



Los Angeles World Airports

October 22, 2009

CP 11

The Honorable City Council
of the City of Los Angeles
City Hall, Room 395
Los Angeles, CA 90012

Subject: **APPROVE THE SECOND AMENDMENT TO CONTRACT NO. DA-4159
WITH KAYE SCHOLER, LLP FOR LEGAL SERVICES RELATED TO
FEDERAL REGULATORY ISSUES AND LITIGATION MATTERS AT LOS
ANGELES INTERNATIONAL AIRPORT.**

LAX

LA/Ontario

Van Nuys

City of Los Angeles

Antonio R. Villaraigosa
Mayor

**Board of Airport
Commissioners**

Alan I. Rothenberg
President

Valeria C. Velasco
Vice President

Joseph A. Aredas
Michael A. Lawson
Sam Nazarian
Fernando M. Torres-Gil
Walter Zifkin

Gina Marie Lindsey
Executive Director

In accordance with Section 373 of the City Charter, the Board of Airport Commissioners transmits for your approval the Second Amendment to Contract No. DA-4159 between the City of Los Angeles and Kaye Scholer, LLP covering an extension for one year and adding the sum of \$200,000.

RECOMMENDATION FOR CITY COUNCIL

1. APPROVE the Second Amendment to Contract No. DA-4159 between the City of Los Angeles and Kaye Scholer, LLP.
2. CONCUR in the Board's action authorizing the Executive Director to execute the Second Amendment to Contract No. DA-4159 between the City of Los Angeles and Kaye Scholer, LLP.
3. FIND that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

The Board of Airport Commissioners, at their meeting held on October 19, 2009, by Resolution No. 23925 approved the Second Amendment subject to the approval of your Honorable Body is attached.

MAYOR'S TRANSMITTAL

Enclosed is the approval by the Mayor and the Office of City Administrative Officer.

There is no impact on the General Fund.

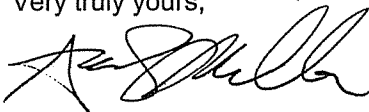


Los Angeles City Council
October 22, 2009
Page 2

CONCLUSION

Please return the attached Second Amendment to the Department of Airports' Board Office after City Council approval and Certification of that approval.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sandra J. Miller", written over a horizontal line.

Sandra J. Miller – Secretary
BOARD OF AIRPORT COMMISSIONERS

cc: Trade, Commerce and Tourism Committee
Councilmember Hahn, E-file
Councilmember Rosendahl, E-file
Councilmember LaBonge, E-file
CAO (Airport Analyst), E-file
CLA (Airport Analyst), E-file
City Clerk's Office, Enc. (one original and one copy)

0150-09070-0000

TRANSMITTAL

TO Gina Marie Lindsey, Executive Director Department of Airports	DATE OCT 13 2009	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 11	

**PROPOSED SECOND AMENDMENT TO CONTRACT DA-4159 WITH
KAYE SCHOLER, LLP FOR LEGAL SERVICES RELATED TO FEDERAL REGULATORY
ISSUES AND LITIGATION MATTERS AT LOS ANGELES INTERNATIONAL AIRPORT**

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



MAYOR

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: October 9, 2009

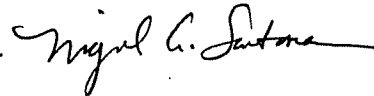
CAO File No. 0150-09070-0000

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Los Angeles World Airports dated September 16, 2009; referred by the Mayor for report on September 16, 2009

Subject: **PROPOSED SECOND AMENDMENT TO CONTRACT NO. DA-4159 WITH KAYE SCHOLER, LLP FOR LEGAL SERVICES RELATED TO FEDERAL REGULATORY ISSUES AND LITIGATION MATTERS**

SUMMARY

The Los Angeles World Airports (LAWA; Department) Board of Airport Commissioners (Board) requests approval of the Second Amendment (Amendment) to Agreement No. DA-4159 with Kaye Scholer, LLP (Kaye Scholer) to continue assisting the Department and the City Attorney with legal services on three matters related to federal regulatory issues and litigation matters. In December 2006, the Board approved the original Agreement with Kaye Scholer for a term of three years, from November 2006 through November 2009, and compensation of \$1,500,000. The First Amendment increased the compensation amount of the Agreement by \$2,500,000. Approval of the proposed Second Amendment will extend the term one year for a total term of four years, expiring in November 2010, and provide additional compensation of \$200,000 for a total not-to-exceed amount of \$4,200,000. On October 7, 2009, LAWA submitted a revised version of the original Board Report. Pursuant to Charter Section 373, for long term contracts, any contract that exceeds three years is required to be submitted to Council for consideration.

The proposed amendment with Kaye Scholer provides for continued assistance to LAWA and the City Attorney with legal services on three matters that specifically pertain to: (i) federal rates and charges cases that were filed in early 2007 by airlines operating in Terminals One and Three and the Tom Bradley International Terminal (TBIT), (ii) a lawsuit by Northwest Airlines, Inc. and LAXTWO Corporation challenging LAWA's legal right to defease (terminate) certain bonds which resulted in the termination of associated leaseholds at Terminal Two, and (iii) negotiation advice on terminal rates and charges for the airlines operating at LAX with long term leaseholds. In each of these matters, litigation has resulted and Kaye Scholer has represented LAWA.

Due to the complex nature of these matters and the significant effort expended by Kaye Scholer to date, LAWA would be negatively impacted if their representation by Kaye Scholer did not continue, according to LAWA. Furthermore, the Department states that Kaye Scholer has an expertise, history, and experience that are critical for these matters. The City Attorney concurs with the

proposed amendment to the Agreement.

As of August 31, 2009, there were \$534,000 in funds remaining; however, the additional \$200,000 in compensation is anticipated to be used and is considered necessary to ensure that the legal representation is continued, according to LAWA. Furthermore, the Department states that the case is being litigated in an expedited manner that would be adversely affected by a break in representation due to possible administrative delays with funding, which could jeopardize substantial amounts of revenue to LAWA.

CITY COMPLIANCE ISSUES

The proposed Second Amendment to Agreement No. DA-4159 is pending City Attorney review and approval as to form. The proposed Amendment is in compliance with all applicable provisions of City Ordinances and contracting requirements. Due to the volume of work and the expertise needed to adequately represent LAWA, the Board determined that the work can be performed more feasibly or economically by an Independent Contractor than by City employees, pursuant to Charter Section 1022. LAWA states that the proposed action is a continuing administrative and personnel-related activity that is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

RECOMMENDATION

That the Mayor, subject to City Attorney approval as to form:

1. Approve the proposed Second Amendment to Contract No. DA-4159 with Kaye Scholer, LLP to extend the term one year for a total of four years and provide additional compensation of \$200,000 for a total not-to-exceed amount of \$4,200,000, to continue assisting the Los Angeles World Airports and City Attorney with legal services related to federal regulatory issues and litigation matters; and
2. Return the document to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed Second Amendment to LAWA Agreement No DA-4159 with Kaye Scholer, LLP will provide additional compensation of \$200,000 for legal services pertaining to three matters related to federal regulatory issues and litigation matters. To fund this Amendment, LAWA is requesting that the Board authorize the transfer of funds totaling \$200,000 from an unrelated Kaye Scholer agreement (DA-4295) for bankruptcy legal services that expires in November 2009. The Department has determined that the funds will no longer be needed for the bankruptcy legal services contract. Since LAWA is only bound by the City Debt Management Policies, the City Financial Policies are not applicable. The original Agreement and proposed Amendment will have no impact on the City General Fund.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 373, "Long Term Contracts Approved by Council," the proposed Agreement must be approved by the Council before it can become effective. Unless the Council takes action of disapproving a contract that is longer than three years within 60 days after submission to Council, the contract will be deemed approved.

MAS:RPR:10100061



Los Angeles World Airports

RESOLUTION NO. 23925

WHEREAS, on recommendation of Management, there was presented for approval, Second Amendment to Contract No. DA-4159 with Kaye Scholer, LLP for legal services to assist Los Angeles World Airports and the City Attorney with legal services relating to federal regulatory issues and litigation matters. The Second Amendment will provide additional Contract Authority in an amount not-to-exceed \$200,000, by transferring the remaining Authority amount from Contract No. DA-4295 and will also extend the Contract term for an additional one (1)-year; and

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Sam Nazarian
Fernando M. Torres-Gil
Walter Zifkin

Gina Marie Lindsey
Executive Director

WHEREAS, on December 4, 2006, Board of Airport Commissioners (BOAC) authorized its Executive Director and the City Attorney's Office to enter into a three (3)-year legal services Contract with Kaye Scholer (BOAC Resolution No. 23153). The Contract was initially approved for \$1,500,000. On May 21, 2007, BOAC authorized its Executive Director and the City Attorney's Office to approve a First Amendment for this legal services Contract (BOAC Resolution No. 23294), which increased the Contract amount to \$4,000,000. Kaye Scholer was originally selected from a list of qualified firms pursuant to an in-depth Request for Proposals process; and

WHEREAS, the law firm of Kaye Scholer, LLP ("Firm" or "Kaye Scholer") is presently retained by Los Angeles World Airports (LAWA) under a three (3) year Contract ("Contract"), beginning on November 20, 2006, for federal regulatory and litigation matters. This Second Amendment for additional funds and to extend the term will allow the Firm to continue assisting LAWA and the City Attorney with (i) the federal rates and charges cases filed in early 2007 by airlines operating in Terminals 1 and 3 and the Tom Bradley International Terminal (TBIT), aspects of which cases were recently remanded by the U.S. District Court to the U.S. Department of Transportation ("DOT") for further action ("Rates and Charges Litigation"); (ii) defending in U.S. District Court the lawsuit brought by Northwest Airlines, Inc. and LAXTWO Corp. challenging LAWA's legal right to defease certain bonds associated with the leasehold in Terminal 2 at Los Angeles International Airport ("LAX") and thereby terminate the leasehold ("T2 Defeasance Action"); and (iii) advice concerning the continuing negotiations with respect to terminal rates and charges with the long term lease airlines operating at LAX; and

WHEREAS, the Firm has provided a detailed budget with respect to the T2 Defeasance Action. The Firm will provide a budget for the Rates and Charges Litigation after the DOT has determined how the matter is to proceed. The Firm will be asked to provide additional budgets when appropriate and we will return to BOAC for any additional funding requests when necessary; and

WHEREAS, to date, authorized Contract funding is \$4,000,000. The additional funding request will result in a total Contract appropriation of \$4,200,000. As required by the scope of work, the City Attorney will return to the BOAC and Los Angeles City Council for any necessary future adjustments to fee; and

WHEREAS, funds for the Second Amendment are currently available in the Fiscal Year 2009-2010 LAWA Operating Budget in Cost Center 1110004 - Legal Services Division, Commitment Item 520 - Contractual Services. Funds for subsequent periods will be requested as part of the annual budget process; and

WHEREAS, this action, as a continuing administrative and personnel-related activity, is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article II Section 2(f) of the Los Angeles City CEQA Guidelines, as amended by the Los Angeles City Council on July 31, 2002; and

WHEREAS, Kaye Scholer will comply with the provisions of the Living Wage Ordinance; and



WHEREAS, Contract Services Division reviewed this item. No specific Minority/Women Business Enterprise levels of participation levels were set for the Project, as no subcontracting opportunities were identified; and

WHEREAS, Kaye Scholer has a current Affirmative Action Plan on file with the City of Los Angeles, and will comply with the provisions of the Affirmative Action Program; and

WHEREAS, Kaye Scholer has been assigned Business Tax Registration Certificate No. 0000641007; and

WHEREAS, Kaye Scholer has submitted the Certification of Compliance with the Child Support Obligations Ordinance, and will comply with the provisions of the Child Support Obligations Ordinance; and

WHEREAS, Kaye Scholer has approved insurance documents, in the terms and amounts required, on file with LAWA; and

WHEREAS, this item is not subject to the provisions of Charter Section 1022 (Use of Independent Contractors); and

WHEREAS, Kaye Scholer has submitted the Contractor Responsibility Program Questionnaire and Pledge of Compliance, and will comply with the provisions of the Contractor Responsibility Ordinance; and

WHEREAS, Kaye Scholer has been determined by the Public Works – Office of Contract Compliance to be in full compliance with the provisions of the Equal Benefits Ordinance; and

WHEREAS, Kaye Scholer will be required to comply with the provisions of the First Source Hiring Program for all non-trade LAX jobs once the program is formally implemented by LAWA; and

WHEREAS, the Second Amendment will become final pursuant to the provisions of Los Angeles City Charter Sections 373 and 275;

NOW, THEREFORE, BE IT RESOLVED that the Board of Airport Commissioners determined that this action is exempt from the California Environmental Quality Act requirements, adopted the Staff Report, approved the Second Amendment to Contract No. DA-4159 with the law firm of Kaye Scholer, LLP to provide additional compensation in an amount not-to-exceed \$200,000, for a total contract amount of \$4,200,000, such \$200,000 to be transferred from Contract No. DA-4295, and authorized the Executive Director to execute the Second Amendment to Contract No. DA-4159, upon approval as to form by the City Attorney, and subject to approval by the Los Angeles City Council.

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I hereby certify that the foregoing is a true and correct copy of Resolution No. 23925 adopted by the Board of Airport Commissioners at a Regular Meeting held Monday, October 19, 2009.



Sandra J. Miller – Secretary
BOARD OF AIRPORT COMMISSIONERS

**SECOND AMENDMENT
TO AGREEMENT FOR PROFESSIONAL LEGAL SERVICES
CONTRACT NUMBER DA-4159
BETWEEN
THE CITY OF LOS ANGELES ACTING BY AND THROUGH THE
DEPARTMENT OF AIRPORTS OF THE CITY OF LOS ANGELES
AND
KAYE SCHOLER, LLP**

THIS SECOND AMENDMENT to Contract Number **DA-4159** is made and entered into by and between the City of Los Angeles, a municipal corporation, (hereinafter referred to as the "City") acting through the Office of the City Attorney (hereinafter referred to as "City Attorney") and its Board of Airport Commissioners (hereinafter "Board") and KAYE SCHOLER, LLP (hereinafter referred to as "Outside Counsel").

WITNESSETH

WHEREAS, the City and Outside Counsel entered into a contract wherein Outside Counsel agreed to assist the City Attorney with legal representation in litigation and transactional matters involving federal regulatory work and related matters, said Contract effective November 20, 2006, which hereinafter shall be referred to as the Contract; and

WHEREAS, the Contract provides for amendments;

WHEREAS, the City and Outside Counsel are desirous of amending the Contract for the purpose of extending the Contract one additional year and adding the sum of Two Hundred Thousand Dollars (\$200,000), thereby increasing the total contract amount not to exceed Four Million Four Hundred Thousand Dollars (\$4,200,000); and

WHEREAS, the amendment is necessary and proper to continue or complete certain activities authorized under the Contract;

NOW, THEREFORE, the City and Outside Counsel agree that the Contract be amended as follows:

AMENDMENT

1. Section II, paragraph A, Period of Performance, is amended to add one year and to read as follows:

This Agreement shall begin on November 20, 2006 and shall continue until November 19, 2010, unless terminated earlier under the provisions of this Agreement. The term of this Agreement shall not exceed four years.

2. Section V, paragraph A, Appropriation of Funds, is amended to add the sum of Two Hundred Thousand Dollars (\$200,000) and to read as follows:

The Board of Airport Commissioners has appropriated Four Million Two Hundred Thousand Dollars (\$4,200,000) for this Agreement. The City will not pay Outside Counsel for any work done or costs incurred in excess of the appropriated amount unless additional appropriations are made by Board of Airport Commissioners and an amendment to this Agreement is executed by the parties.

3. Except as herein amended, all other terms and conditions shall remain in full force and effect.

4. This amendment is executed in five (5) duplicate originals, each of which is deemed to be an original. This amendment consists of three (3) pages.

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IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date indicated.

THE CITY OF LOS ANGELES,
DEPARTMENT OF AIRPORTS
OF THE CITY OF LOS ANGELES

By _____
Gina Marie Lindsey
Executive Director

Date _____

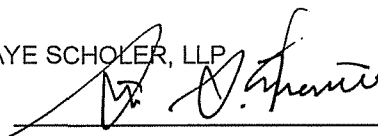
By _____
Wei Chi
Deputy Executive Director, Comptroller

Date _____

THE CITY OF LOS ANGELES,
CARMEN A. TRUTANICH, City Attorney

By _____
WILLIAM CARTER
Chief Deputy City Attorney

Date _____

KAYE SCHOLER, LLP
By  _____
Date 13 OCT. 2009

APPROVED AS TO FORM
CARMEN A. TRUTANICH, City Attorney

By  _____
Anne Haley
Assistant City Attorney

Date 21 October 2009

City Business License Number: _____
Internal Revenue Service ID Number: _____
Board Resolution Number: _____
Contract Number: _____