

Los Angeles World Airports

August 4, 2011

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

Subject: **APPROVE THE FOURTH 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.**

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

RECOMMENDATION FOR CITY COUNCIL

1. APPROVE the Fourth 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 Fourth 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.

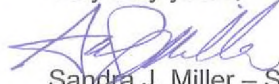
The Board of Airport Commissioners, at their meeting held on May 2, 2011, by Resolution No. 24442 approved the Fourth Amendment subject to the approval of your Honorable Body is attached.

There is no impact on the General Fund.

CONCLUSION

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

Very truly yours,



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)

LAX
LA/Ontario
Van Nuys
City of Los Angeles

Antonio R. Villaraigosa
Mayor

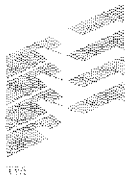
Board of Airport
Commissioners

Michael A. Lawson
President

Valeria C. Velasco
Vice President

Joseph A. Aredas
Robert D. Beyer
Boyd Hight
Fernando M. Torres-Gil
Walter Zifkin

Gina Marie Lindsey
Executive Director



RESOLUTION NO. 24442

WHEREAS, on recommendation of Management, there was presented for approval, Fourth Amendment to Contract No. DA-4159 with the law firm of Kaye Scholer LLP for legal services relating to federal regulatory and litigation matters to extend the term for an additional one (1) year. There is \$659,627 remaining under Contract No. DA-4159. When appropriate, Kaye Scholer LLP will be required to provide a detailed budget for its services; and

LAX

LA/Ontario

Van Nuys

City of Los Angeles

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Mayor

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Walter Zifkin

Gina Marie Lindsey
Executive Director

WHEREAS, Kaye Scholer LLP ("Kaye Scholer") has represented Los Angeles World Airports (LAWA), in the following matters and their current status:

Rates and Charges Litigation

In late 2006, the Board of Airport Commissioners (BOAC) approved a new Tariff which imposed new terminal rates and charges on the airlines operating at Los Angeles International Airport (LAX) without long term leases. In early 2007, seven (7) domestic airlines operating at Terminals 1 and 3 (the "T1/3 Complainants"), filed a complaint with the United States Department of Transportation ("DOT") alleging that these new terminal rates and charges were unreasonable and discriminatory. Twenty-two (22) international airlines operating at Tom Bradley International Terminal (the "TBIT Complainants") also filed a complaint with the DOT. A lengthy trial before an administrative law judge followed.

In June 2007, the DOT issued its Final Decision. The parties, including the City of Los Angeles (the "City"), subsequently filed a petition for review of the DOT Decision in the United States Court of Appeals for the District of Columbia Circuit (the "Court of Appeals"). Thereafter, the TBIT Complainants moved to withdraw their petition for review, which motion was granted in June 2008. In August 2008, LAWA and the TBIT Complainants entered into a Partial Settlement Agreement settling, among other things, certain rates and charges matters pending the outcome of the petition for review of the DOT Decision in the Court of Appeals.

The Court of Appeals issued its opinion on August 7, 2009. The Court of Appeals affirmed the DOT's Decision that the increased maintenance and operation ("M&O") fees imposed by LAWA and LAWA's commercial compensatory methodology were non-discriminatory and not unreasonable when used to recover fully-allocated terminal M&O costs, including the increasing costs for general administration, ground transportation and airport security. This ruling will result in an increase in LAWA's cost recovery in the tens of millions of dollars over the next several years.

The Court of Appeals also remanded several issues to the DOT for further consideration. The parties requested the DOT to stay proceedings while the parties discussed a possible settlement. The DOT has granted such request, and such stay will expire in August 2011. We expect the parties to request an extension to the stay to continue settlement negotiations. The DOT has requested that the parties provide periodic status reports while settlement negotiations were ongoing. At a minimum, there will be further briefings and evidentiary hearings on the remanded issues. The record in this case is voluminous, and if settlement cannot be reached and further evidentiary proceedings are required, LAWA will be disadvantaged if Kaye Scholer is not available as legal counsel.

Long Term Lease Negotiations

The airlines with long term leases (American Airlines, Continental Airlines, United Airlines, Delta Airlines and Northwest Airlines) also filed litigation in early 2007 regarding increased M&O charges. In January 2008, LAWA entered into interim settlement agreements with airlines and



the cases were dismissed without prejudice. United Airlines, Northwest Airlines, and Continental Airlines have since settled its claims with LAWA relating to this matter. However, the negotiations are continuing with respect to the future M&O charges for the other airlines and Kaye Scholer's continued assistance would benefit LAWA.

General Advice

With respect to the "General Advice on Aviation Law" task, we anticipate needing ongoing advice related to the New Lease Form, Tariff, and Maintenance and Operations; and

WHEREAS, funds for the Fourth Amendment are available in the Fiscal Year 2010-2011 LAWA Operating Budget in Cost Center 1110004 – Legal Services Division, Commitment Item 520, Contractual Services. Funding for the subsequent year will be requested as part of the annual budget process; and

WHEREAS, this item, as a continuing administrative and personnel-related action, 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; and

WHEREAS, Kaye Scholer is required by contract to comply with the provisions of the Living Wage Ordinance; and

WHEREAS, Kaye Scholer is required by contract to 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 is required by contract to comply with the provisions of the Child Support Obligations Ordinance; and

WHEREAS, Kaye Scholer must have approved insurance, in the terms and amounts required, on file with LAWA prior to execution of the Fourth Amendment; and

WHEREAS, pursuant to Charter Section 1022, staff determined that the work specified on this contract can be performed more feasibly and economically by Independent Contractors than by City employees; and

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

WHEREAS, Kaye Scholer has been determined by the Public Works – Office of Contract Compliance to be in 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; and

WHEREAS, the Fourth Amendment shall 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 Fourth Amendment to Contract No. DA-4159 with Kaye Scholer LLP extending the Contract for an additional one (1) year to May 19, 2012, and authorized the Executive Director to execute the Fourth Amendment to Contract No. DA-4159 with Kaye Scholer LLP upon approval as to form by the City Attorney and approval by the Los Angeles City Council.

I hereby certify that this Resolution No. 24442 is true and correct, as adopted by the Board of Airport Commissioners at its Regular Meeting held on Monday, May 2, 2011.

A handwritten signature in black ink, appearing to read 'S. J. Miller', with a stylized, cursive script.

Sandra J. Miller – Secretary
BOARD OF AIRPORT COMMISSIONERS

**FOURTH 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 FOURTH 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 for one additional year.

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 extend the contract for one additional year as follows:

This Agreement shall begin on November 20, 2006 and shall continue until May 19, 2012, unless terminated earlier under the provisions of this Agreement.

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

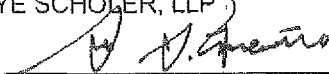
Date _____

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

By _____
WILLIAM CARTER
Chief Deputy City Attorney

Date _____

KAYE SCHOLER, LLP

By  _____

Date MAY 3, 2011

APPROVED AS TO FORM
CARMEN A. TRUTANICH, City Attorney

By  _____
Anne Haley
Assistant City Attorney

Date 5-5-11

City Business License Number: _____

Internal Revenue Service ID Number: _____

Board Resolution Number: _____

Contract Number: _____