

HARBOR DIVISION

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**DATE: JULY 25, 2022**

**FROM: OFFICE OF THE CITY ATTORNEY**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - THIRD AMENDMENT TO LEGAL SERVICES AGREEMENT NO. 19-3675 WITH ALVARADOSMITH PC FOR LIABILITY LITIGATION DEFENSE COUNSEL MATTERS**

**SUMMARY:**

The Office of the City Attorney (Office) requests approval of the Third Amendment to Agreement No. 19-3675 (Third Amendment) between the City Los Angeles Harbor Department (Harbor Department) and AlvaradoSmith PC (AlvaradoSmith). The proposed Third Amendment extends the term by three years with no change in compensation. The current term of the Agreement is September 18, 2019 to September 17, 2022. The amended term would be September 18, 2019 to September 17, 2025. The additional authority and term is necessary for ongoing litigation support for *Juan Solorio v. City of Los Angeles, 21STCV38128 C22-00676 (C-1937)*. Because of the term extension, pursuant to Section 373 of the Los Angeles City Charter and Section 10.5 of the Los Angeles City Administrative Code, the Third Amendment would require approval by the Board of Harbor Commissioners as well as the City Council. The Harbor Department will be financially responsible for payment for legal services rendered under Agreement No. 19-3675.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

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WITH ALVARADOSMITH PC**

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;
2. Find in accordance with 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 the Third Amendment to Agreement No. 19-3675 with AlvaradoSmith, extending the term of the Agreement by three years, for a total term of six years (September 18, 2019 to September 17, 2025);
4. Authorize and Direct the Board Secretary to forward the Third 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 and Board Secretary to execute and attest to the Second Amendment; and
5. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Initial Agreement – Following a competitive Request for Proposals process, AlvaradoSmith was awarded a three-year agreement, Agreement No. 19-3675 (Transmittal 1), to provide legal services for eminent domain, inverse condemnation and real estate matters.

First Amendment – The Board approved the First Amendment to the Agreement on December 9, 2020 (Transmittal 2), correcting the insurance provisions for the Agreement to include standard provisions for Commercial General Liability.

Second Amendment – In March 2021, the Harbor Department decided not to renew its auto insurance policy, thereby eliminating the possibility of defense and/or indemnity in claims and litigation arising from incidents involving Harbor Department vehicles, and indicated that self-insurance of risks formerly covered by insurance could be a continuing trend.

The Office did not have employee capacity or expertise to handle auto liability matters and defense of liability claims, including but not limited to personal injury. On May 6,

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2021, the Board of Harbor Commissioners approved the Second Amendment to Agreement 19-3675 (Transmittal 3) to increase the compensation authority by \$100,000 (from \$200,000 to an amount not to exceed \$300,000) and expand the Scope of Work to include liability litigation defense counsel to handle claims and litigation arising out of auto accidents, as well as other liability claims for the remaining eighteen months of the Agreement's term.

Proposed Third Amendment – The current term of the AlvaradoSmith Agreement terminates on September 17, 2022. The Office is requesting a Third Amendment to extend the term by three years (Transmittal 4). The current term of the Agreement is September 18, 2019 to September 17, 2022. The amended term would be September 18, 2019 to September 17, 2025. Currently, there are no plans for the firm to provide any legal services related to real estate matters (the original scope of work for AG19-3675 prior to the Second Amendment). The proposed term extension is necessary for ongoing litigation support for *Juan Solorio v. City of Los Angeles, 21STCV38128 C22-00676 (C-1937)*.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of a Third Amendment to Agreement No. 19-3675 to extend the term for ongoing legal services for liability litigation defense counsel matters, 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:**

The proposed action is approval of a Third Amendment to Agreement No. 19-3675 to extend the term of the Agreement by three years with no change in compensation authority. While the Harbor Department will continue to be financially responsible for payment of legal services rendered under the proposed Third Amendment, the extension of the term will not increase the scope of the Harbor Department's financial responsibilities.

To date, \$32,520 in spending has been incurred under the Agreement. Funding for the legal services provided by AlvaradoSmith in the amount of \$80,000 is available in the Fiscal Year (FY) 2022-23 Operating Budget within the Harbor Department City Attorney's Office Account No. 54410 (Legal Fees & Services), Division No. 120 and Program No. 000. Funding for future years, if necessary, will be requested as part of the annual budget adoption process. A funding out clause is included in the Agreement. Spending under Agreement No. 19-3675 has occurred and is anticipated to occur as follows:

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<b>FY 19-20</b>	<b>\$ 0.00</b>
<b>FY 20-21</b>	<b>\$ 0.00</b>
<b>FY 21-22</b>	<b>\$ 32,520</b>
<b>FY 22-23</b>	<b>\$ 80,000</b>
<b>FY 23-24</b>	<b>\$ 52,500</b>
<b>FY 24-25</b>	<b>\$134,980</b>
	<b>\$300,000</b>

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**CITY ATTORNEY:**

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

**TRANSMITTALS:**

1. Agreement No. 19-3675 with AlvaradoSmith
2. First Amendment to Agreement No. 19-3676
3. Second Amendment to Agreement No. 19-3675
4. Third Amendment to Agreement No. 19-3675

FIS Approval: MB

CA Approval: SO

  
JANET KARKANEN  
Deputy City Attorney

APPROVED:  
By   
STEVEN OTERA  
General Counsel, Harbor Department

APPROVED:  
By   
EUGENE D. SEROKA  
Executive Director

Author: Janet Karkanen  
Board Meeting: August 24, 2022