft and Michael Jackson v. City of Detroit, Civil Action Number 17-cv-12752 for P.O. Richard Billingslea*; and **Be It Further**
- Resolved That the hearings are scheduled at _____; **and Be It Finally**
- Resolved That a copy of this resolution be timely provided to the Detroit Police Officers Association and the Corporation Counsel.



CITY OF DETROIT
LAW DEPARTMENT

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November 29, 2018

HONORABLE CITY COUNCIL

**RE: Isiah Kendricks v City of Detroit
Civil Action Case No: 18-014114-NI**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

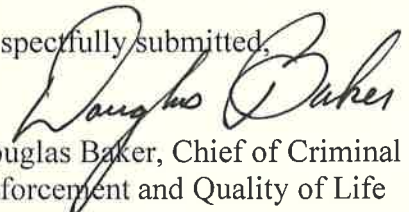
Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

TEO Cleo Strickland

Badge No: 4860

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY:


LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 3 09:52

RESOLUTION

By Council Member

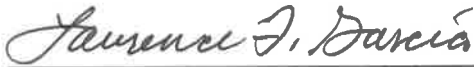
RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Isiah Kendricks v City of Detroit, Civil Case No. 18-014114-NI.**

TEO Cleo Strickland

Badge No: 4860

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

18
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November 6, 2018

HONORABLE CITY COUNCIL

**RE: Cloria Farris v City of Detroit
Civil Action Case No: 18-005443 NZ**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

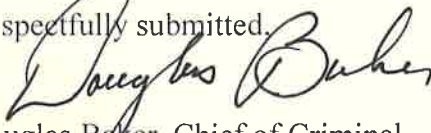
Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

Erik Peterson

Badge No: 3641

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY: 
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JUN 8 AM 9:53

RESOLUTION

By Council Member

:

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Cloria Farris v City of Detroit, Civil Case No. 18-005443 NZ**

Erik Peterson

Badge No: 3641

APPROVED:

BY:

Lawrence T. Garcia

LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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October 31, 2018

HONORABLE CITY COUNCIL

**RE: Kenneth Bridgewater v City of Detroit
Civil Action Case No: 18-12225**

Representation by the Law Department of the City employees or officers listed below is hereby announced, as we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

Kelvin Harris – Captain of Plans and Examination

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 8 AM 9:53

RESOLUTION

By Council Member :

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Kenneth Bridgewater v City of Detroit, Civil Case No. 18-12225.**

Kelvin Harris – Captain of Plans and Examination

APPROVED:

BY: *Lawrence T. Garcia*
LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

20

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November 5, 2018

HONORABLE CITY COUNCIL

**RE: Karen Graham v City of Detroit
Civil Action Case No: 18-11928**

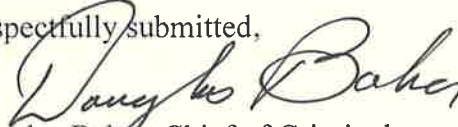
Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

Program Management Officer Amy Sovereign

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY: 
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2018 JAN 8 AM 9:53

RESOLUTION

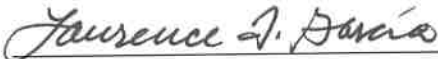
By Council Member _____ :

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Karen Graham v City of Detroit, Civil Case No. 18-11928.**

Program Management Officer Amy Sovereign

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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November 5, 2018

HONORABLE CITY COUNCIL

**RE: Karen Graham v City of Detroit
Civil Action Case No: 18-11928**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

Director Michael Homant

Respectfully submitted,

Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY:
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2018 JAN 8 AM 9:53

RESOLUTION

By Council Member _____ :

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Karen Graham v City of Detroit, Civil Case No. 18-11928.**

Director Michael Homant

APPROVED:

BY: *Lawrence T. Garcia*
LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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December 19, 2018

HONORABLE CITY COUNCIL

**RE: Derrick Thompson v City of Detroit
Civil Action Case No: 17-016125 NO**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

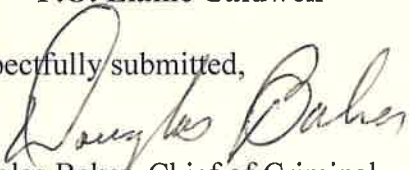
Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

P.O. Elaine Caldwell

Badge No: 5154

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY: 
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 9 AM 11:24

RESOLUTION

By Council Member

:

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Derrick Thompson v City of Detroit, Civil Case No. 17-016125** NO.

P.O. Elaine Caldwell

Badge No: 5154

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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December 17, 2018

HONORABLE CITY COUNCIL

**RE: Johnny Strickland v City of Detroit
Civil Action Case No: 18-cv-12640**

Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

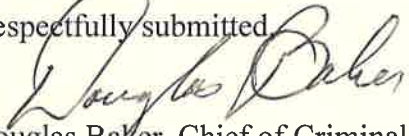
Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

**Commander Mark Bliss
Sergeant Rodney Ballinger
P.O. Casey Schimeck**

**Badge No: ---
Badge No: S-1071
Badge No: 4750**

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY: 
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 9 AM 11:25

RESOLUTION

By Council Member

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Johnny Strickland v City of Detroit, Civil Case No. 18-cv-12640.**

Commander Mark Bliss
Sergeant Rodney Ballinger
P.O. Casey Schimeck

Badge No: ---
Badge No: S-1071
Badge No: 4750

APPROVED:

BY:

LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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December 17, 2018

HONORABLE CITY COUNCIL

**RE: Ted Jankowski v City of Detroit
Civil Action Case No: 18-cv-12301**

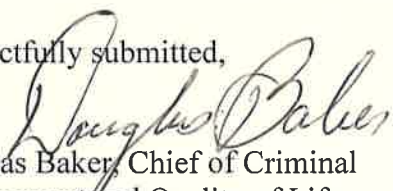
Representation by the Law Department of the City employees or officers listed below is hereby announced, and we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

P.O. Clinton Elam	Badge No: 356
P.O. Aaron Engh	Badge No: 2505
P.O. Ryan Jones	Badge No: 2678
P.O. Erik Franti	Badge No: 4214

Respectfully submitted,


Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2019 JAN 9 AM 11:11

RESOLUTION

By Council Member

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide legal representation and indemnification to the following Employees or Officers in the lawsuit **Ted Jankowski v City of Detroit, Civil Case No. 18-cv-12301.**

P.O. Clinton Elam

Badge No: 356

P.O. Aaron Engh

Badge No: 2505

P.O. Ryan Jones

Badge No: 2678

P.O. Erik Franti

Badge No: 4214

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



CITY OF DETROIT
LAW DEPARTMENT

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PHONE 313•224•4550
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Date: January 8, 2019

To: Honorable City Council

From: Law Department

Re: Law Department Report on MVA Settlements as authorized by resolution of the Detroit City Council.

The Law Department has submitted a privileged and confidential memorandum regarding the above-referenced matter. Please submit this item for referral so that Council may consider any action that is necessary.

CITY CLERK 2019 JAN 8 AM 9:55



CITY OF DETROIT
LAW DEPARTMENT

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PHONE 313•224•4550
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WWW.DETROITMI.GOV

Date: January 8, 2019

To: Honorable City Council

From: Law Department

Re: State of Michigan Quarterly Risk Management Report Pursuant to Section 18-8-24,
Appropriations, quarterly reports, of the 1984 Detroit City Code.

The Law Department has submitted a privileged and confidential memorandum regarding the above-referenced matter. Please submit this item for referral so that Council may consider any action that is necessary.

CITY CLERK 2019 JAN 8 AM 9:56



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

Ellen Ha, Esq.
Inspector General

27

December 14, 2018

Via Certified, Return-receipt, and Regular Mail

Joan Fiore
Javion & Sams 24 Hour Towing Service, Inc.
8100 Lynch Road
Detroit, Michigan 48234

RE: OIG Investigation File Nos. 18-0008-INV and 18-0042-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Joan Fiore and Javion & Sam's 24 Hour Towing Service, Inc.

Dear Ms. Fiore:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that Javion & Sam's and Joan Fiore be debarred for a period of fifteen (15) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your argument in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar contractors.
2. The Debarment Ordinance is not applicable to the 2016 towing permits.
3. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
4. The OIG cannot debar Javion & Sam's and Joan Fiore for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.
5. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.

6. The scope of the OIG administrative hearing was to address whether Javion & Sam's should be precluded from bidding on future contracts with the City and did not contemplate debarment.
7. The OIG's findings of fact are not supported by evidence.

The OIG Has the Authority to Debar Contractors

The OIG's authority to debar is derived from Sections 6-308 and 7.5-310 of the 2012 City of Detroit Charter (the Charter, as well as the City's Debarment Ordinance.

Read as a whole, contractors are required to cooperate with an OIG investigation. Anyone who chooses not to comply with an OIG request for documents and testimony subjects themselves to discipline, up to and including debarment. "Contractor" and "Public Servant" are further defined in Section 2-105 of the Charter and Section 18-11-3 of the City's Debarment Ordinance. Likewise, Section 18-11-3 of the Debarment Ordinance defines "Debarment" as "action taken by the City to exclude a person from acting as a contractor for a specified period of time."

In addition to Section 7.5-310 of the 2012 City of Detroit Charter, Section 6-308 of the Charter requires the Corporation Counsel to prepare and the City Council to implement the Debarment Ordinance which designates the Inspector General as the "chief investigative agent" for debarment.

The Debarment Ordinance was adopted by City Council as mandated by the 2012 Charter. The adaptation of the ordinance by the Council was not an attempt to "backstop its prior action terminating [your] corporate clients' towing permits in 2018 and to continue to violate [your] clients' due process rights" as you claim. The ordinance was not enacted just for your clients and/or other tow companies.

Debarment Ordinance is applicable to the 2016 Towing Permits

The Debarment Ordinance applies to all contractors, including any party who seeks to enter into a contract with the City. The OIG's initial recommendation to preclude Javion & Sam's and Joan Fiore from bidding on the City's towing contracts was made in May 2018, prior to the enactment of the City's Debarment Ordinance. However, the ordinance was adopted by Council and became effective on August 10, 2018, before the OIG's final recommendation of November 2, 2018 and before the OIG initiated debarment proceedings against the tow companies and its owners. Therefore, the City's Debarment Ordinance is applicable to the 2016 towing permits.

The Portions of OIG's Findings Which Relied on the FBI's Wiretap Affidavit Was Proper

The OIG reviewed thousands of pages of documents including but not limited to court filings, permit applications, Michigan Licensing and Regulatory Affairs (LARA) filings, and hearing transcripts. The OIG's recommendation was not solely based on the information contained in the FBI's wiretap affidavit nor did we improperly rely on the information contained therein. As you are well aware, during the July 27, 2018 *Hearing on Motion for Preliminary Injunction* in *Joan Lucas v. City of Detroit*, the Honorable Laurie J. Michelson ruled on the admissibility of the wiretap affidavit. She ruled as follows:

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the preceding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

To provide additional context to the wiretap information, you could have testified at the administrative hearing. In fact, the OIG requested that you appear to provide more information about the evidence contained in the wiretaps. However, your attorney submitted an affidavit that was devoid of any clarifying information and provided no additional information for any OIG follow-up questions. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that “[t]he Inspector General *may* subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours.” (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG’s requests for information and documentation triggers the contractor’s duty to cooperate, not a subpoena.

The Proposed Years of Debarment for Javion & Sam’s and Joan Fiore are Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If contractors were concerned that the potential maximum debarment period was excessive, they had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if contractors are truly concerned about debarment and the impact it could have on their businesses, they should not engage in conduct that would subject them to the ordinance.

The OIG’s proposed debarment period for Javion & Sam’s and Joan Fiore is just that, a proposal. The Inspector General’s past recommendation of May 2018 was just an initial recommendation based on the Inspector General’s initial findings, before the administrative

hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG's final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The OIG provided Javion & Sam's and Joan Fiore due process in the administrative hearing. However, they chose not to fully participate. Consistent with the OIG's commitment to providing due process, the parties have the right to oppose the debarment proceedings and the number of years proposed for the debarment. Javion & Sam's and Joan Fiore exercised this right on Friday, November 30, 2018. Javion & Sam's and Joan Fiore have the further right to appeal the OIG's final recommendation under the ordinance to City Council.

The Basis of the Proposed Debarment is the Result of the Findings from the Administrative Hearing Provided to Javion & Sam's and Joan Fiore

Javion & Sam's and Joan Fiore requested an administrative hearing on the OIG's initial recommendation to preclude Javion & Sam's from bidding on the current Municipal Parking Department and Detroit Police Department towing contracts. The purpose of the hearing was to permit Javion & Sam's and Joan Fiore an opportunity to present testimony and any supporting information in response to the OIG's initial finding of May 2018. Prior to the hearing, during the hearing, and after the hearing the OIG clearly identified to counsel for Javion & Sam's and Joan Fiore the additional information they need to submit to the OIG to potentially overturn its recommendation. Counsel, on behalf of his clients, elected not to fully cooperate. Thus, any final recommendation made by the OIG was based on the available information, including information made available by the attorneys representing the tow companies.

Javion & Sam's was suspended by the Board of Police Commissioners when the OIG initiated its investigation. Although the Debarment Ordinance does allow the Inspector General to issue an interim suspension for up to ninety (90) days pending investigation, suspension is not required prior to debarment initiation under the ordinance.

The OIG's Findings in the Final Recommendation Was Made Based on the Information Made Available to the OIG.

Finally, the OIG final report is supported by the entire record of information and by a preponderance of the evidence presented to the OIG. Javion & Sam's and Joan Fiore made a blanket statement in their response to the OIG that its "findings of fact are not supported by evidence." Yet no attempt was made on their part to specify any information contained in the final report that is inaccurate. Further, no additional information was provided to the OIG to consider and potentially amend its debarment recommendation; this includes information previously requested by the OIG but not provided as detailed in the administrative hearing report.

As such, the OIG is upholding its debarment recommendation that Javion & Sam's and Joan Fiore be debarred for fifteen (15) years, effective May 7, 2018. Therefore, if you disagree with the OIG's recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your clients on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,



Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

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Ellen Ha, Esq.
Inspector General

December 14, 2018

Via Certified, Return-receipt, and Regular Mail

David Fraser, Esq.
Holmes Fraser, PLLC
P.O. Box 263
Saint Clair, Michigan 48079-6263

RE: OIG Investigation File Nos. 18-0008-INV and 18-0043-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Paul Ott, City Wide Towing, Inc. and Gene's Towing, Inc.

Dear Mr. Fraser:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that City Wide, Gene's, and Paul Ott be debarred for a period of seven (7) years effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your argument in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar contractors.
2. The Debarment Ordinance is not applicable to the 2016 towing permits.
3. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
4. The OIG cannot debar City Wide, Gene's, and Paul Ott for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.
5. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the preceding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

Your client could have called those identified on the wiretaps to testify at the administrative hearing. However they chose not to. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that “[t]he Inspector General *may* subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours.” (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG’s requests for information and documentation triggers the contractor’s duty to cooperate, not a subpoena.

The Proposed Years of Debarment for City Wide, Gene’s, and Paul Ott are Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If contractors were concerned that the potential maximum debarment period was excessive, they had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if contractors are truly concerned about debarment and the impact it could have on their businesses, they should not engage in conduct that would subject them to the ordinance.

The OIG’s proposed debarment period for City Wide, Gene’s, and Paul Ott is just that, a proposal. The Inspector General’s past recommendation of May 2018 was just an initial recommendation based on the Inspector General’s initial findings, before the administrative hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG’s final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The OIG provided City Wide, Gene’s, and Paul Ott due process in the administrative hearing.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your clients on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ellen Ha', with a stylized flourish at the end.

Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

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Ellen Ha, Esq.
Inspector General

December 14, 2018

Via Certified, Return-receipt, and Regular Mail

Anthony Thomas
B&G Towing, LLC
8100 Lynch Road
Detroit, Michigan 28234

RE: OIG Investigation File Nos. 18-0008-INV and 18-0044-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Anthony Thomas and B & G Towing, LLC

Dear Mr. Thomas:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that B & G and Anthony Thomas be debarred for a period of seven (7) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your argument in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar contractors.
2. The Debarment Ordinance is not applicable to the 2016 towing permits.
3. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
4. The OIG cannot debar B & G and Anthony Thomas for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.
5. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.

6. The scope of the OIG administrative hearing was to address whether B & G should be precluded from bidding on future contracts with the City and did not contemplate debarment.
7. The OIG's findings of fact are not supported by evidence.

The OIG Has the Authority to Debar Contractors

The OIG's authority to debar is derived from Sections 6-308 and 7.5-310 of the 2012 City of Detroit Charter (the Charter), as well as the City's Debarment Ordinance.

Read as a whole, contractors are required to cooperate with an OIG investigation. Anyone who chooses not to comply with an OIG request for documents and testimony subjects themselves to discipline, up to and including debarment. "Contractor" and "Public Servant" are further defined in Section 2-105 of the Charter and Section 18-11-3 of the City's Debarment Ordinance. Likewise, Section 18-11-3 of the Debarment Ordinance defines "Debarment" as "action taken by the City to exclude a person from acting as a contractor for a specified period of time."

In addition to Section 7.5-310 of the 2012 City of Detroit Charter, Section 6-308 of the Charter requires the Corporation Counsel to prepare and the City Council to implement the Debarment Ordinance which designates the Inspector General as the "chief investigative agent" for debarment.

The Debarment Ordinance was adopted by City Council as mandated by the 2012 Charter. The adaptation of the ordinance by the Council was not an attempt to "backstop its prior action terminating [your] corporate clients' towing permits in 2018 and to continue to violate [your] clients' due process rights" as you claim. The ordinance was not enacted just for your clients and/or other tow companies.

Debarment Ordinance is applicable to the 2016 Towing Permits

The Debarment Ordinance applies to all contractors, including any party who seeks to enter into a contract with the City. The OIG's initial recommendation to preclude you from bidding on the City's towing contracts was made in May 2018, prior to the enactment of the City's Debarment Ordinance. However, the ordinance was adopted by Council and became effective on August 10, 2018, before the OIG's final recommendation of November 2, 2018 and before the OIG initiated debarment proceedings against the tow companies and its owners. Therefore, the City's Debarment Ordinance is applicable to the 2016 towing permits.

The Portions of OIG's Findings Which Relied on the FBI's Wiretap Affidavit Was Proper

The OIG reviewed thousands of pages of documents including but not limited to court filings, permit applications, Michigan Licensing and Regulatory Affairs (LARA) filings, and hearing transcripts. The OIG's recommendation was not solely based on the information contained in the FBI's wiretap affidavit nor did we improperly rely on the information contained therein. As you are well aware, during the July 27, 2018 *Hearing on Motion for Preliminary Injunction in Joan Lucas v. City of Detroit*, the Honorable Laurie J. Michelson ruled on the admissibility of the wiretap affidavit. She ruled as follows:

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the preceding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

Your client could have called those identified on the wiretaps to testify at the administrative hearing. However they chose not to. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that “[t]he Inspector General *may* subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours.” (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG’s requests for information and documentation triggers the contractor’s duty to cooperate, not a subpoena.

The Proposed Years of Debarment for B & G and Anthony Thomas are Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If contractors were concerned that the potential maximum debarment period was excessive, they had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if contractors are truly concerned about debarment and the impact it could have on their businesses, they should not engage in conduct that would subject them to the ordinance.

The OIG’s proposed debarment period for B & G and Anthony Thomas is just that, a proposal. The Inspector General’s past recommendation of May 2018 was just an initial recommendation based on the Inspector General’s initial findings, before the administrative hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG’s final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The

OIG provided B & G and Anthony Thomas due process in the administrative hearing. However, they chose not to fully participate. Consistent with the OIG's commitment to providing due process, the parties have the right to oppose the debarment proceedings and the number of years proposed for the debarment. B & G and Anthony Thomas exercised this right on Friday, November 30, 2018. B & G and Anthony Thomas have the further right to appeal the OIG's final recommendation under the ordinance to City Council.

The Basis of the Proposed Debarment is the Result of the Findings from the Administrative Hearing Provided to B & G and Anthony Thomas

B & G and Anthony Thomas requested an administrative hearing on the OIG's initial recommendation to preclude B & G from bidding on the current Municipal Parking Department and Detroit Police Department towing contracts. The purpose of the hearing was to permit B & G and Anthony Thomas an opportunity to present testimony and any supporting information in response to the OIG's initial finding of May 2018. Prior to the hearing, during the hearing, and after the hearing, the OIG clearly stated to counsel for B & G and Anthony Thomas the additional information they need to submit to the OIG to potentially overturn its recommendation. Counsel, on behalf of his clients, elected not to fully cooperate. Thus, any final recommendation made by the OIG was based on the available information, including information made available by the attorneys representing the tow companies.

B & G was suspended by the Board of Police Commissioners when the OIG initiated its investigation. Although the Debarment Ordinance does allow the Inspector General to issue an interim suspension for up to ninety (90) days pending investigation, suspension is not required prior to debarment initiation under the ordinance.

The OIG's Findings in the Final Recommendation Was Made Based on the Information Made Available to the OIG.

Finally, the OIG final report is supported by the entire record of information and by a preponderance of the evidence presented to the OIG. B & G and Anthony Thomas made a blanket statement in their response to the OIG that its "findings of fact are not supported by evidence." Yet no attempt was made by you or your clients to specify any information contained in the final report that is inaccurate. Further, no additional information was provided to the OIG to consider and potentially amend the debarment recommendation; this includes information previously requested by the OIG but not provided as detailed in the administrative hearing report.

As such, the OIG is upholding its debarment recommendation that B & G and Anthony Thomas be debarred for seven (7) years, effective May 7, 2018. Therefore, if you disagree with the OIG's recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your clients on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,



Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

Ellen Ha, Esq.
Inspector General

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December 14, 2018

Via Certified, Return-receipt, and Regular Mail

Joseph J. Shannon, Esq.
Bodman, PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226

RE: OIG Investigation File Nos. 18-0008-INV and 18-0045-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Jessica Lucas and Boulevard & Trumbull Towing, Inc.

Dear Mr. Shannon:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that Boulevard & Trumbull (B & T) be debarred for a period of twenty (20) years, effective May 7, 2018; and Jessica Lucas be debarred for a period of ten (10) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your argument in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar B&T and Jessica Lucas.
2. The Debarment Ordinance is not applicable to B&T because B&T was a permit holder.
3. B&T's permit was suspended and was later denied the right to bid on towing contracts before the Debarment Ordinance was passed.
4. The OIG cannot debar B&T and Jessica Lucas for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.
5. The scope of the OIG hearing was to address whether B&T should be precluded from bidding on future contracts with the City and did not contemplate debarment. .

6. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.
7. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
8. The OIG's findings of fact are not supported by evidence.

The OIG Has the Authority to Debar B&T and Jessica Lucas

The OIG's authority to debar is derived from Sections 6-308 and 7.5-310 of the 2012 City of Detroit Charter (the Charter), as well as the City's Debarment Ordinance.

Read as a whole, contractors are required to cooperate with an OIG investigation. Anyone who chooses not to comply with an OIG request for documents and testimony subjects themselves to discipline, up to and including debarment. "Contractor" and "Public Servant" are further defined in Section 2-105 of the Charter and Section 18-11-3 of the City's Debarment Ordinance. Likewise, Section 18-11-3 of the Debarment Ordinance defines "Debarment" as "action taken by the City to exclude a person from acting as a contractor for a specified period of time."

In addition to Section 7.5-310 of the Charter, Section 6-308 of the Charter requires the Corporation Counsel to prepare and the City Council to implement the Debarment Ordinance which designates the Inspector General as the "chief investigative agent" for debarment.

The Debarment Ordinance was adopted by City Council as mandated by the 2012 Charter. The adaptation of the ordinance by the Council was not an attempt to "backstop its prior action terminating Boulevard's permit in 2017 and to continue to violate Boulevard's due process rights" as you claim. The ordinance was not enacted just for B&T and/or other tow companies.

Debarment Ordinance is applicable to B&T and to Jessica Lucas

The Debarment Ordinance applies to all contractors, including any party who seeks to enter into a contract with the City. The OIG's initial recommendation to preclude B&T from bidding on the City's towing contracts was made in May 2018, prior to the enactment of the City's Debarment Ordinance. However, the ordinance was adopted by Council and became effective on August 10, 2018, before the OIG's final recommendation of November 2, 2018 and before the OIG initiated debarment proceedings against the tow company and its owner. Therefore, the City's Debarment Ordinance is applicable to B&T and to Jessica Lucas.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that "[t]he Inspector General *may* subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours." (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG's requests for information and documentation triggers the contractor's duty to cooperate, not a subpoena.

The Basis of the Proposed Debarment is the Result of the Findings from the Administrative Hearing Provided to B&T and Jessica Lucas.

B&T and Jessica Lucas requested an administrative hearing on the OIG's initial recommendation to preclude B&T from bidding on the current Municipal Parking Department and Detroit Police Department towing contracts. The purpose of the hearing was to permit B&T and Jessica Lucas an opportunity to present testimony and any supporting information in response to the OIG's initial finding of May 2018. Prior to the hearing, during the hearing, and after the hearing the OIG clearly stated to counsel for B&T and Jessica Lucas additional information that is needed to potentially overturn the OIG's recommendation. Counsel, on behalf of his clients, elected not to fully cooperate. Thus, any final recommendation made by the OIG was based on the available information, including information made available by the attorneys representing the tow companies.

B&T was suspended by the Board of Police Commissioners when the OIG initiated its investigation. Although the Debarment Ordinance does allow the Inspector General to issue an interim suspension for up to ninety (90) days pending investigation, suspension is not required prior to debarment initiation under the ordinance.

The Proposed Years of Debarment for B&T and Jessica Lucas are Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If contractors were concerned that the potential maximum debarment period was excessive, they had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if contractors are truly concerned about debarment and the impact it could have on their businesses, they should not engage in conduct that would subject them to the ordinance.

The OIG's proposed debarment period for B&T and Jessica Lucas is just that, a proposal. The Inspector General's past recommendation of May 2018 was just an initial recommendation based on the Inspector General's initial findings, before the administrative hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG's final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The OIG provided B&T and Jessica Lucas due process in the administrative hearing. However, they chose not to fully participate. Consistent with the OIG's commitment to providing due process, the parties have the right to oppose the debarment proceedings and the number of years proposed for the debarment. Boulevard & Trumbull and Jessica Lucas exercised this right on Friday, November 30, 2018. Boulevard & Trumbull and Jessica Lucas have the further right to appeal the OIG's final recommendation under the ordinance to City Council.

The Portions of OIG's Findings Which Relied on the FBI's Wiretap Affidavit Was Proper.

The OIG reviewed thousands of pages of documents including but not limited to court filings, permit applications, Michigan Licensing and Regulatory Affairs (LARA) filings, and

hearing transcripts. The OIG's recommendation was not solely based on the information contained in the FBI's wiretap affidavit nor did we improperly rely on the information contained therein. During the July 27, 2018 *Hearing on Motion for Preliminary Injunction in Joan Lucas v. City of Detroit*, the Honorable Laurie J. Michelson ruled on the admissibility of the wiretap affidavit. She ruled as follows:

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the proceeding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

To provide additional context to the wiretap information, B&T and Ms. Lucas could have called those identified on the wiretaps to testify at the administrative hearing. However they chose not to. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG's Findings in the Final Recommendation Was Made Based on the Information Made Available to the OIG.

Finally, the OIG final report is supported by the entire record of information and by a preponderance of the evidence presented to the OIG. B&T and Ms. Lucas made a blanket statement in their response to the OIG that its "findings of fact are not supported by evidence." Yet no attempt was made on their part to specify any information contained in the final report that is inaccurate. Further, no additional information was provided to the OIG to consider and potentially amend the debarment recommendation; this includes information previously requested by the OIG but not provided as detailed in the administrative hearing report.

As such, the OIG is upholding its debarment recommendation that B & T be debarred for twenty (20) years and Jessica Lucas be debarred for ten (10) years, respectively effective May 7, 2018. Therefore, if you disagree with the OIG's recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your clients on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ellen Ha', with a stylized flourish at the end.

Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

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Ellen Ha, Esq.
Inspector General

December 14, 2018

Via Certified, Return-receipt, and Regular Mail

Nicholas J. Bachand, Esq.
2411 Vinewood Street
Detroit, MI 48216-1062

RE: OIG Investigation File Nos. 18-0008-INV and 18-0047-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Gasper Fiore

Dear Mr. Bachand:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that Gasper Fiore be debarred for a period of twenty (20) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the argument you raise in your opposition to the proposed debarment is not supported by any legal authority or new evidence. In particular, you raise the following argument in opposition to the OIG's recommendation:

- Proposed terms of debarment are excessive in nature, and is completely arbitrary and capricious. Federal law and state law are much more lenient.

The Proposed Years of Debarment for Gasper Fiore Is Not Excessive, Arbitrary or Capricious

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If you or your client were concerned that the potential maximum debarment period was excessive, you and your client had the opportunity to oppose it at the public hearing.

However, no such opposition occurred. Further, if your client was truly concerned about debarment and the impact it could have on his businesses, Mr. Fiore should not have engaged in conduct that would subject him to the ordinance.

There is nothing arbitrary or capricious in the OIG's initiation of debarment proceedings. Consistent with the OIG's commitment to providing due process, Mr. Fiore has the right to oppose the debarment proceedings and the number of years proposed for the debarment. Mr. Fiore exercised this right on Friday, November 30, 2018 by opposing the proposed debarment. Additionally, Mr. Fiore has the further right to appeal the OIG's final recommendation under the ordinance to City Council.

Therefore, the OIG is upholding its debarment recommendation that Gasper Fiore be debarred for twenty (20) years, effective May 7, 2018. If you disagree with the OIG's final recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your client on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,



Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

Ellen Ha, Esq.
Inspector General

December 14, 2018

Via Certified, Return-receipt, and Regular Mail

David Fraser, Esq.
Holmes Fraser, PLLC
P.O. Box 263
Saint Clair, Michigan 48079-6263

RE: OIG Investigation File Nos. 18-0008-INV and 18-0042-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Joan Fiore and Javion & Sam's 24 Hour Towing Service, Inc.

Dear Mr. Fraser:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that Javion & Sam's and Joan Fiore be debarred for a period of fifteen (15) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your argument in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar contractors.
2. The Debarment Ordinance is not applicable to the 2016 towing permits.
3. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
4. The OIG cannot debar Javion & Sam's and Joan Fiore for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.
5. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.

6. The scope of the OIG administrative hearing was to address whether Javion & Sam's should be precluded from bidding on future contracts with the City and did not contemplate debarment.
7. The OIG's findings of fact are not supported by evidence.

The OIG Has the Authority to Debar Contractors

The OIG's authority to debar is derived from Sections 6-308 and 7.5-310 of the 2012 City of Detroit Charter (the Charter, as well as the City's Debarment Ordinance.

Read as a whole, contractors are required to cooperate with an OIG investigation. Anyone who chooses not to comply with an OIG request for documents and testimony subjects themselves to discipline, up to and including debarment. "Contractor" and "Public Servant" are further defined in Section 2-105 of the Charter and Section 18-11-3 of the City's Debarment Ordinance. Likewise, Section 18-11-3 of the Debarment Ordinance defines "Debarment" as "action taken by the City to exclude a person from acting as a contractor for a specified period of time."

In addition to Section 7.5-310 of the 2012 City of Detroit Charter, Section 6-308 of the Charter requires the Corporation Counsel to prepare and the City Council to implement the Debarment Ordinance which designates the Inspector General as the "chief investigative agent" for debarment.

The Debarment Ordinance was adopted by City Council as mandated by the 2012 Charter. The adaptation of the ordinance by the Council was not an attempt to "backstop its prior action terminating [your] corporate clients' towing permits in 2018 and to continue to violate [your] clients' due process rights" as you claim. The ordinance was not enacted just for your clients and/or other tow companies.

Debarment Ordinance is applicable to the 2016 Towing Permits

The Debarment Ordinance applies to all contractors, including any party who seeks to enter into a contract with the City. The OIG's initial recommendation to preclude Javion & Sam's and Joan Fiore from bidding on the City's towing contracts was made in May 2018, prior to the enactment of the City's Debarment Ordinance. However, the ordinance was adopted by Council and became effective on August 10, 2018, before the OIG's final recommendation of November 2, 2018 and before the OIG initiated debarment proceedings against the tow companies and its owners. Therefore, the City's Debarment Ordinance is applicable to the 2016 towing permits.

The Portions of OIG's Findings Which Relied on the FBI's Wiretap Affidavit Was Proper

The OIG reviewed thousands of pages of documents including but not limited to court filings, permit applications, Michigan Licensing and Regulatory Affairs (LARA) filings, and hearing transcripts. The OIG's recommendation was not solely based on the information contained in the FBI's wiretap affidavit nor did we improperly rely on the information contained therein. As you are well aware, during the July 27, 2018 *Hearing on Motion for Preliminary Injunction* in *Joan Lucas v. City of Detroit*, the Honorable Laurie J. Michelson ruled on the admissibility of the wiretap affidavit. She ruled as follows:

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the preceding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

To provide additional context to the wiretap information, Joan Fiore could have testified at the administrative hearing. In fact, the OIG requested that she appear to provide more information about the evidence contained in the wiretaps. However, she instead chose to submit an affidavit that was devoid of any clarifying information and provided no additional information for any OIG follow-up questions. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that “[t]he Inspector General *may* subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours.” (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG’s requests for information and documentation triggers the contractor’s duty to cooperate, not a subpoena.

The Proposed Years of Debarment for Javion & Sam’s and Joan Fiore are Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If contractors were concerned that the potential maximum debarment period was excessive, they had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if contractors are truly concerned about debarment and the impact it could have on their businesses, they should not engage in conduct that would subject them to the ordinance.

The OIG’s proposed debarment period for Javion & Sam’s and Joan Fiore is just that, a proposal. The Inspector General’s past recommendation of May 2018 was just an initial recommendation based on the Inspector General’s initial findings, before the administrative

hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG's final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The OIG provided Javion & Sam's and Joan Fiore due process in the administrative hearing. However, they chose not to fully participate. Consistent with the OIG's commitment to providing due process, the parties have the right to oppose the debarment proceedings and the number of years proposed for the debarment. Javion & Sam's and Joan Fiore exercised this right on Friday, November 30, 2018. Javion & Sam's and Joan Fiore have the further right to appeal the OIG's final recommendation under the ordinance to City Council.

The Basis of the Proposed Debarment is the Result of the Findings from the Administrative Hearing Provided to Javion & Sam's and Joan Fiore

Javion & Sam's and Joan Fiore requested an administrative hearing on the OIG's initial recommendation to preclude Javion & Sam's from bidding on the current Municipal Parking Department and Detroit Police Department towing contracts. The purpose of the hearing was to permit Javion & Sam's and Joan Fiore an opportunity to present testimony and any supporting information in response to the OIG's initial finding of May 2018. Prior to the hearing, during the hearing, and after the hearing the OIG clearly identified to counsel for Javion & Sam's and Joan Fiore the additional information they need to submit to the OIG to potentially overturn its recommendation. Counsel, on behalf of his clients, elected not to fully cooperate. Thus, any final recommendation made by the OIG was based on the available information, including information made available by the attorneys representing the tow companies.

Javion & Sam's was suspended by the Board of Police Commissioners when the OIG initiated its investigation. Although the Debarment Ordinance does allow the Inspector General to issue an interim suspension for up to ninety (90) days pending investigation, suspension is not required prior to debarment initiation under the ordinance.

The OIG's Findings in the Final Recommendation Was Made Based on the Information Made Available to the OIG.

Finally, the OIG final report is supported by the entire record of information and by a preponderance of the evidence presented to the OIG. Javion & Sam's and Joan Fiore made a blanket statement in their response to the OIG that its "findings of fact are not supported by evidence." Yet no attempt was made on their part to specify any information contained in the final report that is inaccurate. Further, no additional information was provided to the OIG to consider and potentially amend its debarment recommendation; this includes information previously requested by the OIG but not provided as detailed in the administrative hearing report.

As such, the OIG is upholding its debarment recommendation that Javion & Sam's and Joan Fiore be debarred for fifteen (15) years, effective May 7, 2018. Therefore, if you disagree with the OIG's recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your clients on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ellen Ha", with a stylized flourish at the end.

Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

Ellen Ha, Esq.
Inspector General

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December 14, 2018

Via Certified, Return-receipt, and Regular Mail

Joseph J. Shannon, Esq.
Bodman, PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226

RE: OIG Investigation File Nos. 18-0008-INV and 18-0048-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Jennifer Fiore

Dear Mr. Shannon:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that Jennifer Fiore be debarred for a period of fifteen (15) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your arguments in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar Jennifer Fiore.
2. The Debarment Ordinance was adopted to backstop the City's prior actions in terminating Boulevard & Trumbull's (B&T) permit in 2017 and to continue to violate its due process rights.
3. B&T's permit was suspended and was later denied the right to bid on towing contracts before the Debarment Ordinance was passed.
4. The OIG cannot debar Jennifer Fiore for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.

5. The scope of the OIG administrative hearing was to address whether B&T should be precluded from bidding on future contracts with the City and did not contemplate debarment nor did it investigate Jennifer Fiore individually.
6. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.
7. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
8. The OIG's findings of fact are not supported by evidence.

The OIG Has the Authority to Debar Jennifer Fiore

The OIG's authority to debar is derived from Sections 6-308 and 7.5-310 of the 2012 City of Detroit Charter (the Charter), as well as the City's Debarment Ordinance.

Read as a whole, contractors are required to cooperate with an OIG investigation. Anyone who chooses not to comply with an OIG request for documents and testimony subjects themselves to discipline, up to and including debarment. "Contractor" and "Public Servant" are further defined in Section 2-105 of the Charter and Section 18-11-3 of the City's Debarment Ordinance. Likewise, Section 18-11-3 of the Debarment Ordinance defines "Debarment" as "action taken by the City to exclude a person from acting as a contractor for a specified period of time."

In addition to Section 7.5-310 of the 2012 City of Detroit Charter, Section 6-308 of the Charter requires the Corporation Counsel to prepare and the City Council to implement the Debarment Ordinance which designates the Inspector General as the "chief investigative agent" for debarment.

The Debarment Ordinance was adopted by City Council as mandated by the 2012 Charter. The adaptation of the ordinance by the Council was not an attempt to "backstop its prior action terminating Boulevard's permit in 2017 and to continue to violate Boulevard's due process rights" as you claim. The ordinance was not enacted just for the tow companies and/or their owners.

Debarment Ordinance is applicable to Jennifer Fiore

The Debarment Ordinance applies to all contractors, including any party who seeks to enter into a contract with the City. The OIG's initial recommendation to preclude B&T from bidding on the City's towing contracts was made in May 2018, prior to the enactment of the City's Debarment Ordinance. However, the ordinance was adopted by Council and became effective on August 10, 2018, before the OIG's final recommendation of November 2, 2018 and before the OIG initiated debarment proceedings against the tow company and its owner. Therefore, the City's Debarment Ordinance is applicable to B&T and to Jennifer Fiore.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that "[t]he Inspector General may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter

under investigation, enter and inspect premises within the control of any city agency during regular business hours.” (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG’s requests for information and documentation triggers the contractor’s duty to cooperate, not a subpoena.

The Basis of the Proposed Debarment is the Result of the Findings from the Administrative Hearing

B&T requested an administrative hearing on the OIG’s initial recommendation to preclude B&T from bidding on the current Municipal Parking Department and Detroit Police Department towing contracts. The purpose of the hearing was to permit B&T an opportunity to present testimony and any supporting information in response to the OIG’s initial finding of May 2018 which included the actions of B&T’s previous owner, Jennifer Fiore. Prior to the hearing, during the hearing, and after the hearing, the OIG clearly stated to B&T’s counsel the additional information needed, including information about Jennifer Fiore’s role in the bribery of Celia Washington, to potentially overturn the OIG’s recommendation. Counsel, on behalf of his clients, elected not to fully cooperate. Thus, any final recommendation made by the OIG was based on the available information, including information made available by the attorneys representing the tow companies.

B&T was suspended by the Board of Police Commissioners when the OIG initiated its investigation. Although the Debarment Ordinance does allow the Inspector General to issue an interim suspension for up to ninety (90) days pending investigation, suspension is not required prior to debarment initiation under the ordinance.

The Proposed Years of Debarment for Jennifer Fiore Is Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If your client was concerned that the potential maximum debarment period was excessive, she had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if Ms. Fiore was truly concerned about debarment and the impact the ordinance could have on her business(es), she should not have engaged in conduct that would subject her to the ordinance.

The OIG’s proposed debarment period for Jennifer Fiore is just that, a proposal. The Inspector General’s past recommendation of May 2018 was just an initial recommendation based on the Inspector General’s initial findings, before the administrative hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG’s final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The OIG provided due process in the administrative hearing. However, Jennifer Fiore chose not to fully participate. Consistent with the OIG’s commitment to providing due process, the parties have the right to oppose the debarment proceedings and the number of years proposed for the debarment. Jennifer Fiore exercised this right on Friday, November 30, 2018. Jennifer Fiore has the further right to appeal the OIG’s final recommendation under the ordinance to City Council.

The Portions of OIG's Findings Which Relied on the FBI's Wiretap Affidavit Was Proper.

The OIG reviewed thousands of pages of documents including but not limited to court filings, permit applications, Michigan Licensing and Regulatory Affairs (LARA) filings, and hearing transcripts. The OIG's recommendation was not solely based on the information contained in the FBI's wiretap affidavit nor did we improperly rely on the information contained therein. During the July 27, 2018 *Hearing on Motion for Preliminary Injunction in Joan Lucas v. City of Detroit*, the Honorable Laurie J. Michelson ruled on the admissibility of the wiretap affidavit. She ruled as follows:

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the preceding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

To provide additional context to the wiretap information, Jennifer Fiore could have testified at the administrative hearing as she was requested to do by the OIG. However she chose not to participate in the hearing. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG's Findings in the Final Recommendation Was Made Based on the Information Made Available to the OIG.

Finally, the OIG final report is supported by the entire record of information and by a preponderance of the evidence presented to the OIG. Jennifer Fiore made a blanket statement in her response to the OIG that its "findings of fact are not supported by evidence." Yet no attempt was made on her part to specify any information contained in the final report that is or inaccurate. Further, no additional information was provided for the OIG to consider and potentially amend its debarment recommendation; this includes information previously requested by the OIG but not provided as detailed in the administrative hearing report.

As such, the OIG is upholding its debarment recommendation that Jennifer Fiore be debarred for fifteen (15) years, effective May 7, 2018. Therefore, if you disagree with the OIG's recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your client on November 2, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,



Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer



**CITY OF DETROIT
OFFICE OF INSPECTOR GENERAL**

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Ellen Ha, Esq.
Inspector General

December 14, 2018

Via Certified, Return-receipt, and Regular Mail

David Fraser, Esq.
Holmes Fraser, PLLC
P.O. Box 263
Saint Clair, Michigan 48079-6263

RE: OIG Investigation File Nos. 18-0008-INV, 18-0043 and 18-0044-INV

Notice of Final Decision of the OIG's Proposed Debarment & Initiation of Debarment Proceedings for: Javion & Sams' 24 Hour Towing Service, Inc.; Joan Fiore; B&G Towing, LLC; Anthony Thomas; Gene's Towing, Inc.; City Wide Towing, Inc.; and Paul Ott

Dear Mr. Fraser:

This letter is being sent to your attention in accordance with Section 18-11-9 of the City of Detroit Debarment Ordinance. On November 2, 2018, the Office of Inspector General (OIG) recommended that B & G and Anthony Thomas be debarred for a period of seven (7) years, effective May 7, 2018. After having reviewed your response dated November 30, 2018, in opposition to the proposed debarment, we are upholding our recommendation and the grounds for the debarment are stated below.

First, we note your November 30, 2018 letter contains no additional substantive evidence which would suggest that the OIG report of Administrative Hearing Final Recommendation, dated November 2, 2018, was factually inaccurate.

Moreover, the points you raise in your argument in opposition to the proposed debarment are not supported by any legal authority or new evidence. In particular, you raise the following arguments in opposition to the OIG's recommendation:

1. The OIG has no legal authority to debar contractors.
2. The Debarment Ordinance is not applicable to the 2016 towing permits.
3. The OIG improperly relied on information contained in a wiretap affidavit to support its recommendation.
4. The OIG cannot debar your clients for "lack of cooperation" as the OIG did not use its subpoena power to compel records and testimonies.

5. Proposed terms of debarment are excessive and inconsistent with the Inspector General's past recommendations. Federal law and state law are much more lenient.
6. The scope of the OIG administrative hearing was to address whether your clients should be precluded from bidding on future contracts with the City and did not contemplate debarment.
7. The OIG's findings of fact are not supported by evidence.

The OIG Has the Authority to Debar Contractors

The OIG's authority to debar is derived from Sections 6-308 and 7.5-310 of the 2012 City of Detroit Charter (the Charter), as well as the City's Debarment Ordinance.

Read as a whole, contractors are required to cooperate with an OIG investigation. Anyone who chooses not to comply with an OIG request for documents and testimony subjects themselves to discipline, up to and including debarment. "Contractor" and "Public Servant" are further defined in Section 2-105 of the Charter and Section 18-11-3 of the City's Debarment Ordinance. Likewise, Section 18-11-3 of the Debarment Ordinance defines "Debarment" as "action taken by the City to exclude a person from acting as a contractor for a specified period of time."

In addition to Section 7.5-310 of the 2012 City of Detroit Charter, Section 6-308 of the Charter requires the Corporation Counsel to prepare and the City Council to implement the Debarment Ordinance which designates the Inspector General as the "chief investigative agent" for debarment.

The Debarment Ordinance was adopted by City Council as mandated by the 2012 Charter. The adaptation of the ordinance by the Council was not an attempt to "backstop its prior action terminating [your] corporate clients' towing permits in 2018 and to continue to violate [your] clients' due process rights" as you claim. The ordinance was not enacted just for your clients and/or other tow companies.

Debarment Ordinance is applicable to the 2016 Towing Permits

The Debarment Ordinance applies to all contractors, including any party who seeks to enter into a contract with the City. The OIG's initial recommendation to preclude you from bidding on the City's towing contracts was made in May 2018, prior to the enactment of the City's Debarment Ordinance. However, the ordinance was adopted by Council and became effective on August 10, 2018, before the OIG's final recommendation of November 2, 2018 and before the OIG initiated debarment proceedings against the tow companies and its owners. Therefore, the City's Debarment Ordinance is applicable to the 2016 towing permits.

The Portions of OIG's Findings Which Relied on the FBI's Wiretap Affidavit Was Proper

The OIG reviewed thousands of pages of documents including but not limited to court filings, permit applications, Michigan Licensing and Regulatory Affairs (LARA) filings, and hearing transcripts. The OIG's recommendation was not solely based on the information contained in the FBI's wiretap affidavit nor did we improperly rely on the information contained therein. As you are well aware, during the July 27, 2018 *Hearing on Motion for Preliminary Injunction* in

Joan Lucas v. City of Detroit, the Honorable Laurie J. Michelson ruled on the admissibility of the wiretap affidavit. She ruled as follows:

Again, the wiretap evidence was publicly disclosed by the defendant in the Celia Washington case, albeit, inadvertently. And again, that was the criminal proceeding for which the wiretaps were authorized. And the information sought to be introduced here regarding the communications between Celia Washington and Gasper Fiore and Gasper Fiore and Joan and Jennifer Fiore regarding the names of the towing companies to be provided to Washington was publicly revealed during the sentencing phase of that case. And as I understand it, the information was also utilized during the preceding before the Inspector General. So, there are not strong privacy interests at stake here either. So, for those reasons, I am going to DENY the Motion to Strike...

Your client could have called those identified on the wiretaps to testify at the administrative hearing. However they chose not to. Therefore the OIG relied on the plain language contained in the wiretap.

The OIG is Not Required to Subpoena Records and/or Testimony Before Finding Lack of Cooperation

Section 7.5-307 of the Charter states that “[t]he Inspector General *may* subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any city agency during regular business hours.” (Emphasis added.) However, the OIG is not required to do so; it is at the discretion of the Inspector General. Duty to cooperate is not required by a subpoena. The duty to cooperate is required by the Charter. Therefore, OIG’s requests for information and documentation triggers the contractor’s duty to cooperate, not a subpoena.

The Proposed Years of Debarment for Javion & Sams’ 24 Hour Towing Service, Inc.; Joan Fiore; B&G Towing, LLC; Anthony Thomas; Gene’s Towing, Inc.; City Wide Towing, Inc.; and Paul Ott Are Not Excessive or Inconsistent

The initiation of debarment proceedings is pursuant to the City of Detroit Debarment Ordinance, not under state or federal law. The OIG does not have jurisdiction over state and/or federal contractors. Likewise, neither federal nor state law concerning debarment is applicable or controlling to the City. If contractors were concerned that the potential maximum debarment period was excessive, they had the opportunity to oppose it at the public hearing. However, no such opposition occurred. Further, if contractors are truly concerned about debarment and the impact it could have on their businesses, they should not engage in conduct that would subject them to the ordinance.

The OIG’s proposed debarment period for your clients identified above is just that, a proposal. The Inspector General’s past recommendation of May 2018 was just an initial recommendation based on the Inspector General’s initial findings, before the administrative

hearing. There is nothing inconsistent in the May 2018 recommendation and the OIG's final report and recommendation of November 2018, or the resulting initiation of debarment proceedings. The OIG provided your clients due process in the administrative hearing. However, they chose not to fully participate. Consistent with the OIG's commitment to providing due process, the parties have the right to oppose the debarment proceedings and the number of years proposed for the debarment. Your clients exercised this right on Friday, November 30, 2018. As such, your clients have the further right to appeal the OIG's final recommendation under the ordinance to City Council.

The Basis of the Proposed Debarment is the Result of the Findings from the Administrative Hearing

You and your clients requested an administrative hearing on the OIG's initial recommendation to preclude B & G from bidding on the current Municipal Parking Department and Detroit Police Department towing contracts. The purpose of the hearing was to permit your clients an opportunity to present testimony and any supporting information in response to the OIG's initial finding of May 2018. Prior to the hearing, during the hearing, and after the hearing, the OIG clearly stated to you the additional information your clients would need to submit to the OIG to potentially overturn its recommendation. You elected not to fully cooperate. Thus, any final recommendation made by the OIG was based on the available information, including information made available by the attorneys representing the tow companies.

Although the Debarment Ordinance does allow the Inspector General to issue an interim suspension for up to ninety (90) days pending investigation, suspension is not required prior to debarment initiation under the ordinance.

The OIG's Findings in the Final Recommendation Was Made Based on the Information Made Available to the OIG.

Finally, the OIG final report is supported by the entire record of information and by a preponderance of the evidence presented to the OIG. You state in your response to the OIG that its "findings of fact are not supported by evidence." Yet no attempt was made by you or your clients to specify any information contained in the final report that is inaccurate. Further, no additional information was provided to the OIG to consider and potentially amend the debarment recommendation; this includes information previously requested by the OIG but not provided as detailed in the administrative hearing report.

As such, the OIG is upholding its debarment recommendation for your respective clients. Therefore, if you disagree with the OIG's recommendation of debarment or the length of debarment, you may appeal to the Detroit City Council within 28 days of the date of this letter. See Section 18-11-11(a) of the Debarment Ordinance. To do so, you must send the appeal letter together with any supporting materials to the City Clerk for transmission to City Council. See Section 18-11-11(b) of the Debarment Ordinance.

Please note that a copy of the City's Debarment Ordinance was mailed to you and to your clients on November 2, 2018, effective May 7, 2018. Moreover, a copy of the Debarment Ordinance is available for your review at www.detoig.org.

Very truly yours,



Ellen Ha
Inspector General

cc: Honorable Janice Winfrey
Clerk for the City of Detroit

Members of the Honorable Detroit City Council

David Whitaker
Director, Legislative Policy Division
Detroit City Council

Lawrence Garcia
Corporation Counsel

Boysie Jackson
Chief Procurement Officer