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AGREEMENT FOR PROFESSIONAL LEGAL SERVICES

BETWEEN

THE CITY OF LOS ANGELES

AND

NOSSAMAN LLP

HARBOR DEPARTMENT

AGREEMENT NO. E 6845

DATED JULY 20, 20 16

BTAC# 0020113159
TIN# 95-2319542

7/20/16 - 7/19/17

\$150,000 -

Transmittal 1

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7/18/16

HARBOR DEPARTMENT AGREEMENT NO. E 6845

AGREEMENT FOR PROFESSIONAL LEGAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ("Agreement"), is made and entered into by and between the City of Los Angeles, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board") and the Office of the City Attorney ("City Attorney"), and Nossaman LLP, a California limited liability partnership, 777 South Figueroa St., 34th Floor, Los Angeles, CA 90017 ("Outside Counsel") with reference to the following:

RECITALS

WHEREAS, the City Attorney and the Board have approved the use of Outside Counsel to assist the City Attorney with professional legal services including ongoing legal advice and litigation support on complex commercial and industrial leasing of real property, assignment and subleasing, ground leasing and financing, purchase and sale, Tidelands Trust, and real estate remedies and enforcement of leases; and

WHEREAS, Outside Counsel indicates that it has the expertise and competence to perform the professional legal services sought by the City; and

WHEREAS, the City Attorney has selected Outside Counsel to provide assistance in such matters. Outside Counsel is willing to provide such assistance and represents to the City that it is able to do so without a conflict of interest; and

WHEREAS, the professional legal services to be performed by the Outside Counsel are of an expert and technical nature and are temporary and occasional in character.

NOW, THEREFORE, in consideration of the promises, covenants, terms and conditions contained herein, the parties hereby covenant, agree and represent as follows:

I. SCOPE OF REPRESENTATION AND PARTNERING

Outside Counsel is retained to assist the City Attorney in providing professional legal services for the City including ongoing legal advice and litigation support on complex commercial and industrial leasing of real property, assignment and subleasing, ground leasing and financing, purchase and sale, Tidelands Trust, and real estate remedies and enforcement of leases. Outside Counsel shall at all times work under the direction of the City Attorney. The City and City Attorney shall rely on the competence, expertise and experience of Outside Counsel. At all times, Outside Counsel shall provide professional legal advice and services at the highest level expected of law firms providing legal services in the Los Angeles region. This is a non-exclusive agreement to provide legal services to the City and, at the City Attorney's discretion, the City may

augment the services with another law firm or law firms or select to terminate Outside Counsel's services in a manner consistent with this Agreement.

City Attorney and Outside Counsel recognize and agree that an important purpose of this Agreement is to promote effective collaboration between City Attorney and Outside Counsel so that, among other things, City Attorney is able to gain familiarity with the legal issues presented in these matters and for Outside Counsel to impart substantive subject matter knowledge to City Attorney's lawyers. To this end, City Attorney and Outside Counsel both agree to make reasonable efforts to coordinate their efforts and work.

II. GENERAL CONDITIONS

A. Period of Performance

This Agreement shall begin on the date it is executed by Executive Director, and shall continue for one (1) year thereafter, unless terminated earlier under the provisions of this Agreement.

B. Termination or Suspension of Legal Services

1. Termination/Suspension For City's Convenience

a) Services performed under this Agreement may be terminated or suspended in whole or in part at any time by City Attorney. City Attorney shall terminate or suspend services by delivering to Outside Counsel a written notice specifying the extent to which services are terminated or suspended and the effective date of such termination or suspension.

b) After receiving a notice of termination or suspension, unless otherwise directed by City Attorney, Outside Counsel shall:

1) Stop services on the date and to the extent specified in the notice; and

2) Continue to perform services not terminated or suspended by the notice.

c) After receiving a notice of termination, Outside Counsel shall:

1) Submit final billing for services rendered through the time of termination no later than thirty (30) calendar days from the effective date of termination; and

2) If Outside Counsel fails to submit a final billing within the time allowed, City Attorney may determine the amount, if any, to be paid to Outside Counsel. Outside Counsel

agrees that City Attorney's determination shall be final.

2. Termination For Outside Counsel's Default

a) Services performed under this Agreement may be terminated in whole or in part by City Attorney upon a default by Outside Counsel. Under this Agreement, Outside Counsel will be deemed in default if Outside Counsel:

1) Fails to perform the service(s) within the specified time period; or

2) Fails to perform any of the provisions contained in this Agreement; or

3) Fails to make adequate progress in the matter and endangers the performance of this Agreement's terms.

b) If City Attorney wholly or partially terminates services under this Agreement, City Attorney may obtain alternative legal services with terms and in a manner City Attorney deems appropriate. In addition to any other remedies provided by this Agreement, law or equity, Outside Counsel shall be liable to City for any excess costs associated with obtaining and utilizing alternative legal services.

3. Termination Due To Non-Appropriation Of Funds

This Agreement is subject to the provisions of the Los Angeles City Charter which, among other things, precludes the City from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated thereof.

The Board, in awarding this Agreement, is expected to appropriate sufficient funds to meet the estimated expenditure of funds through June 30 of the current fiscal year and to make further appropriations in each succeeding fiscal year during the life of the Agreement. However, the Board is under no legal obligation to do so.

The City, its boards, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefore. The Outside Counsel is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although the Outside Counsel is not obligated to perform any work under the Agreement in any fiscal year in which no appropriation for the Agreement has been made, the Outside Counsel agrees to resume

performance of the work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefore is approved by the Board within that 60-day period. The Outside Counsel is responsible for maintaining all insurance and bonds during this 60-day period until the appropriation is made; however, such extension of time is not compensable.

If in any subsequent fiscal year funds are not appropriated by the Board for the work required by the Agreement, the Agreement shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

4. Closing Report Upon Termination

a) If requested by City Attorney, Outside Counsel shall deliver a Closing Report within two days of the termination of services.

b) The Closing Report shall include, but is not limited to:

- 1) A brief description of the facts of the case or matter;
- 2) A discussion of applicable law;
- 3) A description of the status of the case or matter; and
- 4) A list and description of future scheduled court appearances.

c) Outside Counsel shall give City Attorney all files and attorney work product. This includes any computerized indices, programs and document retrieval systems created or used.

C. Independent Contractor Status

This Agreement is between City and Outside Counsel and is not intended, and shall not be construed, to create, as between City and Outside Counsel, the relationship of agent, servant, employee, partnership, joint venture or association. Outside Counsel understands and agrees that all Outside Counsel personnel furnishing services to City under this Agreement are employees solely of Outside Counsel and not City. Outside Counsel shall bear the sole responsibility and liability for any taxes or fees which may be assessed against it or its employees and for furnishing workers' compensation benefits to any Outside Counsel personnel for injuries arising from services performed under this Agreement.

D. Ownership of Documents

All information, documents, records, reports, data, or other materials furnished to Outside Counsel or other such information, documents, records, data or other materials to which Outside Counsel has access during their performance pursuant to this Agreement are deemed confidential and shall remain the property of City. Outside Counsel shall not make use of such items for any purpose unrelated to the matter involved herein and shall not make oral or written disclosure thereof, other than as necessary for their performance hereunder, without the prior written approval of City Attorney.

E. Indemnity for General Liability

Except for the sole negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Outside Counsel's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Outside Counsel or its subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City.

F. Workers' Compensation and Employer's Liability

Outside Counsel shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Outside Counsel shall comply with such provisions before commencing the performance of the tasks under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers' Compensation Act, if required under applicable law, shall be included. Outside Counsel shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against the City in any circumstance in which it is alleged that actions or omissions of the City contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Outside Counsel, and for all employees of any subcontractor or other vendor retained by Outside Counsel.

G. Indemnity for Professional Liability.

Except for the sole negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, Outside Counsel undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses, of any nature whatsoever, which may be sustained or suffered by or secured against the City, its Boards, Officers, Agents, Employees, Assigns and Successors in Interest by reason of any damage to property, injury to persons, or any action that may arise out of the performance of this Agreement that is caused by any act, omission, or negligence of Outside Counsel, its boards, officers, agents, employees or subconsultants.

H. Professional Liability Insurance

Outside Counsel is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Outside Counsel certifies that it now has professional liability insurance in the amount of One Million Dollars (\$1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following acceptance of the completed project by Board.

Each policy shall include a 10-days notice of cancellation for nonpayment of premium, and a 30-days notice of cancellation for any other reasons.

Notice of occurrences of claims under the policy shall be made to the City Attorney's office with copies to Risk Management.

I. Carrier Requirements

All insurance which Outside Counsel is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to City.

J. Notice of Cancellation

Each insurance policy described above shall provide that it will not be canceled or reduced in coverage until after the Board of Harbor Commissioners, Attention: Risk Manager and the City Attorney of City have each been given thirty (30) days' prior

written notice by registered mail addressed to 425 S. Palos Verdes Street, San Pedro, California 90731.

K. Modification of Coverage

Executive Director, at his or her discretion, based upon recommendation of independent insurance consultants to City, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Outside Counsel.

L. Renewal of Policies

At least thirty (30) days prior to the expiration of each policy, Outside Counsel shall direct their insurance broker or agent to submit to the City's online insurance compliance system Track4LA™ at <http://track4la.lacity.org/> a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Outside Counsel neglects or fails to secure or maintain the insurance required above, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect City's interests. The cost of such insurance will be deducted from the next payment due Outside Counsel.

M. Right to Self-Insure

Upon written approval by the Executive Director, Outside Counsel may self-insure if the following conditions are met:

1. Outside Counsel has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Outside Counsel must have a formal resolution of its board of directors authorizing self-insurance.
2. Outside Counsel agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.
3. Outside Counsel agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
4. Outside Counsel agrees that any insurance carried by Department is excess of Outside Counsel's self-insurance and will not contribute to it.

5. Outside Counsel provides the name and address of its claims administrator.
6. Outside Counsel submits a Financial Statement or Balance Sheet prior to Executive Director's consideration of approval of self-insurance and annually thereafter evidence of financial capacity to cover the self-insurance.
7. Outside Counsel agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance.
8. Outside Counsel has complied with all laws pertaining to self-insurance.

N. Governing Law

The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of California and any action brought by either party on this Agreement shall be brought in the Los Angeles County Central District Superior Courts.

O. Validity

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

P. Waiver

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any future breach of the provision or any breach of any other provision of this Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

Q. Remedies Reserved to City

The remedies reserved to City shall be cumulative and additional to any other remedies provided in law or equity.

R. Authorization for Warranty

Outside Counsel represents and warrants that the signatory(ies) to this Agreement is fully authorized to obligate Outside Counsel and that all corporate acts necessary to the execution of this Agreement have been accomplished.

S. Changes and Written Amendment of Terms

Material changes to this Agreement shall only be effective upon the execution of a mutually-approved written amendment.

III. OUTSIDE COUNSEL'S SERVICES AND RESPONSIBILITIES

A. Professional Ethics and Conflicts of Interest

City recognizes that Outside Counsel may have clients that, from time to time, may have interests adverse to City. Any such representation shall be in accordance with the ethical duties of members of the State Bar of California including, without limitation, those established by the Bar's Rules of Professional Conduct. Outside Counsel shall send written notice to City Attorney Conflicts Attorney of any actual or potential conflict of interest that exists during Outside Counsel's engagement under this Agreement. The request for waiver shall describe in detail the nature of the proposed engagement by Outside Counsel, the nature of the conflict, and why Outside Counsel believes a waiver is appropriate.

B. Key Outside Counsel Personnel

1. Outside Counsel's Supervising Attorney for this Agreement shall be Karla MacCary. Outside Counsel's Supervising Attorney shall not be changed without City Attorney's written authorization.

2. Outside Counsel's Supervising Attorney shall have full authority to act for Outside Counsel on all daily operational matters under this Agreement and shall serve as or designate Lead Counsel for all matters performed pursuant to this Agreement. Designation of a Lead Counsel other than the Supervising Attorney shall be subject to City Attorney's prior written approval.

C. Legal Representation

1. Outside Counsel shall provide City with the necessary representation by qualified staff at the least costly billing category. Partners and associates shall be admitted to practice law before all of the courts of the State of California. The names of personnel authorized to provide services under this Agreement and the hourly rates for each staff member are listed in the document entitled, "COMPENSATION – HOURLY RATES OF NOSSMAN LLP" attached hereto and incorporated herein as Exhibit B to this Contract.

Any use of personnel other than as enumerated shall be subject to the prior written approval of City Attorney's Supervising Attorney. Outside Counsel may hire consultants, but only with the prior written approval of City Attorney's Supervising Attorney. Outside Counsel

may retain other law firms or attorneys as subcontractors to provide the legal services covered by this Agreement, but only with the prior written approval of the Chief Deputy City Attorney. Any such written approval of subcontractors must set forth the name of each approved attorney or other personnel and the agreed rate for such individual. Outside Counsel will require any such subcontractors or consultants to comply with the terms and conditions of this Agreement and will indemnify, defend and forever hold harmless the City from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of any act or omission of any such subcontractors or consultants.

2. Outside Counsel's legal representation shall include, but is not limited to:

a) All due diligence, legal research, and review of all documents and other related materials; and

b) Investigative, secretarial, and clerical support services necessary to perform the services in a professional manner.

3. Outside Counsel shall provide all required reports referenced in this Agreement.

4. Outside Counsel shall meet with City Attorney as City Attorney requires.

5. Outside Counsel shall obtain written approval from City Attorney before retaining any consultant or expert.

6. Outside Counsel shall obtain prior approval from City Attorney for travel outside the Counties of: Los Angeles, Orange, Riverside, Imperial, Kern, San Bernardino, Ventura or Santa Barbara. Unapproved travel will not be reimbursed.

7. Outside Counsel shall maintain all backup documentation to support all entries included in its billings.

D. Reporting Requirements

Depending on the nature of the matter and the benefit derived, City Attorney may request that Outside Counsel provide City Attorney with reports on the status of the research and analysis completed pursuant to this Agreement.

IV. CITY'S DUTIES AND RESPONSIBILITIES

A. Key City Personnel

1. City hereby appoints the City Attorney, or his or her designee, to represent the City on all matters related to this Agreement; however, any written amendment to this Agreement requiring additional funds shall be conditioned upon the approval of the additional appropriation of said funds by the Board. The City Attorney's Supervising Attorneys shall be Harbor Department General Counsel Janna Sidley, and the Chief Deputy City Attorney. On all matters relating to invoices the City Attorney's representative shall be the City Attorney's Chief Financial and Administrative Officer.

2. City Attorney's Supervising Attorneys shall have full authority to act for City on all daily operational matters under this Agreement and shall review and approve Outside Counsel's reports, whether written or verbal, and any change in Outside Counsel's designated Lead Counsel.

V. COMPENSATION

A. Appropriation of Funds.

One Hundred and Fifty Thousand Dollars (\$150,000) have been appropriated for this Agreement to cover legal services paid for at hourly rates set forth on Exhibit B. Outside Counsel's work pursuant to this Agreement for specific services shall not exceed this amount without the prior written approval of City Attorney. The City is not obligated to pay Outside Counsel for any work done and/or costs incurred in excess of the appropriated amount unless additional appropriations are made and a written amendment to this Agreement is executed by the parties.

B. Outside Counsel's Obligation For Continued Performance.

In the event that Outside Counsel's fees, costs and expenses, in the aggregate, exceed the amount appropriated by City as provided herein, Outside Counsel shall not be obligated to provide services or incur any further costs or expenses on the work required hereunder, and the City shall not be liable for fees or costs in excess of the amount appropriated, unless the appropriated amount is increased as provided herein. Outside Counsel shall be responsible for notifying City Attorney's Supervising Attorneys that the aforesaid appropriated amount will be expended before completion of the work required hereunder and that Outside Counsel will need additional funds if City desires further work. Outside Counsel shall give written notice to City Attorney's Supervising Attorney and to the City Attorney's Chief Financial and Administrative Officer, when Outside Counsel's expenditures under this Agreement are equal to sixty percent

(60%) and eighty percent (80%) of the total dollar value appropriated for this Agreement so that City Attorney has sufficient time to consider whether it desires to seek an additional appropriation and written amendment to the Agreement.

C. Fees

1. The City shall pay Outside Counsel for the services performed by Outside Counsel which are reasonably necessary. The fees for such services shall be based upon the time expended to render the required services, with fractions thereof being stated to the tenth of an hour, and shall be computed at a rate not to exceed the rates listed in Section B of Exhibit B.

2. Billing rates may be increased with the prior written approval of the Chief Deputy City Attorney only.

D. City's Reservation of Rights to Obtain Reimbursement

City shall pay Outside Counsel based on Outside Counsel's submission of monthly invoices consistent with the provisions of this Agreement. Even though City makes payment pursuant to invoices, City shall have the right to demand reimbursement any time City determines that previously paid costs and expenses were not properly billed by Outside Counsel. Outside Counsel shall promptly reimburse City for such costs and expenses previously paid by City.

E. Expenses

Absent the express prior written approval of the appropriate City Attorney's Supervising Attorney, the City will not pay for any extraordinary expenses incurred in any legal matter. The City Attorney's Chief Financial and Administrative Office must approve in writing any item of expense that exceeds \$5,000. The City Attorney's Supervising Attorney must approve in writing any item of expense that exceeds \$1,000. Such expenses include, but are not limited to, expert witnesses, consultant services, investigative services, computer litigation support services, videotaping of depositions, temporary office help, travel expenses, meals as well as other expenses. The City will not pay for business class or first class airfare or luxury hotels. City shall reimburse Outside Counsel for the actual out-of-pocket expenses, enumerated below, but without any additional costs for having advanced the funds. Outside Counsel shall note that City is exempt from all filing fee charges.

1. Reimbursable ordinary expenses shall include, but are not limited to:

a) Transcript fees;

b) Messenger service - where appropriate, documents should be transmitted via email or facsimile/telecopier;

c) Facsimile/Telecopier (FAX) transmission - Outside Counsel shall not bill the City for any expense related to facsimile charges beyond Outside Counsel's actual net costs for long distance telephone charges actually and reasonably incurred by Outside Counsel for the sending of facsimiles. Outside Counsel shall indicate in its billing statements the number of pages transmitted via facsimile together with the related cost of each charge. Outside Counsel shall attach the appropriate receipts, invoices or proof of any expenditure for your charges for facsimiles.

d) In-house document reproduction. Outside Counsel may charge up to \$0.10 cents per page for photocopies. The billing statement shall contain the total number of copies made.

2. Reimbursable extraordinary expenses shall include charges of which Outside Counsel has obtained City Attorney's prior written approval. Such expenses shall include, but are not limited to:

- a) Consultants;
- b) Expert witnesses;
- c) Investigative services;

d) Computer Assisted Legal Research ("CALR"). The City of Los Angeles's decision to retain a particular firm is based in part on the firm's expertise and knowledge. The City therefore assumes familiarity with the basic substantive law at issue in the matter for which the firm was retained; any exception to this general expectation should be discussed fully at the time of retention. In conducting legal research the law firm is expected to utilize all appropriate sources reasonably available, including previously prepared briefs and memoranda. Should Outside Counsel determine that it is necessary to incur CALR charges in order to satisfy the terms of this Agreement, Outside Counsel shall obtain City Attorney Supervising Attorney's prior written approval to charge for such expenses. No charges for CALR shall be paid by the City without its prior written approval of such a charge.

e) Outside Counsel shall describe in detail in its billings any travel expenses incurred by Outside Counsel. City retains the right to audit these expenses. Only coach fare will be reimbursed for travel. All travel expenses outside the Counties of Los Angeles, San Bernardino, Orange, Riverside, Imperial, Kern, Ventura and Santa Barbara shall be subject to City Attorney's prior written approval.

Lodging - If a receipt is submitted, a single occupancy hotel accommodation will be reimbursed up to a maximum of \$165.50 plus taxes. For trial attendance by out-of-town experts or consultants, this rate may be increased, depending on the availability of lodging and prior City Attorney written approval.

3. Non-reimbursable expenses shall include, but are not limited to:
 - a) Staff time or overtime for performing secretarial, clerical, or word processing functions;
 - b) Charges for time spent complying with City Attorney audits or billing inquiries;
 - c) Charges for work performed which City Attorney had not authorized. Such work shall be a gratuitous effort by Outside Counsel; and
 - d) Expenses that are considered to be part of general law firm overhead, including but not limited to, administrative time, secretarial time, calendaring, setting up files, indexing, word processing, air conditioning, equipment rental, office supplies, meals, snacks, beverages, seminars, books or association dues, etc.

F. Most Favored Nations

Outside Counsel represents that, as of the date hereof, the rates set forth in Section V.C., above and the other economic terms and conditions provided in this Agreement, for new or renewed contracts with the same rate structure and work of similar complexity, are at least as favorable to City as those provided to any other client of Outside Counsel (other than pro bono clients).

If during the term of this Agreement (including any extension or renewal) Outside Counsel has in effect or places into effect with any client (other than a pro bono client) a lower rate or other more favorable economic term or condition than provided under this Agreement (a "More Favorable Provision"), Outside Counsel will promptly offer such More Favorable Provision, unconditionally, to City by providing written notice thereof to City (an "MFN Notice") and, at City's election, this Agreement will be deemed to have been modified to provide City with such More Favorable Provision. Notwithstanding anything herein to the contrary, Outside Counsel's failure to provide City with an MFN Notice will not limit or otherwise impact City's right to enjoy the benefits of the applicable More Favorable Provision(s).

VI. BILLINGS AND PAYMENTS

A. Billings

1. Outside Counsel shall submit its billing statement monthly in arrears, no later than the twentieth of the month following the month service was rendered.

2. Outside Counsel and City Attorney recognize that legal services performed under this Agreement are being paid for with tax dollars from the citizens of the City of Los Angeles and that, therefore, a heightened duty of care exists in both Outside Counsel and City Attorney to ensure that Outside Counsel scrupulously adheres to principles of moderation, frugality and cost consciousness in carrying out the goals of this Agreement. Outside Counsel pledges to observe a duty of reasonableness and cost effective representation in all aspects of this Agreement. Accordingly, each billing statement shall contain a certification by Outside Counsel's Supervising Attorney that the services performed and the expenses incurred were both reasonable and necessary.

3. The City will not pay for more than one attorney doing any particular task unless City Attorney has given its prior written approval. The City will not pay for two or more attorneys attending the same deposition or court appearance. The City will pay for the time recorded by more than one attorney for in-office conferences, but only if the conference is an occasional and necessary strategy meeting relating to some significant legal event or proceeding.

The City shall not pay for duplicative time charges by two or more attorneys, e.g., for legal research, reviewing documents, drafting documents, except as approved in writing by City Attorney. The City shall not pay for "training" or "apprenticeship" time. The City shall not pay for the involvement of attorneys who work on the case irregularly or sporadically, unless a particular attorney has a special expertise that substantially advances the prosecution/defense of the case.

4. Use of paralegals is encouraged providing they meet the requirements set forth herein. Assignment of work to paralegals should not result in duplicative activity between attorneys and paralegals, or the reworking or rewriting of paralegals' work product by attorneys. The City will not pay for paralegal time spent performing clerical/secretarial work (e.g., filing, indexing, sorting, organizing, photocopying and bates stamping documents) unless the City has given its prior written approval. City expects paralegals to perform true paralegal work, e.g., research, document productions, preparing discovery or responses, interviewing witnesses, etc.

5. Billings under this Agreement shall not be made in more than one-tenth of an hour (six minute) increments, and shall represent the devotion of a full six minutes before such an increment is billed. Under no circumstances shall Outside Counsel use "block billing" procedures, wherein a list of series of activities is done each day with only an aggregate amount of time specified. Instead, Outside Counsel shall provide a detailed specific entry for each separate task and sub-task reflecting the time for such task or subtask. All tasks set forth in Outside Counsel's billing documentation shall be highly specific and highly detailed. Overly generalized listings of task descriptions such as "review contract" or "prepare for negotiations" will not be acceptable. Outside Counsel shall provide a detailed description of each action as described below.

6. Each billing statement shall be identified by a unique number and itemized to include:

- a) Case name, and case number;
- b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal;
 - 1) Each activity shall be billed in a reporting format acceptable to City Attorney.
 - 2) A detailed description of specific activities for each attorney and/or paralegal shall include, but is not limited to:
 - (a) In-person conferences.
 - (b) Telephone call(s).
 - (c) Correspondence.
 - (d) Depositions.
 - (e) Case reports.
 - (f) Pleading, brief or opinion drafting.
 - (g) Hearings.
 - (h) Research, including computerized legal research databases.
 - (i) Case reviews.
 - (j) Trials.

(k) Travel.

- c) Total current monthly fees billed for each staffing level;
- d) Total cumulative fees billed for each staffing level;
- e) Total current monthly expenses billed in the following categories:
 - 1) Consultant and expert witness expenses;
 - 2) Deposition and transcript expenses;
 - 3) Other miscellaneous expenses.
- f) Total cumulative expenses to date billed in (e) above.

B. Payments

- 1. City shall make payment(s) for services rendered under this Agreement based on the monthly, itemized billing statement(s) Outside Counsel submits to City Attorney.
- 2. City Attorney's legal and accounting staff shall review all billing statements in accordance with City's review procedures.
- 3. City shall make its best effort to process payments promptly after receiving Outside Counsel's monthly billing statement. City shall not pay interest or finance charges on any outstanding balance(s).

C. Audit

For at least three years after completion of services under this Agreement or termination of this Agreement, Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement, shall maintain backup documentation to support all entries included in the monthly billing statement. Such backup documentation shall be maintained in an auditable format and in accordance with generally accepted accounting principles. City Attorney, at its sole discretion, may, at any time up to three years beyond the completion of services or termination of this Agreement, audit Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement. Outside Counsel and any such third parties shall promptly and fully cooperate with the audit, including affording City Attorney and/or its auditors access to records and files maintained by Outside Counsel and the third party.

VII. NOTICES

All invoices, notices and required reports shall be written and hand-delivered or mailed by first class, postage prepaid, addressed to City Attorney or Outside Counsel at the addresses below, or at any other address City Attorney or Outside Counsel shall provide in writing to each other:

A. If invoice to City Attorney:

Candy Pabalan
Business Office
Office of the City Attorney
200 North Main Street,
8th Floor, City Hall East
Los Angeles, California 90012-4130

If notice or a report to City Attorney:

City Los Angeles, Harbor Department
Office of the City Attorney
425 S. Palos Verdes Street
San Pedro, California 90731
Attention: General Counsel Janna Sidley

If notice concerning conflict of interest to City Attorney:

Anne Haley, Assistant City Attorney
City of Los Angeles
Office of the City Attorney
200 North Main Street,
8th Floor, City Hall East
Los Angeles, California 90012-4130

B. If notice to Outside Counsel:

Karla MacCary
Nossaman LLP
777 South Figueroa St., 34th Floor
Los Angeles, CA 90017

VIII. ASSIGNMENT

A. No part of this Agreement or any right or obligation arising from it is assignable without City's prior written consent.

B. Any attempt by Outside Counsel to assign or subcontract services relating to this Agreement without City's prior written consent shall constitute a material breach of this Agreement.

IX. STANDARD TERMS AND CONDITIONS

Standard terms and conditions for City outside legal services contracts are attached as Exhibit A.

X. MERGER

This Agreement supersedes all prior communications and all previous written and oral agreements, and shall constitute the complete and exclusive statement of understanding between City, City Attorney and Outside Counsel relating to the subject matter of this Agreement.

XI. AFFIRMATIVE ACTION

The Outside Counsel, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code shall be incorporated and made a part of this Agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit C.

XII. SMALL/VERY SMALL BUSINESS DEVELOPMENT PROGRAM

It is the policy of the Department to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Outside Counsel shall assist the City in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement. See Exhibit D.

NOTE: Prior to being awarded a contract with the City, Outside Counsel and all subconsultants must be registered on the City's Contracts Management and Opportunities Database, Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>.

XIII. CONFLICT OF INTEREST

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code (LAMC) Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof.

XIV. COMPLIANCE WITH APPLICABLE LAWS

Outside Counsel shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of Executive Director.

XVI. TRADEMARKS, COPYRIGHTS, AND PATENTS

Outside Counsel agrees to save, keep, hold harmless, protect and indemnify the City and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City of any materials supplied by Outside Counsel in the performance of this Agreement.

XVII. PROPRIETARY INFORMATION

A. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations), which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by City as soon as they are developed, whether in draft or final form. City has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Outside Counsel hereby warrants and represents that City at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Outside Counsel need not obtain for City the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Outside Counsel or one of its employees, or its subconsultant or the subconsultant's employees, in which case such right shall be obtained without additional

compensation. Whether or not Outside Counsel's initial proposal or proposals made during this Agreement are accepted by City, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Outside Counsel, its subconsultants or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to the City, its boards, officers, agents or employees, is not given in confidence. Accordingly, City or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

B. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Outside Counsel, its officers, agents, employees, or subconsultants, the City shall have, without cost or expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by City. Upon City's request, Outside Counsel, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to the City. It is expressly understood and agreed that, as between City and Outside Counsel, the referenced license shall arise for City's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. City may transfer such license to its successors in the operation or ownership of any real or personal property now or hereafter owned or operated by City.

XVIII. CONFIDENTIALITY

The data, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Outside Counsel relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Outside Counsel or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Outside Counsel is required to safeguard such information from access by unauthorized personnel.

XIX. BUSINESS TAX REGISTRATION CERTIFICATE

The City of Los Angeles Office of Finance requires the implementation and enforcement of Los Angeles Municipal Code Section 21.09 et seq. This Code Section provides that every person, other than a municipal employee, who engages in any business within the City of Los Angeles, is required to obtain the necessary Business Tax Registration Certificate and pay business taxes. The City Controller has determined that this Code Section applies to consulting firms that are doing work for the Department. See Exhibit E.

XX. TAXPAYER IDENTIFICATION NUMBER (TIN)

The Internal Revenue Service (IRS) requires that all consultants and suppliers of materials and supplies provide a TIN to the party that pays them. Outside Counsel declares that its authorized TIN is 95-2219542. No payments will be made under this Agreement without a valid TIN.

XXI. SERVICE CONTRACTOR WORKER RETENTION POLICY AND LIVING WAGE POLICY REQUIREMENTS

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 5771 on January 13, 1999, agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention (SCWR), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the Department. Further, Charter Section 378 requires compliance with the City's Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. Outside Counsel shall comply with the policy wherever applicable. Violation of this provision, where applicable, shall entitle the City to terminate this Agreement and otherwise pursue legal remedies that may be available.

XXII. WAGE AND EARNINGS ASSIGNMENT ORDERS / NOTICES OF ASSIGNMENTS

The Outside Counsel and/or any subconsultant are obligated to fully comply with all applicable state and federal employment reporting requirements for the Outside Counsel and/or subconsultant's employees.

The Outside Counsel and/or subconsultant shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. The Outside Counsel and/or subconsultant will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Cal. Family Code Sections 5230 et seq. The Outside Counsel or subconsultant will maintain such compliance throughout the term of this Agreement.

XXIII. EQUAL BENEFITS POLICY

The Board of Harbor Commissioners of the City of Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et seq. of the Los Angeles Administrative Code, as a policy of the Department. Outside Counsel shall comply with the policy wherever applicable. Violation of this policy shall entitle the City to terminate any Agreement with Outside Counsel and pursue any and all other legal remedies that may be available. See Exhibit F.

XXIV. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

The Outside Counsel, subconsultants, and their principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the agreement is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Outside Counsel is required to provide and update certain information to the City as specified by law. Any consultant subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subconsultant expected to receive at least \$100,000 for performance under this Agreement:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are a subconsultant on Harbor Department Agreement No. _____. Pursuant to City Charter Section 470(c)(12), subconsultant and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the Agreement is signed. subconsultant is required to provide to Consultant names and addresses of the subconsultant's principals and contact information and shall update that information if it changes during the 12 month time period. subconsultant's information must be provided to Outside Counsel within 10 business days. Failure to comply may result in termination of the Agreement or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213-978-1960.

Outside Counsel, subconsultants, and their principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

XXV. STATE TIDELANDS GRANTS

This Agreement is entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, this Agreement is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (Stats. 1929, Ch. 651), as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands. Outside Counsel agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

XXVI. INTEGRATION

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

XXVII. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law, public policy, or city charter, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

XXVIII. ORDER OF PRECEDENCE

The terms and conditions contained in the body of this Agreement shall supersede, control and prevail over any conflicting term or condition contained in any other document, including, but not limited to, Exhibit A.

LIST OF EXHIBITS

- A – CITY OF LOS ANGELES CONTRACTING REQUIREMENTS
- B – COMPENSATION – HOURLY RATES
- C – AFFIRMATIVE ACTION
- D – SMALL/VERY SMALL BUSINESS DEVELOPMENT PROGRAM
- E – BUSINESS TAX REGISTRATION CERTIFICATE
- F – EQUAL BENEFITS POLICY

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective, duly authorized representatives.

THE CITY OF LOS ANGELES
HARBOR DEPARTMENT

Dated: July 20, 2016

By Mark Bleavin
~~FOX~~ EUGENE D. SEROKA
Executive Director

THE CITY OF LOS ANGELES,
a municipal corporation

By James P. Clark
JAMES P. CLARK
Chief Deputy City Attorney
Date 7/29/16

NOSSAMAN LLP
a California limited liability partnership

By Karla MacCary
Karla MacCary, Partner
Print Name and Title
Date July 12, 2016

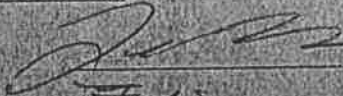
APPROVED AS TO FORM AND LEGALITY

July 19, 2016
MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel

By [Signature]
STEVEN Y. OTERA, Deputy

Account #	54410	W.O. #	
Ctr/Div #	0120	Job Fac. #	
Proj/Prog #	000		
Budget FY: Amount:			
	2016-17	150,000	
	TOTAL	150,000	

For Acct/Budget Div. Use Only.

Verified by: 

Verified Funds Available: 7/11/16

Date Approved: 7/18/16

Business Tax Registration Number: 113159-0001-0
 Internal Revenue Service Taxpayer Identification Number: 95-2219542
 Contract Number: _____

EXHIBIT B
COMPENSATION

Hourly Rates for NOSSAMAN LLP

A. The specific hourly rates for each authorized timekeeper shall not exceed the following:

Authorized Timekeeper	Title	Hourly Rate
Karla MacCary	Partner	\$490
Ren Smith	Partner	\$495
David Graeler	Partner	\$490
Rick Rayl	Partner	\$495
Elinor Eizdi	Associate	\$300
Eric Brun	Associate	\$335
Jennifer Meeker	Associate	\$390

B. The hourly rate for each timekeeper category shall not exceed the following:

Title	Hourly Rate
Partners	\$495
Of Counsel	\$
Associates	\$390
Paralegals	\$