

HARBOR DIVISION

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**DATE: MAY 20, 2020**

**FROM: OFFICE OF THE CITY ATTORNEY**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - LEGAL SERVICES AGREEMENT  
BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND  
NOSSAMAN LLP FOR REAL ESTATE MATTERS**

**SUMMARY:**

The Office of the City Attorney (Office) requests the Board of Harbor Commissioners (Board) approve a Legal Services Agreement (Agreement) between the City of Los Angeles Harbor Department (Harbor Department) and Nossaman, LLP (Nossaman) for legal services for real estate matters related to newly adopted Committee on Foreign Investment in the United States (CFIUS) regulations. The Agreement is for a term of three years with compensation authority of \$50,000. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreement.

**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. Find in accordance to Charter Section 1022 that the scope of work of the proposed Agreements can be more economically and feasibly provided by an independent contractor than by City employees;
3. Approve a Legal Services Agreement with Nossaman in the amount of \$50,000 for a three-year term;
4. Authorize the Executive Director and Board Secretary to execute and attest to the Agreement; and
5. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background – In accordance with Charter Section 275, the Office has determined that it requires outside legal counsel to assist it in the discharge of its duties to perform legal services in connection with real estate matters impacted by recent federal law enacted pursuant to the CFIUS requiring specialized expertise and resources that exceed staff resources.

To the extent that it largely operates as a landlord, leasing lands granted to it pursuant to the Tidelands Trust, the Harbor Department routinely undertakes real estate transactions in the forms of lease documents, operating agreements and other forms of use and occupancy agreements. Numerous of these agreements are with foreign entities, or with domestic entities with foreign subsidiaries or parents. Late last year, the federal CFIUS enacted new regulations that, in summary, require review and approval processes for transactions involving such entities. The CFIUS regulations are new, complex, and; in some instances, ambiguous in terms of application. For this reason, the City Attorney's office believes it prudent to retain outside counsel with knowledge of these regulations and their intent to assist in creating an issue-spotting and decision-making tool to facilitate the infusion of these regulations' application to Harbor Department transactions.

Competitive Selection Process – Currently, the Office has three active agreements for real estate matters with Nossaman, AlvaradoSmith PC (AlvaradoSmith) and Bergman Dacey and Goldsmith PLC (Bergman Dacey and Goldsmith). The authority amount for Nossaman is \$1,755,602. Both AlvaradoSmith and Bergman Dacey and Goldsmith have an authority amount of \$150,000 per agreement.

On March 13, 2020, the Office requested bids from each firm. The bid document provided an overview of the Harbor Department's leases and a description of the Harbor Department's procedures for approval of lease documents. The requested Scope of Work was reviewing and analyzing CFIUS regulations and assessing how new

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regulations would affect the Harbor Department. The submission requirements included information on the firm's special expertise for the scope of work, experience of each attorney designated for this specific project and the proposed project budget. Submissions were due on April 17, 2020. Bids were submitted by Nossaman and AlvaradoSmith. Based upon the demonstrated specific expertise and cost effectiveness, the Office recommends Nossaman for the legal services for CFIUS matters.

Nossaman's current Agreement for Real Estate Matters includes legal services for the matter of *Harbor Performance Enhancement Center, LLC v. City of Los Angeles Harbor Department, et al.* Due to the need to separate the litigation expenses from the CFIUS matters, the Office recommends a new Agreement instead of a First Amendment for Agreement No. 20-3688. The Agreement (Transmittal 1) is necessary to augment the Harbor Division's ability to identify compliance issues and procedures for real estate transactions.

**PROPOSED AGREEMENT TERMS:**

- **Term:** Three years from date of signature (approximately 2020-2023).
- **Contract Authority:** Maximum amount not to exceed \$50,000.
- **Scope of Work:** Harbor Department CFIUS matters.
- **Standard City and City Attorney Agreement provisions.**

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of a legal services Agreement between the City of Los Angeles Harbor Department and Nossaman for real estate matters related to CFIUS, which is an administrative activity involving continuing administrative activities. 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 an Agreement for legal services for a three-year term and compensation authority of \$50,000. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreement. Funding in the amount of \$35,000 has been included as part of the annual budget adoption process in the Fiscal Year 2020-21 Operating Budget within the Harbor Department City Attorney's Office Account No. 54410 (Legal Fees & Services), Division No. 120 and Program No. 000. Funding for future fiscal years if necessary, will be

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requested to be budgeted as part of the annual budget adoption process, upon Board approval. A funding out clause is included in the Agreements.

Firm	FY 20/21	FY 21/22	FY 22/23	TOTAL
NOSSAMAN LLP	\$35,000	\$10,000	\$5,000	\$50,000

**CITY ATTORNEY:**

The Office of the City Attorney has prepared and approved the proposed Agreement as to form and legality.

**TRANSMITTALS:**

1. Legal Services Agreement with Nossaman LLP

FIS Approval: MB

CA Approval: [Signature]

[Signature]  
 STEVEN OTERA  
 Assistant City Attorney *for*

APPROVED:

By [Signature]  
 JANNA B. SIDLEY  
 General Counsel, Harbor Department

APPROVED:

By [Signature]  
 EUGENE D. SEROKA  
 Executive Director