

HARBOR DIVISION

425 S. PALOS VERDES ST.

P.O. BOX 151

SAN PEDRO, CA 90733-0151

FACSIMILE

(310) 831-9778

(310) 732-3750



OFFICE OF THE CITY ATTORNEY

MICHAEL N. FEUER
CITY ATTORNEY

JANNA B. SIDLEY
GENERAL COUNSEL

JOY M. CROSE
ASSISTANT GENERAL COUNSEL

CHRISTOPHER B. BOBO
ESTELLE M. BRAAF
BRIAN DALUIO
JOHN T. DRISCOLL
JUSTIN HOUTERMAN
JANET KARKANEN
KENNETH F. MATTFELD
HEATHER M. MCCLOSKEY
ESTHER S. OLSEN
STEVEN Y. OTERA
MINAH PARK
HELEN J. SOK

DATE: AUGUST 12, 2019

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. _____ - LEGAL SERVICES AGREEMENTS BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND ALVARADOSMITH PC AND BERGMAN DACEY GOLDSMITH PLC

SUMMARY:

The Office of the City Attorney (Office) requests approval of two Legal Services Agreements (Agreements) between the City of Los Angeles Harbor Department (Harbor Department) and the law firm of AlvaradoSmith PC (AlvaradoSmith) as well as the law firm of Bergman Dacey Goldsmith PLC (Bergman Dacey Goldsmith) for legal services for real estate matters, litigation support, eminent domain and inverse condemnation. The Agreements are for a term of three years with each Agreement having a compensation authority of \$200,000. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreements.

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 Agreement can be more economically and feasibly provided by an independent contractor than by City employees;
3. Approve a Legal Services Agreement with AlvaradoSmith in the amount of \$200,000 for a three-year term and approve a Legal Services Agreement with Bergman Dacey Goldsmith in the amount of \$200,000 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 real estate matters, litigation support, eminent domain and inverse condemnation requiring specialized expertise and resources that exceed staff resources in this highly specialized area of law.

Need For Counsel And Scope Of Work – There were two outside counsel law firms (Nossaman LLP and Zuber Lawler & Del Duca) with existing Agreements. Both Agreements were initially one-year Executive Director Agreements but both were amended to extend the term to three years. The term for these Agreements expired on July 19, 2019 and replacement counsel is needed to provide services to meet the Harbor Department's legal needs. A new three-year Agreement with Nossaman LLP was approved on July 25, 2019. These additional outside counsel Agreements are necessary because the Harbor Department routinely engages in real estate matters. Due to 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 the capacity of in-house resources.

Competitive Counsel Selection Process – The Office relied on a January 7, 2019 competitive selection process conducted by the City of Los Angeles Department of Water and Power for outside legal counsel in connection with eminent domain, inverse condemnation and other real estate matters. Since the projects involved providing representation for the City in general real estate matters related to acquisitions, including but not limited to title, encumbrances, encroachments, trespasses, nuisances and landlord-tenant matters, relying on this selection process was appropriate.

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The Office reviewed the 13 proposal applications. Based upon the quality and responsiveness of their proposals, demonstrated specific expertise and cost effectiveness, the Office recommends AlvaradoSmith and Bergman Dacey Goldsmith as the most qualified and in the best interests of the Harbor Department. Both selected firms were previously interviewed as part of other competitive bids in 2016 and 2018. The firms possess specialized legal expertise and relevant experience performing legal services in the areas of real estate matters, particularly as they relate to public entities. Due to specific needs related to existing real estate matters, Nossaman LLP was also recommended for a three-year agreement and was approved by the Board on July 25, 2019 under a separate Board Report.

Proposed Agreement Terms - The Agreement terms are as follows:

- **Term:** Three years (approximately 2019-2022)
- **Contract Authority:** Maximum amount not to exceed \$200,000.
- **Scope of work:** Harbor Department real estate matters and litigation
- **Standard City and City Attorney Agreement provisions.**

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of legal services agreements with AlvaradoSmith and Bergman Dacey Goldsmith for ongoing legal services for real estate matters and 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 under Article II, Section 2 (f), of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed action is for the approval of two Agreements for legal services for a three-year term and compensation authority of \$200,000 per Agreement. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreements. Funding in the amount of \$50,000 has been included in the Fiscal Year 2019-20 Operating Budget within the Harbor Department City Attorney's Office Account No. 54410 (Legal Fees & Services), 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 both Agreements. Spending under the proposed Agreements is expected to occur as follows:

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Firm	FY 19/20	FY 20/21	FY 21/22	TOTAL
AlvaradoSmith	\$25,000	\$75,000	\$100,000	\$200,000
Bergman Dacey Goldsmith	\$25,000	\$75,000	\$100,000	\$200,000
TOTAL	\$50,000	\$150,000	\$200,000	\$400,000

CITY ATTORNEY:

The Office of the City Attorney has prepared and approved the proposed Agreements as to form and legality.

TRANSMITTALS:

1. Legal Services Agreement with AlvaradoSmith PC
2. Legal Services Agreement with Bergman Dacey Goldsmith PLC

FIS Approval: 

CA Approval: 


JANET KARKANEN
Deputy City Attorney

APPROVED:

By 

JANNA B. SIDLEY
General Counsel, Harbor Department

APPROVED:

By 

EUGENE D. SEROKA
Executive Director