

HARBOR DIVISION

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DATE: AUGUST 17, 2021

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. \_\_\_\_\_ WAIVING THE POTENTIAL CONFLICT WITH RESPECT TO MEYERS NAVE ATTORNEY STAFFING MATTER

**SUMMARY:**

The proposed action involves the Board's approval of a requested waiver of a potential conflict of interest from the law firm Meyers Nave and its proposed hiring of an attorney who provided legal representation to the Department while employed at another law firm. Meyers Nave represents a client in a litigation matter in which the Department is also a party. Because of the attorney joining Meyers Nave, the firm will establish an ethical wall to prevent the attorney from participating on relevant matters, accessing files or discussing the matters with other staff or attorneys.

**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 conflicts that might arise by way of Meyers Nave hiring an attorney who previously worked on the same matter for the Department;

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3. Authorize the City Attorney's Office to execute a written conflict waiver; and
4. Adopt this Resolution No. \_\_\_\_\_.

**DISCUSSION:**

The proposed action involves the Board's approval of a requested waiver of a potential conflict of interest from the law firm Meyers Nave and its proposed hiring of an attorney who has previously provided legal representation to the Department while employed at another law firm. Meyers Nave represents a client in a litigation matter in which the Department is also a party. Meyers Nave currently represents BNSF Railway Company (BNSF) in the Southern California International Gateway Project (SCIG) Environmental Impact Report (EIR), including BNSF's interest, as the Real-Party-in-Interest, which was aligned with the City in defending the EIR in CEQA litigation challenging the Port and City of Los Angeles approvals of the SCIG Project EIR. In order to protect the confidentiality and attorney-client privileges of both parties, Meyers Nave will establish an ethical wall to prevent the attorney from participating on relevant matters, accessing files or discussing the matters with other staff or attorneys.

The Office of the City Attorney has reviewed the requested waiver and recommends its approval by the Board. The proposed ethical wall structure will protect the confidentiality interests and attorney-client privilege of both parties. In addition, Meyers Nave proposes that the attorney continue to provide legal services to the Department on matters not related to the potential conflict matter.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of a proposed waiver of any potential conflict that might arise from Meyers Nave and its proposed hiring of an attorney who provided legal representation to the Department while employed at another law firm, 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:**

The proposed action is for the approval of a conflict waiver that might arise from Meyers Nave and its proposed hiring of an attorney who provided legal representation to the Department while employed at another law firm. Approval of the proposed resolution will not have a financial impact on the Harbor Department.

**CITY ATTORNEY:**

The Office of the City Attorney has reviewed Meyers Nave's request for waiver of potential conflict of interest and finds the Board can make the decision for the firm's proposed hiring of an attorney who provided legal representation to the Department while employed at another law firm, which this Office shall execute following approval.

FIS Approval: MB

CA Approval: SO

*Steven Otera*  
JANNA B. SIDLEY  
General Counsel

APPROVED:

By *Marla Bleavins*  
EUGENE D. SEROKA  
Executive Director