

HARBOR DIVISION

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DATE: AUGUST 11, 2021

FROM: OFFICE OF THE CITY ATTORNEY

**SUBJECT: RESOLUTION NO. _____ - THIRD AMENDMENT TO NOSSAMAN
LLP LEGAL SERVICES AGREEMENT NO. 19-3668**

SUMMARY:

The Office of the City Attorney (Office) requests approval of the Third Amendment to Agreement No. 19-3668 (Third Amendment) between the City Los Angeles Harbor Department (Harbor Department) and Nossaman LLP (Nossaman). The proposed Third Amendment extends the term of the Agreement by two years for a maximum term of five years with no change in compensation. The current three-year term expires on July 19, 2022. The proposed Amendment would extend the term of the Agreement to a proposed five years and an expiration date of July 19, 2024. The additional term is necessary due to ongoing litigation support related to an appeal of the federal case identified as United States District Court Case No. 2:20-cv-03251-PSG-MAA entitled *Harbor Performance Enhancement Center, LLC v. City of Los Angeles Harbor Department, et al.* and a new state court action identified as Superior Court Case No. 21STCV15500 entitled *Harbor Performance Enhancement Center, LLC v. City of Los Angeles Harbor Department*. The Harbor Department is financially responsible for payment for legal services rendered under Agreement No. 19-3668.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

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WITH NOSSAMAN LLP

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. Find in accordance to Charter Section 1022 that the scope of work of the proposed Agreement can be more economically and feasibly provided by an independent contractor than by City employees;
3. Approve the Third Amendment to Legal Services Agreement No. 19-3668 with Nossaman LLP, to extend the term by two years for a maximum term of five years;
4. Authorize and direct the Board Secretary to forward the Third Amendment to the City Council for its approval pursuant to Section 373 of the City Charter and Section 10.5 of the Los Angeles Administrative Code;
5. Authorize the Executive Director and Board Secretary to execute and attest to the Third Amendment; and
6. Adopt Resolution No. _____.

DISCUSSION:

Background – Following a competitive Request for Proposals process, Nossaman was awarded a three-year agreement, Agreement No. 19-3668 (Transmittal 1), to provide legal services for eminent domain, inverse condemnation and real estate matters. Prior to being awarded Agreement No. 19-3668, Nossaman had previously represented the Harbor Department in the Ports O’ Call Bankruptcy matter and had provided general legal advice and litigation support in various aspects relating to real property law.

Existing Contract – Agreement No. 19-3668 commenced on July 20, 2019 for a three-year term with a maximum compensation not to exceed \$200,000. Since being awarded this Agreement, Nossaman has actively assisted the Harbor Department in legal services related to the HPEC litigation.

First Amendment – The Board approved the First Amendment to the Agreement on February 20, 2020 (Transmittal 2), increasing the authority of the Agreement by \$1,573,650, for a maximum total compensation of \$1,773,650.

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Second Amendment – The Board approved the Second Amendment to the Agreement on November 19, 2020 (Transmittal 3), correcting the insurance provisions for the Agreement to include standard provisions for Commercial General Liability.

Third Amendment – The Office of the City Attorney requests that the Board approve the proposed Third Amendment to extend the current three -year term to a five-year term. The additional term is necessary due to ongoing litigation support related to an appeal of the federal case identified as United States District Court Case No. 2:20-cv-03251-PSG-MAA entitled *Harbor Performance Enhancement Center, LLC v. City of Los Angeles Harbor Department, et al.* and a new state court action identified as Superior Court Case No. 21STCV15500 entitled *Harbor Performance Enhancement Center, LLC v. City of Los Angeles Harbor Department*.

City Council Approval – The term extension will increase the existing term to a total of five years. As this is a five-year Agreement, the Harbor Department is required by the City Charter Section 373 and Los Angeles Administrative Code Section 10.5 to obtain City Council approval for a long-term contract.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a Third Amendment to Agreement No. 19-3668 to extend the term of the Agreement for ongoing legal services for litigation and real estate 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 approval of a Third Amendment to Agreement No. 19-3668 to extend the term of the Agreement with no change in compensation authority. While the Harbor Department will continue to be financially responsible for payment of legal services rendered under the proposed Third Amendment, the extension of the term will not increase the scope of the Harbor Department's financial responsibilities.

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Agreement No. 19-3668 with Nossaman LLP
2. First Amendment to Agreement No. 19-3668
3. Second Amendment to Agreement No. 19-3668
4. Third Amendment to Agreement No. 19-3668

FIS Approval: MB

CA Approval: SO

Steven Otera
STEVEN OTERA
Assistant City Attorney

APPROVED:

By *Steven Otera*
JANNA B. SIDLEY
General Counsel, Harbor Department

APPROVED:

By *Marla Bleavins*
EUGENE D. SEROKA
Executive Director

Author: Steven Otera
Board Meeting: September 2, 2021