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DATE: JANUARY 29, 2024

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. _____ WAIVING THE POTENTIAL CONFLICT FOR THOMPSON COBURN LLP'S REPRESENTATION OF L.A. XPRESS, INC.

SUMMARY:

The Office of the City Attorney (Office) requests approval of a waiver (Waiver) of a potential conflict-of-interest of the law firm of Thompson Coburn LLP (Thompson) which will allow Thompson to represent L.A. Xpress, Inc. and its owner, Kenneth MacKenzie (collectively, "L.A. Xpress") in Victor Estuardo Jovel v. City of Los Angeles, Case No. 22-STCV32605, while continuing the firm's assistance to our Office with legal services for the Harbor Department's Clean Air Action Plan (CAAP) and Federal Clean Air Act (CAA) regulatory and litigation matters. 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;

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2. Formally waive any potential conflicts that might arise from Thompson Coburn LLP's representation of L.A. Xpress Inc. in Victor Estuardo Jovel v. City of Los Angeles, Case No. 22-STCV32605, while continuing its representation of the Harbor Department in CAAP and FCAA regulatory and litigation matters;
3. Authorize the City Attorney's Office to execute a written conflict waiver; and
4. Adopt this Resolution No. _____.

DISCUSSION:

Thompson has requested approval of a waiver of the potential conflict of interest with respect to Thompson's representation of L.A. Xpress in Victor Estuardo Jovel v. City of Los Angeles, Case No. 22-STCV32605, while continuing the firm's assistance to our Office with legal services for the Harbor Department's CAAP and FCAA regulatory and litigation matters. L.A. Xpress has asked Thompson to represent them with respect to their defense in which Mr. Jovel brings premises liability claims against the City of Los Angeles (City). The City has filed a cross-complaint against L.A. Xpress.

Thompson anticipates L.A. Xpress and the City will be aligned as co-defendants in their defense of the claims brought by M. Jovel, and L.A. Xpress intends to coordinate with the City in such respects. However, Thompson would be adverse to the City with respect to the cross-complaint and may be adverse to the City in other respects of the litigation.

Thompson represents the City of Los Angeles Harbor Department (Harbor) concerning the CAAP and FCAA Regulation and Litigation matters. Currently, clean air work is unrelated to the defense of L.A. Xpress and Thompson does not anticipate there being any direct conflict resulting from Thompson's simultaneous representation of Harbor Department in clean air work and L.A. Xpress in personal injury litigation.

The Office of the City Attorney has reviewed the requested waiver and recommends its approval by the Board. The proposed matter in which Thompson would represent L.A. Xpress in the litigation and the Harbor Department's clean air work are unrelated and will be handled by different attorneys in different practice groups within the firm. In addition, the City's confidential information will not be transmitted to L.A. Xpress or the firm's lawyers who are involved in the representation of L.A. Xpress.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a proposed waiver of any potential conflict that might arise from Thompson and its representation of L.A. Xpress in Victor Estuardo Jovel v. City of Los Angeles, Case No. 22-STCV32605, while continuing the firm's assistance to the Office of the City Attorney with legal services for the Harbor Department's CAAP and FCAA regulatory and litigation matters, 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 a conflict waiver that might arise from Thompson and its representation of L.A. Xpress, Inc. in Victor Estuardo Jovel v. City of Los Angeles, Case No. 22-STCV32605 while continuing the firm's assistance to the Office of the City Attorney with legal services for the Harbor Department's CAAP and FCAA regulatory and litigation matters. Approval of the proposed resolution is not anticipated to have a financial impact on the Harbor Department.

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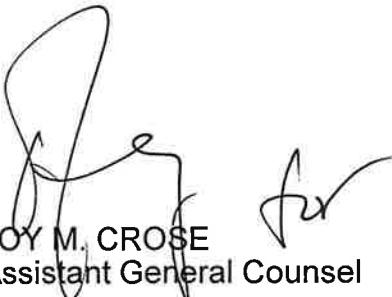
CITY ATTORNEY:

The Office of the City Attorney has reviewed Thompson's request for waiver of potential conflict of interest and finds the Board can make the decision for the firm's proposed representation of L.A. Xpress, Inc. in Victor Estuardo Jovel v. City of Los Angeles, Case No. 22-STCV32605, while continuing the firm's assistance to the Office of the City Attorney with legal services for the Harbor Department's CAAP and FCAA regulatory and litigation matters. The Office of the City Attorney shall execute the waiver following Board approval.


TRANSMITTAL:

1 Conflict Waiver Request

FIS Approval: MB
CA Approval: SO


JOY M. CROSE
Assistant General Counsel

APPROVED:

By 
STEVEN OTERA
General Counsel, Harbor Department

APPROVED:

By Marla Bleavins
EUGENE D. SEROKA
Executive Director