

HARBOR DIVISION

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OFFICE OF THE CITY ATTORNEY

MICHAEL N. FEUER
CITY ATTORNEY

**RECOMMENDATION APPROVED;
RESOLUTION NO. 20-9716 ADOPTED AND;
AGREEMENT NO 20-3308-B APPROVED
BY THE BOARD OF HARBOR COMMISSIONERS**

November 5, 2020

AMBER M. KLESGES
Board Secretary

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HELEN J. SOK

11.15.2020
2

DATE: OCTOBER 27, 2020

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. 20-9716 SECOND AMENDMENT TO AGREEMENT NO. 15-3308 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND MEYERS NAVE RIBACK SILVER & WILSON

SUMMARY:

The Office of the City Attorney (City Attorney) requests approval of a Second Amendment to Agreement No. 15-3308 between the City of Los Angeles Harbor Department (Harbor Department) and the law firm of Meyers Nave Riback Silver & Wilson (Meyers Nave). The proposed Second Amendment will extend the term of the Agreement by five years and increase the Agreement authority by \$1,044,242. The current six-year Agreement expires on February 28, 2021. The proposed Amendment would extend the term of the Agreement by five years to a proposed eleven years and expiration date of February 28, 2026. The current Agreement authority is \$3,040,000 and the proposed Amendment would increase the authority to \$4,084,242. The extension and additional funding will allow Meyers Nave to perform all legal services necessary to fully defend the Port of Los Angeles and the City of Los Angeles from claims of violations of the law and improper actions with respect to the China Shipping Terminal located at Berths 97-104. The City of Los Angeles Harbor Department (Harbor Department) is financially responsible for payment of expenses under the proposed Amendment.

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

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Environmental Quality Act (CEQA) under Article II, Section 2(f), of the Los Angeles City CEQA Guidelines;

2. Approve the Second Amendment to Agreement No. 15-3308 with Meyers Nave, extending the term of the Agreement by five years, for a total term of eleven years (March 1, 2015 to February 28, 2026);
3. Approve the Second Amendment to Agreement No. 15-3308 with Meyers Nave, increasing the authority by \$1,044,242, for a total authority of \$4,084,242;
4. Authorize and Direct the Board Secretary to forward the Second Amendment to the Los Angeles City Council for its approval pursuant to Section 373 of the Los Angeles City Charter and Section 10.5 of the Los Angeles City Administrative Code;
5. Authorize the Executive Director to execute and the Board Secretary to attest to the Second Amendment to Agreement No.15-3308; and
6. Adopt Resolution No. 20-9711e.

DISCUSSION:

In 2015, the City Attorney requested proposals for legal services to perform litigation support services for environmental matters including laws, rules and regulations impacting the Harbor Department and their operations which include but are not limited to CEQA and National Environmental Policy Act (NEPA). Based on the results of the competitive process, Meyers Nave was retained under Agreement No. 15-3308 (Transmittal 1).

The Board approved the First Amendment to the Agreement on October 6, 2017 (Transmittal 2), extending the term of the Agreement by three years, to February 28, 2021 and increasing the authority from \$1,640,000 to \$3,040,000. City Council approved the Amendment on January 24, 2018.

At this point, where there is now litigation on the recently certified Supplemental EIR, it would be both cost prohibitive and time consuming to engage new counsel. Since 2006 (under three separate Board Agreements), Meyers Nave has provided legal services for the construction project at the China Shipping Terminal located at Berths 97-109. Legal services included the EIR and Final Supplemental EIR. The EIR and Supplemental EIR analyzed the construction and operation of the China Shipping Terminal. The firm has continued to provide legal services to ensure consistency with the EIR, Amended Stipulated Judgment and the Final SEIR. The Final SEIR was submitted to the Board of Harbor Commissioners on October 8, 2019. The Board certified it after a public hearing

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and approved the project. On August 12, 2020, City Council considered appeals and certified the Final SEIR. At this time, litigation has commenced. As previously stated, the firm's involvement with the EIR, Supplemental EIR, pre-litigation, and compliance efforts make it difficult and impractical to engage new counsel. Extending Agreement 15-3308 will allow Meyers Nave to continue to assist with the aforementioned litigation.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a Second Amendment to Agreement No. 15-3308 with Meyers Nave for environmental legal services and related litigation, 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 Second Amendment would increase the compensation under Agreement No. 15-3308 by \$1,044,242 to a total amount not to exceed \$4,084,242. The current authority is \$3,040,000. Through July 30, 2020 the firm has spent \$1,619,407 and the Agreement has a remaining authority of \$1,420,593. To perform legal services for anticipated CEQA challenges and appeals the Agreement authority needs to be increased by \$1,044,242. Funding for the current Fiscal Year (FY 2020-21) in the amount of \$253,277 is available within Account No. 54410 (Legal Fees and Services), Division 0120, Program No. 000 for payment of legal fees and services incurred in the current Fiscal Year. Funding for future years if necessary will be requested as part of the annual budget adoption process. A funding out clause is included in Agreement No. 15-3308.

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

2014-19	\$1,122,569.00
2019-20	\$459,830.00
2020-21	\$253,277.00
2021-22	\$602,124.00
2022-23	\$477,162.00
2023-24	\$477,162.00
2024-25	\$375,000.00
2025-26	\$317,118.00
TOTAL	\$4,084,242.00

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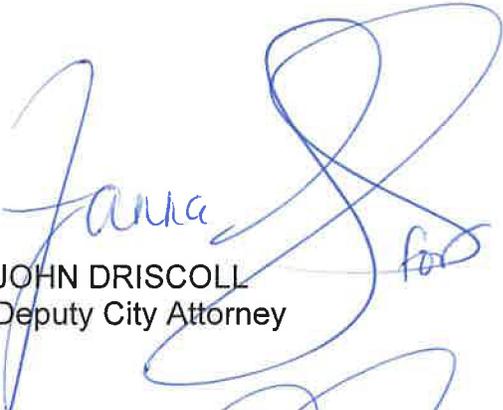
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CITY ATTORNEY:

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

TRANSMITTALS:

1. Agreement No. 15-3308 with Meyers Nave
2. First Amendment to Agreement No. 15-3308
3. Proposed Second Amendment to Agreement No. 15-3308

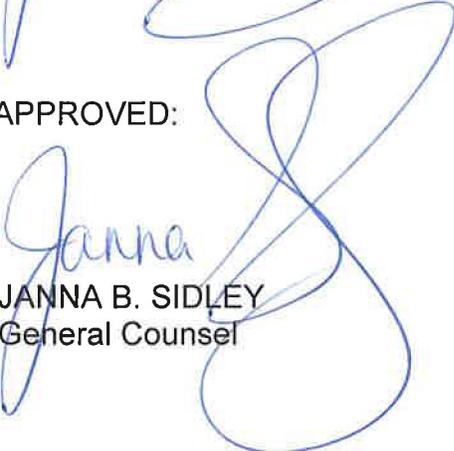


JOHN DRISCOLL
Deputy City Attorney

FIS Approval:  _____

CA Approval:  _____

APPROVED:



JANNA B. SIDLEY
General Counsel



EUGENE D. SEROKA
Executive Director