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DATE: OCTOBER 29, 2024

FROM: OFFICE OF THE CITY ATTORNEY

**SUBJECT: RESOLUTION NO. _____ - LEGAL SERVICES AGREEMENT
 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT
 AND MEYERS NAVE APC FOR ENVIRONMENTAL MATTERS**

SUMMARY:

The Office of the City Attorney (Office) requests that the Board of Harbor Commissioners (Board) approve an Agreement between the City of Los Angeles Harbor Department (Harbor Department or City) and Meyers Nave APC (Meyers Nave) for legal services related to environmental legal matters, including significant litigation concerning the China Shipping container terminal and environmental services related to the Berths 121-131 container terminal project (B121-131 project). The Agreement is for a proposed term of three years and proposed compensation of \$1,846,237. The Office also requests the Board approve termination of an existing nine-year-old contract with Meyers Nave which has provided the same environmental legal services being sought through the proposed Agreement. If approved, the new Agreement will replace the current Agreement. The Harbor Department is financially responsible for payment of expenses incurred under the proposed Agreement.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

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 with Charter Section 1022 that the scope of work of the proposed Agreement can be more economically or feasibly provided by an independent contractor than by City employees;
3. Approve the termination of Agreement No. 15-3308;
4. Approve a Legal Services Agreement with Meyers Nave APC with a deemed effective date as of August 1, 2024, with compensation in the amount of \$1,846,237 and a three-year term;
5. Authorize the Executive Director to execute and the Board Secretary to attest to said Agreement; and
6. Adopt Resolution No. _____.

DISCUSSION:

Background – In accordance with Charter Section 275, the Office has determined that it requires outside legal counsel to assist in the discharge of its duties to perform legal services for environmental matters, in particular the litigation and legal compliance matters arising from the China Shipping container terminal, and environmental matters related to the Berths 121-131 container terminal project. The planned matters to be handled by Meyers Nave require specialized expertise and resources that exceed City Attorney staff resources at the Harbor Department.

In 2015, Meyers Nave was selected in a competitive RFP process, and the Board subsequently approved a three-year Legal Services Agreement for environmental matters (Agreement No. 15-3308). The scope of work under Agreement No. 15-3308 included assisting the Office with environmental and land use matters, specifically with expertise in the procurement and processing of entitlements and litigation under the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), California Coastal Act, and other environmental, and land use-related laws applicable to development and use of the City's property. The term of Agreement No. 15-3308 commenced March 1, 2015, and, since then, the firm has actively assisted the Harbor Department in environmental matters, in particular those arising from the defense of the City in a litigation challenging the City's compliance with CEQA in operations at the China Shipping container terminal. In that litigation, the City is defending claims brought by four independent parties (the Natural Resources Defense Council, the state Attorney General, the California Air Resources Board, and the South Coast Air Quality Management District) in both the Los Angeles Superior Court and the California Court of Appeal. The

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Agreement was amended three times to add funds and extend the term from three years to 11 years (March 1, 2015, to February 28, 2026) with approximately 16 months of term currently remaining. The approved compensation for Agreement 15-3308 is \$4,707,742.

In 2021, Meyers Nave also was selected in a competitive RFP process, and the Board subsequently approved a three-year Legal Services Agreement for environmental matters with compensation of \$200,000 (Agreement No. 21-9801). Meyers Nave performed environmental legal services related to the B121-131 project under Agreement 21-9801, which expired on June 1, 2024.

2024 Competitive Selection Process – In late 2023, in view of the remaining term and then-existing funding levels of Agreement No. 15-3308, and the June 2024 expiration of Agreement 21-9801, the Office recognized a need to either further amend Agreement No. 15-3308 or to undertake a competitive process to secure the outside counsel services that would be necessary, among other things, to defend the City in the ongoing litigation involving the China Shipping container terminal.

Ultimately, the Office elected to undertake a competitive process (because other law firm contracts providing environmental legal services were also set to expire in Spring 2024, along with Agreement 21-9801), and, on January 24, 2024, published a Request for Proposal (RFP) for environmental matters (ID No. 212432). The Regional Alliance Marketplace for Procurement (RAMP) reported notifications were sent to 1,238 registered firms. A total of 53 firms viewed the RFP and 42 firms downloaded the opportunity. Proposal submissions were due on February 23, 2024.

The Office convened a Selection Committee comprised of one Assistant City Attorney and two Deputy City Attorneys who practice CEQA-NEPA. After reviewing the written proposals, the Committee elected to interview the highest rated applicants. Multiple firms participated in interviews and the Committee determined that three firms, Meyers Nave, Nossaman LLP, and Remy Moose Manley LLP, were the best fit for the Harbor Department's needs to serve as a panel of outside counsel to provide services depending on the nature of the issue raised. Environmental compliance and other legal issues involving CEQA, NEPA and the other laws applicable to development and commercial activities often arise at the Port of Los Angeles (Port), and the Office's experience is that having a variety of firms available to tap best serves the Port's needs and best protects its legal interests. On July 25, 2024, Agreements for Nossaman LLP, and Remy Moose Manley LLP were approved by the Board under a separate board report.

Meyers Nave APC is a full-service California law firm with 135 employees throughout its offices. Meyers Nave focuses on complex litigation, transactional and regulatory compliance challenges. The practice areas the firm handles include but are not limited to labor and employment, real estate, environmental law including CEQA and NEPA,

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public finance and commercial litigation. The firm identified Amrit Kulkarni as the proposed team leader to represent the City. Mr. Kulkarni brings extensive environmental law expertise with a focus on CEQA and NEPA, natural resource, air quality and water law developed over hundreds of relevant engagements including the City's ongoing China Shipping litigation and transactional, land use and CEQA advice for the B121-131 project.

Proposed New Agreement Terms –

- **Scope of Work:** Legal advice and representation on local, state and federal environmental issues including CEQA and NEPA, assistance in interfacing with various regulatory agencies, drafting various environmental documents and reports, and providing representation in dispute resolution and all phases of litigation before state and federal courts and administrative agencies.
 - Specifically, the firm will continue to work on a revised China Shipping Revised Supplemental Environmental Impact Report (RSEIR), legal support to ongoing litigation and post-judgment matters before the San Diego County Superior Court and CEQA-NEPA advice for the B121-131 project.
 - For purposes of efficiency, the Office would seek to consolidate all matters with Meyers Nave under a single agreement and, therefore, recommends termination of Agreement No 15-3308.
- **Compensation:** \$1,846,237
- **Term:** Three (3) years
- **Standard City and City Attorney Agreement provisions**
- **Effective Date:** August 1, 2024

Pursuant to the authority provided in Section 275 of the Charter to contract with outside legal counsel, the new proposed Agreement would have a deemed effective date of August 1, 2024, to cover payment of the firm's August and September invoices, which were transmitted to the City after funding under Agreement No. 15-3308 was exhausted. Delayed transmittal of these two invoices and delayed submission of a budget necessary to commence the process for this recommended Agreement resulted from administrative issues within the firm which have since been corrected and will not recur. In recognition of these delays and the issues they caused, Meyers Nave has discounted the amounts of the August and September invoices by 10%, and that discount is reflected in the recommended authorization.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a legal services agreement with Meyers Nave APC, for environmental 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:

Approval of the proposed Agreement will engage Meyers Nave to provide legal services for environmental matters over a three-year period for an amount not-to-exceed \$1,846,237.

If approved, spending is anticipated to occur as follows:

Fiscal Year	Total
2024-25	\$563,433
2025-26	\$549,900
2026-27	\$457,904
2027-28	\$275,000
Total	\$1,846,237

Fiscal Year 2024-25 funding in the amount of \$563,433 is available within the following accounts, cost centers and programs:

Account, Center, Program	FY 2024-25
544120, 10300 (City Attorney), 60000000	\$473,433
161305, 00000 (CIP), 000	\$90,000
Total	\$563,433

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 is included in the Agreement.

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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 Meyers Nave APC

FIS Approval: JS
CA Approval: JM

J. Driscoll for
JOHN DRISCOLL
Deputy City Attorney

APPROVED:

By *J. Driscoll for*
STEVEN OTERA
General Counsel, Harbor Department

APPROVED:

By *Erica M. Calhoun for*
EUGENE D. SEROKA
Executive Director