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CITY ATTORNEY

REPORT NO. R 19-0121
APR 25 2019

REPORT RE:

**LEGAL SERVICES AGREEMENT FOR THE PROCESSING ORGANIC WASTE
MATERIAL UTILIZING ALTERNATIVE TECHNOLOGIES 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 Office recommends that Nossaman LLP (Nossaman) be approved to assist the City Attorney's Office in providing legal services related to the Department of Public Works, Bureau of Sanitation's (LASAN) Processing Organic Waste Material Utilizing Alternative Technologies Project (OPF Project). The OPF Project is a design-build-finance-operate-maintain (DBFOM) project.

LASAN intends to issue a Request for Proposal (RFP) for the OPF Project as a DBFOM project for development of an organics processing facility at the City-owned Central Los Angeles Recycling and Transfer Station (CLARTS). DBFOM projects require legal expertise to address the relevant issues impacting DBFOM projects, including the complex financial arrangements, as well as various risk-shifting mechanisms involved in – and peculiar to – DBFOM contracting.

The recommended contract with Nossaman would be for three years with a budget of \$359,000 to be paid with LASAN special funds. The retention of Nossaman will leverage unique knowledge that Nossaman has from working on a recent LASAN project under a different contract (C-129053) that can be utilized and further developed for the OPF Project.

Brief Description of the OPF Project

LASAN decided upon a DBFOM project delivery method for its OPF project. LASAN is currently developing an RFP for this project. As part of the RFP, a project development agreement or detailed term sheet - in addition to City General Conditions and General Requirements - will be prepared and customized for this OPF project. LASAN has been building upon documents developed with Nossaman's assistance for a different LASAN project (the Advanced Water Purification Treatment Facility at the Hyperion Treatment Plant, a progressive design-build project). However, because DBFOM projects involve complex financial transactions, among other differences from progressive design-build projects, the contract documents need further modification and employing Nossaman's expertise will save time and help ensure the process and procurement documentation are legally sound.

LASAN needs expert, technical, and other special services of a temporary and occasional character to develop the RFP as well as to negotiate and draft the DBFOM contract(s). LASAN prefers to contract directly with Nossaman pursuant to Los Angeles City Charter Sections 371(e)(2) and 372, having successfully worked with Nossaman on the Hyperion project and in further customizing documents from that project to make them suitable for the OPF project.

Due to the complex nature of DBFOM contracts and the sophistication and experience required, we believe assistance from outside counsel is appropriate and necessary. This Office has no attorney with the level of expertise needed to handle this matter.

Scope of Work

Nossaman will advise on and participate in all commercial and legal aspects of the procurement and contract documents related to the OPF project. Specifically, Nossaman will assist with and advise on drafting and developing the OPF project RFP, evaluating and negotiating with selected proposers, and finalizing the contract documents.

Recommendation

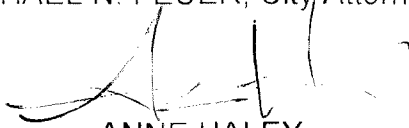
Based on the foregoing, this Office respectfully requests that the City Council approve a contract with Nossaman for three years, not to exceed \$359,000, which will be paid for by LASAN special funds. LASAN supports this recommendation.

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

Sincerely,

MICHAEL N. FEUER, City Attorney

By

A handwritten signature in black ink, appearing to read "Anne Haley", written over a horizontal line.

ANNE HALEY

Assistant City Attorney

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