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DATE: JANUARY 29, 2013

FROM: OFFICE OF THE CITY ATTORNEY

**SUBJECT: RESOLUTION NO. _____ - AGREEMENT FOR ELECTRONIC
ON-LINE LEGAL RESEARCH SERVICES WITH LEXISNEXIS, INC.**

SUMMARY:

As part of its legal representation of the City of Los Angeles Harbor Department (Harbor Department), the Office of the City Attorney handles legal advice, transactions, litigation, administrative proceedings, and other legal matters that from time-to-time require electronic computer assisted on-line legal research services, including electronic legal research of statutes, regulations, court cases, legislation, and other legal authority and public records. The Office of the City Attorney requests the Board of Harbor Commissioners (Board) to approve an agreement with LexisNexis, Inc. (LexisNexis) to provide such on-line legal research services for a term of three years with a not-to-exceed amount of \$150,000.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that this Agreement qualifies for award on a sole source basis as a contract for the performance of professional, technical and special services of a temporary or occasional character for which competitive bidding is not practicable or advantageous, pursuant to Los Angeles City Charter, Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2);
2. Find in accordance to Los Angeles City 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 Agreement with LexisNexis, Inc. for electronic computer assisted on-line legal research services for a period of three years from November 1, 2012 through October 31, 2015, in an amount not-to-exceed \$150,000;

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4. Ratify the contract commencement date of November 1, 2012 and expenses incurred from November 1, 2012 until the date of execution by the Harbor Department;
5. Authorize the Executive Director and Board Secretary to execute and attest to the Agreement; and
6. Adopt Resolution No. _____.

DISCUSSION:

Background and Context - In representing the Harbor Department in litigation and administrative proceedings and providing legal advice in transactions, compliance and other legal matters, the Office of the City Attorney often requires the use of electronic on-line computer assisted legal research services that range from search and retrieval of statutes, codes and court cases, electronic citation checking services as well as access to various state and federal court docket and file services and public records. On-line legal research services are highly specialized, technical research tools that cannot be feasibly or economically developed by or provided by City employees and that are critically necessary to the Office of the City Attorney in order to access the most accurate and recent legal authorities for use in providing legal advice and handling litigation and other legal proceedings. LexisNexis electronic on-line legal research services have been accessed in the past by the Office of the City Attorney under one-year Executive Director Agreements. The last Executive Director Agreement for the November 1, 2011 through October 31, 2012 term was in the amount of \$50,000. That agreement expired on October 31, 2012 and negotiations for the scope of services and pricing of a new contract have been ongoing since November 2012. The conclusion was delayed by the Office of the City Attorney's effort to negotiate a better rate for more services. The additional service being added is the on-line research tool, Lexis Advance. The better rate negotiated was a lower monthly fee (30% discount) for the three year term due to the City Attorney's Office's volume purchase of written publications ordered through LexisNexis Publications. In order to allow access to the new Lexis Advance service, LexisNexis is now requiring a multi-year agreement.

Selection Process - There are primarily two on-line legal research systems in use by attorneys nationwide, LexisNexis and Westlaw, and they have different scope of coverage, functionality and features. In 2005, the Office of the City Attorney completed a competitive selection process for on-line legal research services and after evaluating both LexisNexis and Westlaw, selected LexisNexis because it provides the most comprehensive legal, news, business and public records content. Since 2005, the City Attorneys in the Harbor Department have been very satisfied with the system's scope and functionality, as LexisNexis continues to retain the most public records in California and nationwide. The collection includes more than 34 billion public records from 20,000

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sources. The exclusive content includes the most archival corporate filings in California, the most deed transfer and mortgage information in California, most updated tax assessor records in California, most bankruptcy filings in California and the most judgments and liens in California. In addition to the superior content advantage, LexisNexis currently provides exclusive research tools and platforms. An important feature that is exclusively available through LexisNexis is Shepard's Citations Service, the leading citatory for 140 years, that includes features such as full-spectrum editorial analysis highlighting both negative and positive treatment of selected cases; summaries highlighting important information, making it easy to quickly check the validity and applicability of the cases; and alerts delivering monthly, weekly or daily case citation updates any time there are changes to reports for specific cases. Another exclusive tool is Lexis Advance, which provides a more efficient way to search, and delivers comprehensive and relevant results that can be managed, stored, accessed and tracked on demand. Due to the content advantage and the unique capabilities offered by and only available through LexisNexis, such as Lexis Advance and Shepard's Citations Service, it is the professional legal opinion of the City Attorneys serving the Harbor Department that the LexisNexis system is the best suited to their professional and technical needs. As a contract for the performance of professional, technical and special services of a temporary or occasional character for which competitive bidding is not practicable or advantageous, this contract qualifies for award on a sole source basis pursuant to Los Angeles City Charter Section 371(e)(2) and Los Angeles Administrative Code Section 10.15(a)(2).

Proposed Agreement - The proposed Agreement (Transmittal 1) will be used to obtain the on-line legal research services needed by Harbor Department attorneys for all Harbor Department legal matters. As mentioned above, the scope of services for the proposed Agreement includes access to the most comprehensive legal, news, business and public records content, Shepard's Citations Service and Lexis Advance. The most cost-effective way of accessing these services based on past experience is through a flat monthly rate subscription covering the entire Harbor Department attorney staff's access to services including training (as opposed to per-search charges), as set forth in the schedule below by contract year (see Financial Impact section for fiscal year breakdown):

| | |
|---|-------------------------------------|
| <u>TOTAL CONTRACT AUTHORITY</u> | <u>\$150,000</u> |
| <u>Monthly Flat Rate Subscription</u> | <u>\$111,588 for 3 Years</u> |
| November 1, 2012 to October 31, 2013 - \$3,029 per month = \$36,348 per contract year | |
| November 1, 2013 to October 31, 2014 - \$3,104 per month = \$37,248 per contract year | |
| November 1, 2014 to October 31, 2015 - \$3,166 per month = \$37,992 per contract year | |
| <u>Special Services</u> | <u>\$38,412</u> |

Additional contract authority is for special services not included in the monthly subscription that might be needed in the future, such as CourtLink and CaseMap.

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The effective date of the proposed Agreement is November 1, 2012, as the previous agreement terminated on October 31, 2012 but LexisNexis continued to provide access to online legal research services from November 1, 2012. If the Board approves the new proposed Agreement, the Board is also requested to ratify the contract commencement date of November 1, 2012 and previous services and compensation incurred from November 1, 2012 through the date of execution of the new proposed Agreement. The Harbor Department is not legally obligated to pay for services rendered prior to the commencement of a contract, but the Board may in its discretion ratify such a contract and authorize the retroactive start date. The Board has the power to ratify past delivery of services and compensation because it had the authority to have approved it if it had been presented as of the original November 1, 2012 date. "It is a general rule that whatever acts public officials may do or authorize to be done in the first instance may be subsequently be adopted or ratified by them with the same effect." McQuillin, *The Law of Municipal Corporations*, § 29.105 (Third Ed. 2009); see e.g., *Los Angeles Dredging Co. v. City of Long Beach* (1930) 210 Cal. 328, 359-360.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a three-year contract with LexisNexis for as-needed on-line legal research services. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact for the five-county region.

FINANCIAL IMPACT:

Funding for the proposed new Agreement has been budgeted in the amount of \$50,000 in the FY 2012-2013 Operating Budget, within the Harbor Department City Attorney's Office Account No. 54410, Division No. 0120 and Program No. 000. Funding for the Agreement has also been proposed to be budgeted, upon Board approval as part of the annual budget adoption process in the amount of \$39,500 in the FY 2013-2014 Operating Budget, within the Harbor Department City Attorney's Office Account No. 54410, Division No. 0120, and Program No. 000. 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 proposed Agreement.

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The schedule of compensation broken down by fiscal year is as follows:

| | |
|--|------------------|
| FY 2012-13: November 1, 2012 - June 30, 2013 | \$26,000 |
| FY 2013-14: July 1, 2013 – June 30, 2014 | \$39,500 |
| FY 2014-15: July 1, 2014 – June 30, 2015 | \$40,500 |
| FY 2015-16: July 1, 2015 – October 31, 2015 | <u>\$44,000</u> |
| TOTAL | \$150,000 |


CITY ATTORNEY:

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


TRANSMITTAL:

1. Proposed Agreement with LexisNexis, Inc.

FIS Approval: KL (initials)
 CA Approval: JMC (initials)



 CHRISTOPHER B. BOBO
 Assistant City Attorney



 JOY M. CROSE
 Assistant General Counsel

APPROVED:

By 

 GERALDINE KNATZ, Ph.D.
 Executive Director