

HARBOR DIVISION

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DATE: SEPTEMBER 4, 2019

FROM: OFFICE OF THE CITY ATTORNEY

**SUBJECT: RESOLUTION NO. _____ - LEGAL SERVICES AGREEMENT
BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND
LIEBERT CASSIDY WHITMORE**

SUMMARY:

The Office of the City Attorney (Office) requests approval of a legal services agreement (Agreement) between the City Los Angeles Harbor Department (Harbor Department) and the law firm of Liebert Cassidy Whitmore for legal services for employment matters and Fair Labor Standards Act issues. The Agreement is for a term of three years with compensation authority of \$300,000. This is the only firm on retainer for employment matters. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreement.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Section 2 (f), of the Los Angeles City CEQA Guidelines;
2. Find in accordance to Charter Section 1022 that the scope of work of the proposed Agreement can be more economically and feasibly provided by an independent contractor than by City employees;

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3. Approve a Legal Services Agreement with Liebert Cassidy Whitmore in the amount of \$300,000 for a three-year term;
4. Authorize the Executive Director and Board Secretary to execute and attest to the Agreement; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background - In accordance with Charter Section 275, the Office has determined that it requires outside legal counsel to assist in the discharge of its duties to perform legal services in connection with employment, wage and hour and Fair Labor Standards Act issues requiring specialized expertise and resources that exceed staff resources in this highly specialized area of law.

Need For Counsel And Scope Of Work - The Agreement (Transmittal 1) is necessary because the Harbor Department routinely engages in employment, wage and hour, and Fair Labor Standards Act matters and issues. Because of the steady work in this area, the Office has in-house attorney staff handling litigation and performing the majority of work without the use of outside counsel. Despite this, the Office of the City Attorney still has need for assistance from outside counsel when specialized expertise is necessary for complex or new legal issues, and/or temporary spikes in work volume exceeding our in-house resources, such as complex litigation.

Competitive Counsel Selection Process - The Office released a Request for Proposal on April 9, 2019 for outside legal counsel regarding representation in litigation, employment matters and Fair Labor Standards Act advice. A total of six applications were received. A selection committee comprised of one Assistant City Attorney and two Deputy City Attorneys reviewed the written applications.

There were three firms that prepared a high quality application that included content that was well organized and detailed with lists of publications and writing samples. Additionally, the applications were responsive to the substance of the requested Scope of Work. Based on the quality of the proposal submissions, interviews were conducted with the three most responsive firms. The evaluation criteria for the interviews included demonstrated legal expertise and relevant experience, trial/appellate litigation in a wide variety of employment and Fair Labor Standards Act matters, experience in representing public entities, proposed staffing and strategy, and proposed costs of legal services.

At the conclusion of the selection process, the Office determined that Liebert Cassidy Whitmore is the most knowledgeable, experienced and responsive. The firm possesses

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specialized legal expertise and relevant experience performing legal services in the areas of employment, as well as, expertise in Fair Labor Standards Act matters and state and federal wage and hour laws, particularly as they relate to public entities.

Proposed Agreement Terms - The Agreement terms are as follows:

- **Term:** Three years from the date of execution of the Executive Director
- **Contract Authority:** Maximum amount not to exceed \$300,000
- **Scope of work:** Harbor Department employment and Fair Labor Standards Act issues and other similar laws
- **Standard City and City Attorney Agreement provisions**

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a legal services agreement with Liebert Cassidy Whitmore for ongoing legal services for employment matters and Fair Labor Standards Act advice, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed action is for the approval of an Agreement for legal services for a three-year term and compensation authority of \$300,000. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreement. Funding in the amount of \$100,000 has been included as part of the annual budget adoption process in the Fiscal Year 2019-20 Operating Budget within the Harbor Department City Attorney’s Office Account No. 54410 (Legal Fees & Services), Division No. 120 and Program No. 000. Funding for future fiscal years, if necessary, will be requested as part of the annual budget adoption process, upon Board approval. A funding out clause is included in the Agreement. This clause stipulates that if, in any subsequent fiscal year, funds are not appropriated by the City for the work required by the Agreement, then the Agreement shall be terminated. However, the termination would not relieve the parties of liability for any obligation previously incurred.

The proposed appropriation for Liebert Cassidy Whitmore is detailed below:

Firm	FY 19/20	FY 20/21	FY 21/22	TOTAL
Liebert Cassidy Whitmore	\$100,000	\$100,000	\$100,000	\$300,000

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CITY ATTORNEY:

The Office of the City Attorney has prepared and approved the proposed Agreement as to form and legality.

TRANSMITTALS:

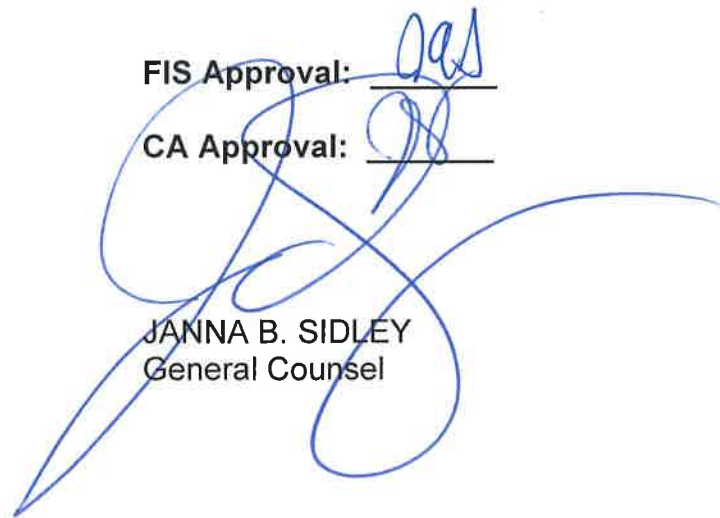
1. Legal Services Agreement with Liebert Cassidy Whitmore



HELEN SOK
Deputy City Attorney

FIS Approval: 

CA Approval: 



JANNA B. SIDLEY
General Counsel

APPROVED:



For
EUGENE D. SEROKA
Executive Director