

HARBOR DIVISION

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DATE: APRIL 23, 2014

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. _____ - APPROVE FIRST AMENDMENT TO AGREEMENT E-6700 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND MECKLER BULGER TILSON MARICK & PEARSON LLP

SUMMARY:

The Office of the City Attorney requests approval of a First Amendment to Executive Director Agreement No. E-6700 with Meckler Bulger Tilson Marick & Pearson LLP, extending the one-year term of the Agreement by two more years. The extension is necessary due to postponement of the trial date in *City of Los Angeles v. National Union Fire Insurance Co of Pittsburgh PA* (U.S. District Court Case No. 12-cv-07662). No additional funds are requested.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the First Amendment to Agreement No. E-6700 with Meckler Bulger Tilson Marick & Pearson LLP, extending the one-year term to a total of three years;
2. Authorize the Interim Executive Director to execute and the Board Secretary to attest to the First Amendment to Agreement E-6700; and
3. Adopt Resolution No. _____.

DISCUSSION:

Bruce Meckler of Meckler Bulger Tilson Marick & Pearson LLP was retained under Executive Director Agreement E-6700 to review and analyze the legal fees incurred by the City in defense of *United States ex rel Stanley Mosler v. City of Los Angeles et al.* (U.S. District Court Case No. 02-cv-02278) and to provide expert testimony regarding

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the reasonableness of those fees in the City's current insurance coverage litigation with National Union Fire Insurance Company of Pittsburgh PA. The term of the one-year contract commenced May 16, 2013.

The February 4, 2014 trial date in *City v. National Union* was vacated and the Court has taken under submission, the City's motion requesting certification of the Order issued December 26, 2013 for immediate appeal. A ruling has not been issued and no new trial date has been set.

Extension of the Agreement is necessary to keep Mr. Meckler retained for the trial. The contract appropriation is \$135,000. A total of \$116,007 has been billed to date. The balance (\$18,993) should be adequate to cover Mr. Meckler's trial testimony.

CONCLUSION:

Extending the term of Agreement E-6700 will keep Mr. Meckler retained to serve as a testifying expert at the eventual trial in *City of Los Angeles v. National Union Fire Insurance Company of Pittsburgh PA*.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an amendment to Agreement E-6700 with Meckler Bulger Tilson Marick & Pearson LLP to extend the term of the agreement for review and analysis of legal fees by two years. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

ECONOMIC IMPACT:

This Board action will have no direct employment impact for the five-county region.

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FINANCIAL IMPACT:

Funding for the proposed First Amendment has been proposed to be budgeted, upon Board approval as part of the annual budget adoption process in the amount of \$15,194, in the FY 2014-15 Operating Budget, within the Harbor Department City Attorney's Office Account No. 54410, Division No. 0120, and Program No. 000.

Funding for future fiscal years if necessary, will be requested to be budgeted as part of the annual budget adoption process, upon Board approval. A funding out clause was included in the original Agreement.

Firm	FY 13/14	FY14/15	FY 15/16	TOTAL
Meckler Bulger Tilson Marick & Pearson LLP	\$ 116,008	\$ 15,194	\$3,798	\$135,000

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the proposed First Amendment as to form and legality.

TRANSMITTAL:

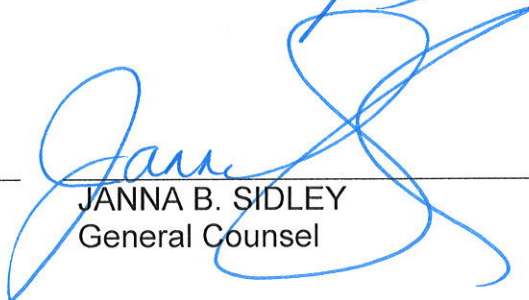
1. First Amendment to Agreement E-6700 extending its term from one to three years

FIS Approval: WP (initials)

CA Approval: [Signature] (initials)



KENNETH F. MATTFELD
Deputy City Attorney



JANNA B. SIDLEY
General Counsel

APPROVED:

By Gary Lee Moore
GARY LEE MOORE, P.E.
Interim Executive Director