

HARBOR DIVISION

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DATE: JULY 7, 2023

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. _____ - WAIVING THE POTENTIAL CONFLICT FOR BURKE, WILLIAMS & SORENSEN, LLP'S JOINT REPRESENTATION OF CITY AND VOPAK TERMINAL LOS ANGELES INC.

SUMMARY:

The Office of the City Attorney (Office) requests approval of a conflict-of-interest waiver (Waiver) with Burke, Williams & Sorensen, LLP (Burke Williams) which will allow Burke Williams to jointly represent the Harbor Department and Vopak Terminal Los Angeles (Vopak) in Sanchez v. City of Los Angeles, et al., Case No. 23LBCV00788. Approval of the proposed waiver is not anticipated to have a financial impact on the Harbor Department.

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. Formally waive any potential conflict that might arise from Burke, Williams & Sorensen, LLP's joint representation of Harbor Department and Vopak in Sanchez v. City of Los Angeles, et al. Case No. 23LBCV00788;
3. Authorize the Office of the City Attorney to execute a written conflict waiver;

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4. Authorize and direct the Board Secretary to transmit the conflict waiver to the City Council for its approval; and
5. Adopt Resolution No. _____.

DISCUSSION:

Burke Williams has requested a waiver of any objection to the potential conflict of interest with respect (1) Burke Williams' representation of the Harbor Department in Sanchez v. City of Los Angeles, et al., Case No. 23LBCV00788 and (2) Burke Williams' representation of Vopak in various matters including defense of OSHA Citations stemming from Plaintiff Geraldo Sanchez's accident of December 24, 2021 and a wage and hour class action titled, "Marvin Morris v. Vopak Los Angeles Inc., et al." currently pending in Los Angeles Superior Court.

Burke Williams represents the City of Los Angeles ("City") in various matters, including the defense of the City in excessive force and protest cases and unrelated CEQA filings.

In its letter requesting the conflict waiver (Transmittal 1), Burke Williams states that:

"...To the best of our knowledge and current understanding, [City] and Vopak are not potentially adverse in any of the other matters for which the firm has been retained by [City]."

Vopak will be paying Burke Williams for the defense of the Harbor Department pursuant to the indemnification provision in Vopak's Permit No. 560 and the City's status as additional insured under HDI Global Insurance Company Policy GLD1135612. Internally, the Office of the City Attorney has approved Burke Williams' representation of the City and therefore recommends the Board approve this request for conflict waiver.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a proposed waiver of any potential conflict that might arise from Burke Williams' joint representation of City and its tenant Vopak, 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.

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FINANCIAL IMPACT:

Approval of the proposed Waiver is not anticipated to have a financial impact on the Harbor Department as Vopak will be paying Burke Williams for the defense of the Harbor Department as provided within Permit No. 560 and the City's status as additional insured under HDI Global Insurance Company Policy GLD1135612.

CITY ATTORNEY:

The Office of the City Attorney has reviewed Burke Williams' request for waiver of potential conflict of interest and finds the Board can make the decision for the firm's representation Sanchez v. City of Los Angeles, et al., Case No. 23LBCV00788 which this Office shall execute following their respective approvals.

TRANSMITTAL:

1. Conflict Waiver Request

FIS Approval: MB

CA Approval: Es

APPROVED:

By



STEVEN Y. OTERA
General Counsel, Harbor Department

APPROVED:

By Marla Bleavins

EUGENE D. SEROKA
Executive Director