

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: November 16, 2022

CAO File No. 0150-12177-0000

Council File No. --

Council District: 15

To: The Mayor



From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from the Harbor Department dated August 25, 2022

Subject: **PROPOSED THIRD AMENDMENT TO AGREEMENT NO. 19-3675 WITH ALVARADOSMITH PC FOR LIABILITY LITIGATION AND LEGAL SUPPORT SERVICES**

RECOMMENDATIONS

Approve Harbor Department (Port) Resolution No. 22-10052 authorizing a Third Amendment to Agreement No. 19-3675 with AlvaradoSmith PC to continue liability litigation and legal support services for three additional years with no change in compensation; and, return the Resolution documents to the Port for further processing, including Council consideration.

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) and the City Attorney request approval of Resolution No. 22-10052 authorizing a proposed Third Amendment (Amendment) to Agreement No. 19-3675 (Agreement) with AlvaradoSmith PC (AlvaradoSmith) to continue liability litigation for an ongoing case and legal support services. The proposed Amendment extends the Agreement with AlvaradoSmith for three years, from September 18, 2022 through September 17, 2025, for a total of six years with no change in the compensation limit of \$300,000. The Port maintains financial responsibility for payment of expenses under the proposed Amendment.

AlvaradoSmith currently serves as outside counsel to the City Attorney in accordance with Charter Section 275, providing professional legal services support to the City Attorney on behalf of the City and the Port related to real estate matters, litigation, eminent domain and inverse condemnation, and auto accidents and liability claims. AlvaradoSmith currently provides ongoing litigation support on Los Angeles Superior Court Case No. 21STCV38128 C22-00676 (C-1937) related to a motor vehicle-involved liability claim. The proposed Amendment extends the Agreement with AlvaradoSmith in consideration of this litigation and any additional auto accident and liability claim needs. If approved, the Amendment would extend the Agreement to six years. The proposed Amendment includes a provision covering services provided between the expiration of the original

Agreement and execution of the Amendment. Though the proposed extension allows the Port to seek eligible services beyond those related to this existing case, the City Attorney and Port continue to target issuing new requests for proposals (RFPs) to retain outside counsel every three years.

AlvaradoSmith is a California-based law corporation with an office in Los Angeles. The Port reports that the City Attorney Harbor Division selected AlvaradoSmith for the current Agreement, along with one other firm, in 2019 following a competitive selection process issued on January 7, 2019 by the Department of Water and Power for outside counsel with real estate, litigation support, eminent domain, and inverse condemnation experience. The Board approved the original Agreement with AlvaradoSmith at its meeting on September 5, 2019 for a term of three years at a cost not to exceed \$200,000. The First Amendment to the Agreement, approved by the Board on November 19, 2020, added a required provision for Commercial General Liability Insurance. The Second Amendment to the Agreement, approved by the Board on May 6, 2021, increased the expenditure authority limit by \$100,000 to a maximum of \$300,000 to expand the scope of work to include liability litigation defense. AlvaradoSmith previously provided eminent domain and inverse condemnation legal services to the Port under Agreement Nos. 14-3255 and 18-3565.

The Port reports that funding of \$80,000 is budgeted and available for the Agreement in 2022-23, and that the Port expended \$32,520 under the Agreement in prior years. The Port will request any required future funding as part of the annual budget process. The City Attorney has reviewed the proposed Amendment and Agreement as to form and legality. In accordance with Charter Section 373 and Administrative Code Section 10.5(b)(2), the Amendment and Agreement require Council approval because the total term of the Agreement exceeds three years and the estimated annual payment under the proposed Amendment may exceed the 2022-23 exemption limit of \$182,536. The Port reports that the proposed action is an administrative activity and has therefore determined that it 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.

FISCAL IMPACT STATEMENT

The proposed Third Amendment to Harbor Department (Port) Agreement No. 19-3675 authorizes continued liability litigation and legal support services from AlvaradoSmith PC for three years, through September 17, 2025, with no compensation increase. The result is a total six-year Agreement at a cost not to exceed \$300,000, with an average annual expenditure of \$89,160 for the three-year extended term. Funding of \$80,000 is included in the Port 2022-23 Budget from the Harbor Revenue Fund. Future funding is subject to the Port annual budget process. The recommendations in this report comply with Port Financial Policies. There is no impact on the City General Fund.