

HARBOR DIVISION

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DATE: FEBRUARY 13, 2018

FROM: OFFICE OF THE CITY ATTORNEY

**SUBJECT: RESOLUTION NO. _____ - LEGAL SERVICES AGREEMENT
BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND
ALVARADOSMITH LLP**

SUMMARY:

The Office of the City Attorney (Office) requests the Board of Harbor Commissioners (Board) approve a Legal Services Agreement (Agreement) between the City Los Angeles Harbor Department (Harbor Department) and AlvaradoSmith LLP (AlvaradoSmith) for legal services for eminent domain and inverse condemnation issues. The Agreement is for a term of three years with compensation authority of \$150,000. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreement.

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 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 to Charter Section 1022 that the scope of work of the proposed Agreements can be more economically and feasibly provided by an independent contractor than by City employees;
3. Approve a Legal Services Agreement with AlvaradoSmith LLP in the amount of \$150,000 for a three-year term;
4. Authorize the Executive Director and Board Secretary to execute and attest to the Agreement; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background – In accordance with Charter Section 275, the Office has determined that it requires outside legal counsel to assist it in the discharge of its duties to perform legal services in connection with eminent domain and inverse condemnation issues requiring specialized expertise and resources that exceed staff resources in this highly specialized area of law. The Office previously had an agreement for eminent domain legal services with AlvaradoSmith for a term of three years with an authority amount of \$175,000. The prior agreement expired on October 20, 2017.

Need For Counsel And Scope Of Work - The Agreement (Transmittal 1) is necessary because the Harbor Department routinely engages in the construction of public projects, so eminent domain and inverse condemnation issues frequently arise. Because of the steady work in this area, the Office has in-house attorney staff handling litigation and performing the majority of work without the use of outside counsel. Despite this, the Office still has need for assistance from outside counsel when specialized expertise is necessary for complex or new legal issues, and/or temporary spikes in work volume exceeding our in-house resources, such as heavy complex litigation. The Office's Harbor Division is currently defending an inverse condemnation case entitled *Douglas Timmerman v. City of Los Angeles*, LASC case number BC660178, which is set for trial in July 2018. Assistance from AlvaradoSmith is needed on a summary judgment motion and potentially other activities related to preparation for trial. The Harbor Division anticipates that similar cases may also be threatened or commenced against the City during the three-year contract period and the special expertise of AlvaradoSmith would be available for additional work.

Competitive Counsel Selection Process – The Office relied on a 2016 competitive Request for Proposals (RFP) selection process previously conducted by the Los Angeles Department of Water and Power (DWP) for outside legal counsel regarding potential eminent domain and related real estate matters. Since the DWP projects involved the acquisition of real property for public use and required counsel with experience in eminent

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domain and inverse condemnation issues relying on this selection process was appropriate.

The Harbor Division assessed and selected from the proposers to the DWP's Eminent Domain counsel RFP. Twenty (20) law firms responded to the RFP. The Division reviewed the AlvaradoSmith's performance from 2015-2017, during which time their work included the assisting with litigation and appeal process for California Cartage Company, Inc. v. City of Los Angeles. Based upon their RFP proposal and more importantly, their favorable performance on said projects, the Office recommends AlvaradoSmith as the most qualified and in the best interests of the Harbor Department. The firm possesses specialized legal expertise and relevant experience performing legal services in the areas of eminent domain, as well as, considerable experience representing the Harbor Department.

The evaluation criteria used includes demonstrated legal expertise and relevant experience and trial/appellate litigation in a wide variety of eminent domain and inverse condemnation matters, experience in representing public entities, proposed staffing and strategy, and proposed costs of legal services. Based on the review process the Harbor Division determined that AlvaradoSmith is the most knowledgeable, experienced and responsive.

Proposed Agreement Terms - The Agreement terms are as follows:

- **Term:** Three years from date of signature (approximately 2018-2021)
- **Contract Authority:** Maximum amount not to exceed \$150,000.
- **Scope of work:** Harbor Department eminent domain and inverse condemnation issues and other laws applicable to development and redevelopment of the City's property.
- **Standard City and City Attorney Agreement provisions.**

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a legal services agreement with AlvaradoSmith LLP for ongoing legal services for eminent domain and inverse condemnation issues. As an administrative activity, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance under Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed action is for the approval of an Agreement for legal services for a three-year term and compensation authority of \$150,000. The Harbor Department is financially responsible for payment for legal services rendered under proposed Agreement. Funding

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in the amount of \$25,000 has been included as part of the annual budget adoption process in the Fiscal Year 2017-18 Operating Budget within the Harbor Department City Attorney's Office Account No. 54410, Division No. 120 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 Agreements.

Firm	FY 17/18	FY 18/19	FY 19/20	FY 20/21	TOTAL
AlvaradoSmith LLP	\$25,000	\$70,000	\$45,000	\$10,000	\$150,000

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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 AlvaradoSmith LLP

FIS Approval: MB (initials)

CA Approval: JM (initials)


JANET KARKANEN
Deputy City Attorney

APPROVED:

By 
JANNA B. SIDLEY
General Counsel, Harbor Department

APPROVED:

By Mark Bleavin
EUGENE D. SEROKA
Executive Director

Author: JK/ksh
Board Meeting: Mar. 15, 2018