

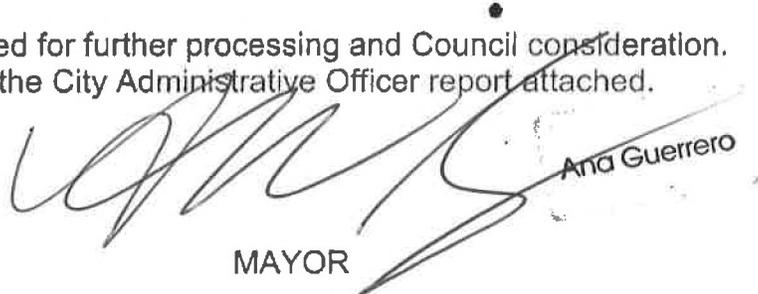
0150-10082-0002

TRANSMITTAL

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| TO Eugene D. Seroka, Executive Director Harbor Department | DATE JUN 28 2016 | COUNCIL FILE NO. |
| FROM The Mayor | COUNCIL DISTRICT 15 | |

PROPOSED THIRD AMENDMENT TO AGREEMENT NO. 10-2903 WITH MICROSOFT CORPORATION TO PROVIDE PRODUCT SUPPORT AND CONSULTING SERVICES

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



Ana Guerrero

MAYOR

MAS:ABN:10160107t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 28, 2016

CAO File No. 0150-10082-0002

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer *MAS*

Reference: Correspondence from the Harbor Department dated June 3, 2016; referred by the Mayor for report dated June 7, 2016

Subject: **PROPOSED THIRD AMENDMENT TO AGREEMENT NO. 10-2903 WITH MICROSOFT CORPORATION TO PROVIDE PRODUCT SUPPORT AND CONSULTING SERVICES**

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 16-7938 authorizing the Third Amendment (Amendment) to sole-source Agreement No. 10-2903 (Agreement) with Microsoft Corporation (Microsoft) to continue providing support and consulting services for all Microsoft products used by the Port. The existing Agreement with Microsoft is a sole-source agreement because the software and products are proprietary and can only be serviced by Microsoft. The Port states that these services are required to maintain and maximize the computing environment of the Port, which currently relies on Microsoft technology for its on-going operations. The proposed Third Amendment will extend the existing Agreement by three additional years, for a total contract term of nine years, with no change in the total compensation amount of \$1,492,027. All remaining terms and conditions of the Agreement will remain in full force and effect. In accordance with Charter Section 373, and the Los Angeles Administrative Code Section 10.5, Council approval is required for long term contracts that exceed three years.

BACKGROUND

Microsoft is based in Redmond, Washington, with offices in Los Angeles and other Southern California cities. Microsoft software is used for all of the critical control system of the Port to improve and integrate functions for the informational technology systems used by the Port. According to Port staff, Microsoft products are used for most of the Department's informational systems, including the desktop software, messaging, critical business applications, license compliance, and core infrastructure services such as databases and operating systems.

- In 2010, the original Agreement was entered into by the Port with Microsoft for three years and a total contract amount of \$497,969;
- In 2013, the First Amendment extended the terms of the Agreement by an additional three years, for a total of six years, and increased the contract amount by \$1,000,000 for a total amount not to exceed \$1,497,969 (C.F. 13-1630);

- In 2015, the Second Amendment revised Microsoft's fee summary and services amount and corrected a clerical error by reducing the contract amount by \$5,942, from \$1,497,969, to a revised amount not to exceed \$1,492,027.

PROPOSED THIRD AMENDMENT

The proposed Third Amendment will extend the existing Agreement by three additional years, for a total of nine years, to a contract termination date in October 2019. The Port states that there will be no change in the current services provided by the Microsoft Agreement and the payment of services and compensation amount of \$1,492,027. The Port states that funding is available within the existing Agreement amount because of less than anticipated use of the as-needed Microsoft services and fewer than expected computer issues.

The Port will continue to use the ongoing support services of Microsoft to assist the Department's Information Technology Division (ITD). This will allow the Port to operate at its current level without business interruption and prepare for future information technology requirements. The Port will continue to use Microsoft technologies in its daily operations by integrating existing and new computer systems to improve fiscal and operating efficiencies for future information technology requirements for Port staff, customers and stakeholders. The support services will include:

- Problem resolution support, as-needed, via telephone, electronic and online website access;
- Assistance with infrastructure and database design, and recommendations and migration;
- Migration of obsolete software or applications into the latest Microsoft technologies; and,
- Lab facilities for future product review, development, testing and migration activities.

The Agreement will continue to require Microsoft to perform assessments and provide recommendations to improve the existing and future software and systems in three different strategic areas. The three strategic areas include the following: 1) implementing a disaster recovery of the Port's critical systems, such as e-mails and the Active Directory; 2) implementing the server availability; and, 3) improving the configuration of management and change control to increase the reliability of the existing system. In addition, Microsoft is assisting the Port with migrating custom applications developed by Microsoft. The Port's ITD recommends reducing the department's dependency on these custom applications developed by Microsoft and other contractors over the ensuing years.

Microsoft was a sole source selection, because of its proprietary software and its exclusive knowledge and tools to perform this work. Microsoft is the sole source provider of the proprietary software and technical support/maintenance, which is only performed by Microsoft affiliates. The services provided are considered Premier Service Support, which include workshops, security checks, on-site engineers for critical system shutdown issues and account management. The Port states that Microsoft has provided satisfactory services and has provided systems that are in accordance with Port requirements.

CITY CONTRACTING COMPLIANCE ISSUES

The City Attorney has approved the proposed Resolution and Third Amendment to Agreement No. 10-2903 as to form and legality. The proposed Agreement is in compliance with all the applicable City provisions and ordinances. This includes City compliance issues for the following: Business Tax Certificate; Insurance and indemnification; Affirmative Action Plan; Small Business Enterprises and Minority, Woman, Disabled Veteran and Local and Other Business Enterprises; City Living Wage and Service Contract Worker Retention; Equal Benefits; and other provisions of the contract agreements. In accordance with Charter Section 1022, the Port has determined that the work specified in the Agreement can be performed more economically and feasibly by independent contractors because of the proprietary and specialized nature of the work than by City employees. The Port Director of Environmental Management has determined that this is an administrative activity and is therefore exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

RECOMMENDATION

That the Mayor:

1. Approve Harbor Department (Port) Board of Harbor Commissioners Resolution No. 16-7938 authorizing the Third Amendment to Agreement No. 10-2903 with the Microsoft Corporation (Microsoft) to continue providing support and consulting services for all Microsoft products used by the Port for three additional years for a total contract term of nine years; and
2. Return the proposed document to the Port for further processing, including City Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed Third Amendment to the Agreement between the Harbor Department (Port) and Microsoft Corporation will extend the existing Agreement by three additional years, for a total contract term of nine years, with no change in the current compensation amount of \$1,492,027. All other remaining terms and conditions of the Agreement will remain in effect. Approval of the proposed Amendment complies with the Port's adopted Financial Policies and the proposed Resolution will not impact the City's General Fund.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 373, "Long Term Contracts Approved by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," unless the Council takes action disapproving a contract that is longer than three years within 60 days after submissions to Council, the contract shall be deemed approved.