



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 7 - 0 3 2 0
SEP 1 8 2017

REPORT RE:

**FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT FOR THE
PROGRESSIVE DESIGN-BUILD HYPERION ADVANCED WATER
PURIFICATION FACILITY PROJECT**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This report summarizes the status and funding need for the law firm of Nossaman LLP for its assistance relating to procurement and contracting for the Hyperion Advanced Water Purification Facility (AWPF) Project to supply recycled water for the Los Angeles World Airports (LAWA) and nearby uses.

Background

The law firm of Nossaman LLP is presently retained by the City of Los Angeles (City) under Contract No. C-129053 for a three-year term, which began on March 15, 2017. The Hyperion AWPF Project is a progressive design-build project. The legal assistance required for this project involves expert and technical issues peculiar to progressive design-build contracts and related competitive process. The original contract budget was \$200,000. As explained below, we are seeking to increase the budget by \$387,337, for a new total of \$587,337.

1. Brief Description of the Hyperion AWPF Project

The Department of Public Works, Bureau of Sanitation (LASAN) will be supplying advanced treated recycled water from the Hyperion Water Reclamation Plant to LAWA for its use in LAWA's Central Utility Plant Cooling Towers, Tom Bradley International Terminal, as well as Midfield Concourse, the new terminal under construction. The advanced-treated recycled water is intended to offset potable water uses in LAWA's facility's cooling towers and toilets. However, LASAN currently does not have any treatment facility designed nor are they capable of providing the level of advanced treatment for recycled water (beyond tertiary treatment) required for these anticipated uses by LAWA.

For a variety of reasons, including the demanding time schedule to have the treated water available for LAWA's use as soon as possible and when future facilities are constructed, LASAN has decided to proceed with the design and construction of its advanced water treatment project as a progressive design-build project. Recognizing the time sensitivity for this project, on May 30, 2017, the City Council authorized use of a competitive sealed proposal method and alternative project delivery (progressive design-build) for this project.

2. Scope of Work: Completed and Outstanding

LASAN, with the assistance of Nossaman LLP, has completed the requests for qualification, and the development of the Request for Proposal (RFP) is nearing completion. However, preparing the RFP and the draft progressive design-build contract documents (that are anticipated to be attachments to the RFP) has been time intensive because the documents include modifying General Requirements and General Conditions to be suitable for this project, as well as the progressive design-build project delivery system more generally, in addition to updates in the state law. LASAN and our Office have relied heavily upon the expertise of outside counsel. As a result, the contract ceiling for outside counsel has been reached and LASAN and this Office request an increase of the contract amount.

Within the existing budget, Nossaman has assisted with the Requests for Quotations to prequalify/shortlist proposers, as well as substantially drafted the RFP and contract documents, including some revisions to the City's General Conditions and General Requirements.

However, the RFP documents still require additional substantial legal work. The remaining work to be done to the RFP and contract documents (estimated at approximately \$150,000 for over 300 additional hours of work) was a result of the document development requiring more work than had been anticipated. Additional or new scope of work (estimated at approximately \$240,000 for over 600 hours of work) are required and the original funding amount does not cover the additional work. These

include revisions to instructions to proposers, meetings with shortlisted proposers, contract negotiations following evaluation and finalizing contract documents.

Outside Counsel Evaluation

This project and related legal support requires expert, technical and other special services of a temporary and occasional character to develop the RFP for the AWPf project, as well as negotiate and draft the progressive design-build contract, pursuant to Los Angeles City Charter Sections 371(e)(2) and 372.

Nossaman LLP has extensive experience and demonstrated legal expertise relating to progressive design-build contracts, including in public contracting. Indeed, Nossaman LLP has a current contract with the City, providing legal support to the City on an unrelated progressive design-build project in addition to previous work on another LASAN progressive design-build project.

Recommendation

Based on the foregoing, this Office respectfully requests that Council approve an increase of \$387,337 for the Nossaman LLP contract for outside legal services, funded through Department 50, Fund 761, Account 50NG4. LASAN has already agreed to this increase subject to Council's approval of this recommendation.

If you have any questions regarding this matter, please contact Deputy City Attorney Adena M. Hopenstand of my staff at (213) 978-8156. She or another member of this Office will be present when you consider this matter answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By


ANNE HALEY
Assistant City Attorney