

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

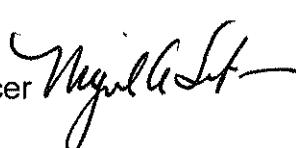
Date: June 13, 2013

CAO File No. 0150-09070-0004

Council File No.

Council District: 11

To: The Mayor
The City Council

From: Miguel A. Santana, City Administrative Officer 

Reference: Transmittal from the Los Angeles World Airports dated April 3, 2013; referred by the Mayor for report on April 4, 2013

Subject: **REQUEST TO EXECUTE A SIXTH AMENDMENT TO AGREEMENT DA-4159 WITH KAYE SCHOLER, LLP FOR LEGAL SERVICES IN SUPPORT OF THE LOS ANGELES WORLD AIRPORTS TO EXTEND THE TERM OF PERFORMANCE BY ONE ADDITIONAL YEAR TO MAY 19, 2014, AND INCREASE THE EXPENDITURE AUTHORITY BY \$200,000**

SUMMARY

The Executive Director of the Los Angeles World Airports (LAWA; Department) requests approval to execute a proposed Sixth Amendment to Agreement No. DA-4159 (copy attached) with the law firm of Kaye Scholer, LLP (contractor) to extend the existing contract for legal services in support of the City Attorney with respect to complex legal matters involving litigation and bankruptcy negotiations and increase the expenditure authority by \$200,000.

The proposed one-year extension (from May 19, 2013 to May 19, 2014) to the current six and one-half-year agreement will allow LAWA to (1) continue the services of a law firm with the experience and history with the complexities of the litigation, airline terminal rates and charges, and bankruptcy proceedings involving the Los Angeles International Airport (LAX); and (2) retain adequate legal staffing and representation in its efforts to negotiate a final settlement with remaining litigants (e.g., the T1/3 {Terminals 1 and 3} Complainants), the American Airlines litigation involving Maintenance and Operations ("M&O") charges for long-term lessees at LAX, and the continuing American Airlines bankruptcy proceedings. Continuity of representation in each of the above cases is, according to the Department, essential for successfully resolving the outstanding issues. The Board of Airport Commissioners approved the Sixth Amendment at its meeting of April 2, 2013. The above-mentioned aspects of the proposed Amendment, and this report, are based upon revised information received from the Department subsequent to the initial request submittal.

Budgeted and available funds in the amount of \$326,474 (as of April 2013) will be used to finance Kaye Scholer's legal services during the extended term of the Agreement. For the seven and one-half years of the Agreement (which includes the proposed one-year extension), the total allocation is \$4.4 million.

The law firm of Kaye Scholer, LLP was first selected from a list of qualified firms developed pursuant to a Request for Proposal process. Kaye Scholer is recognized as a leading litigation firm with expertise in, among other things, aviation, finance, and bankruptcy.

Background

During the one-year period of the proposed contract extension, the experience and expertise provided by Kaye Scholer, LLP are needed to provide legal counsel and general advice to LAWA attorneys on (1) the New Lease Form and Tariff, and (2) the Maintenance and Operations negotiations and settlements. Included in that counsel and general advice is assistance provided to LAWA in resolving federal rates and charges cases that were filed in 2007, continuing negotiations involving terminal rates and charges with long-term lessees operating at LAX, and representing LAWA in negotiations related to the November 2011 bankruptcy filing by American Airlines.

Since 2007, LAWA has been involved in a series of negotiations, court cases, hearings, partial settlements, interim settlement agreements, and settlements involving one or more airlines operating at LAX that resulted from increased terminal rates and charges imposed by LAWA on airlines operating at LAX without long-term leases. Some of those court cases have been resolved while others are still pending. With the possibility of tens of millions of dollars over several years in cost recovery from favorable court rulings, the Department is anxious to resolve the outstanding cases. The expertise in and history with these cases provided by the contractor since 2006 will help LAWA to conclude the remaining cases in a favorable and timely manner.

According to the City Attorney, the assistance provided by Kaye Scholer, LLP will (1) likely improve LAWA's cost recovery for maintenance and operations costs over the next several years, and (2) prove invaluable with the development of the rate methodology used in tariffs for calculating base rent costs.

The initial agreement with Kaye Scholer, LLP, for three years, was executed in December 2006 for \$1.5 million. The First Amendment, executed in May 2007, increased the contract amount by \$2.5 million to \$4 million. The Second Amendment, executed in November 2009, increased the contract amount by \$200,000 to \$4.2 million and extended the time of performance one year to November 2010. A Third Amendment was executed in November 2010 extending the agreement an additional six months (to May 19, 2011). The Fourth Amendment was approved in May 2011, which extended the agreement one year to May 19, 2012, using funds that were budgeted and available from previous years. The Fifth Amendment, extending the term of performance one additional year to May 19, 2013, was approved in April 2012. The proposed Sixth Amendment will increase the contract amount by \$200,000 to \$4.4 million.

Funding for the proposed Sixth Amendment is available in the Fiscal Year 2012-13, Los Angeles World Airports Operating Budget in Cost Center 1110004 – Legal Services Division, Commitment Item 520 – Contractual Services. Additional funding, if needed, will be requested as part of the Department's annual budget process. Additionally, the proposed Sixth Amendment is subject to approval by the City Attorney as to form.

Compliance with California Environmental Quality Act Guidelines

Per the Department, compliance with CEQA (California Environmental Quality Act) guidelines, continuing administrative, maintenance and personnel-related activities are exempt from the requirements pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.

Compliance with City Administrative Requirements

Due to the subject matter expertise needed to adequately represent the Department in its complex legal matters, as well as the volume of work required, LAWA determined, pursuant to Charter Section 1022, that the work can be performed more feasibly or economically by an independent contractor than by City employees. There were no objections by the City's unions to the original Agreement or to the subsequent amendments. Furthermore, Kaye Scholer, LLP is either in compliance with or the Department will monitor and ensure the firm's compliance with the City's Living Wage Ordinance, Affirmative Action Program, Child Support Obligations Ordinance, insurance requirements, Contractor Responsibility Program, the First Source Hiring Program for all non-trade airport jobs, and the provisions of Charter Section 609(e) pertaining to the prohibition of underwriter gifts and political contributions. Upon review by the Department's Contract Services Division, it was determined that there were no specific Minority/Women Business Enterprise levels of participation established for this project since there were no subcontracting opportunities identified. Additionally, the Department of Public Works, Office of Contract Compliance, has determined that Kaye Scholer, LLP is in compliance with the provisions of the Equal Benefits Ordinance. The firm has submitted the required Bidder Contributions CEC Form 55 pertaining to the City's contract bidder campaign contribution and fundraising restrictions (Charter Amendment H) that became effective in April 2011.

City Council approval of the proposed Sixth Amendment is required in accordance with Charter Section 373, "Long Term Contracts Approved by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," because the cumulative period of the awarded contract exceeds three years. Additionally, pursuant to Charter Section 275, "Employment of Other Legal Counsel," the Council and the City Attorney must approve the use of outside legal counsel. Furthermore, to become effective, the City Attorney must approve the agreement as to form.

Pursuant to Charter Section 371(e) (10) "Competitive Bidding; Competitive Sealed Proposals - Exceptions," the Department is requesting approval to waive the competitive bidding process for these continuing services in that a competitive process would be undesirable, impracticable, or impossible given (1) the need to maintain continuity of legal representation and (2) the complexity of the issues involved where a history with the litigants, litigation, and negotiations is essential.

Alternatives to the Proposed Amendment

According to LAWA, the Department would be negatively affected by the loss of legal representation and expertise developed by the Kaye Scholer law firm, especially given the fact that continuing negotiations and litigation are dependent upon the continuation of their assistance, as well as their expertise. At this time, use of City staff is not possible given the volume of work required; likewise, contracting with another law firm at this stage in the negotiations would be inefficient due to the steep learning curve and the corresponding cost to the City.

RECOMMENDATIONS

That the Council, subject to approval by the Mayor:

1. Approve, subject to City Attorney approval as to form, the proposed Sixth Amendment to Contract DA-4159 with the law firm of Kaye Scholer, LLP to extend the contract term for an additional one year for a total contract term of seven years and six months, and increase the expenditure authority by \$200,000 for a cumulative not-to-exceed amount of \$4.4 million, to continue the provision of legal services to the Los Angeles World Airports for matters related to federal regulatory issues and litigation;
2. Concur in the Board of Airport Commissioner's action of April 2, 2013, authorizing the Executive Director of the Los Angeles World Airports to execute the proposed Sixth Amendment; and
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.

FISCAL IMPACT STATEMENT

Approval of the proposed Sixth Amendment will have no impact on the General Fund. Funding for Contract DA-4159 with Kaye Scholer, LLP is available in the FY2012-13 Los Angeles World Airports Operating Budget in Cost Center 1110004 – Legal Services Division, Commitment Item 520 – Contractual Services. Additional funding, if needed, will be requested as part of the annual budget process. This project complies with the Department of Airports' adopted Financial Policies.

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," the proposed Amendment must be approved by the Council before it can become effective. Unless the Council takes action disapproving a contract that is longer than three years within 60 days after submission to Council, the contract will be deemed approved.

MAS:WDC:10130129

Attachment

ATTACHMENT

**SIXTH 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 SIXTH 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, bankruptcy 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, City and Outside Counsel are desirous of amending the Contract for the purpose of extending the Contract for an additional one year, 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 (\$4,400,000), and to add additional required provisions; 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 extend the contract for one additional year as follows:

This Agreement shall begin on November 20, 2006 and shall continue until May 19, 2014, unless terminated earlier under the provisions of this Agreement.

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 Four Hundred Thousand Dollars (\$4,400,000) for this Agreement."

3. Exhibit A, Standard Provisions for City Contractor, is amended to add the following as Sections PSC-30 and PSC-31:

"PSC-30. Municipal Lobbying Ordinance.

Outside Counsel shall comply with the provisions of the City of Los Angeles Municipal Lobbying Ordinance."

"PSC-31. Compliance with Los Angeles City Charter Section 470(c)(12).

Outside Counsel, its Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at One Hundred Thousand Dollars (\$100,000) or more and requires approval of a City elected official. Additionally, Contractor is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least One Hundred Thousand Dollars (\$100,000) for performance under this contract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions.

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract #_____. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to Contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's

information included must be provided to Contractor within 5 business days. Failure to comply may result in termination of contract or any other available legal remedy, including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960."

Outside Counsel, its Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available."

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

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

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 MARCH 29, 2013

APPROVED AS TO FORM
CARMEN A. TRUTANICH, City Attorney

By _____
Anne Haley
Assistant City Attorney
Date 4/5/13

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



Los Angeles
World Airports

TM

April 3, 2013

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. Arendas
Robert D. Beyer
Eloyd Hight
Arin M. Hollister
Fernando M. Torres-Gil
Gina Marie Lindsey
Executive Director

The Honorable Antonio Villaraigosa
Mayor, City of Los Angeles
City Hall – Room 303
Los Angeles, CA 90012

ATTN: Mandy Morales
Legislative Coordinator

RE: Approval of a Sixth Amendment to Contract No. DA-4159 with the law firm of Kaye Scholer LLP for legal services relating to federal regulatory and litigation matters

In accordance with Executive Directive No. 4, we are transmitting three (3) copies of the specified Board Report and proposed amendment. City Council approval is required pursuant to Section 373 of the City Charter.

Sincerely,

A handwritten signature in black ink that reads "Gina Marie Lindsey".

Gina Marie Lindsey
Executive Director

GML:MSA

Attachments

cc: Miguel A. Santana, City Administrative Officer
Attention: Andrea Mills
Mark Adams



Report to the
BOARD OF AIRPORT COMMISSIONERS

Approved by: N/A

Reviewed by: N/A

J. Timothy F.

City Attorney

Gina Marie Lindsey

Gina Marie Lindsey - Executive Director

Meeting Date:

April 2, 2013

CAO Review:

<input type="checkbox"/>	Completed
<input checked="" type="checkbox"/>	Pending
<input type="checkbox"/>	N/A

Reviewed for	Date	Approval Status	By
Capital Budget	03/22/13	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	DS
Operating Budget	3/22/13	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	RW
CEQA	03/21/13	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	ES
Procurement	03/21/13	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Cond	MT

SUBJECT: Sixth Amendment to Contract No. DA-4159

Approve the Sixth Amendment to Contract No. DA-4159 with the law firm of Kaye Scholer LLP for legal services relating to federal regulatory and litigation matters. The Sixth Amendment will extend the contract term for an additional one year term and increase the authority by \$200,000.

RECOMMENDATIONS:

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE 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.
3. APPROVE the Sixth Amendment to Contract No. DA-4159 extending the Contract for an additional one year to May 19, 2014 and increase the authority by \$200,000.
4. FIND that the Sixth Amendment is exempt from competitive bidding pursuant to Charter Section 373(e)(10).
5. AUTHORIZE the Executive Director to execute the Sixth Amendment to Contract No. DA-4159 after the approval as to form by the City Attorney and approval of City Council.

DISCUSSION:

1. Executive Summary

The law firm of Kaye Scholer, LLP ("Firm" or "Kaye Scholer") is presently retained by Los Angeles World Airports (LAWA) under a contract (Contract), beginning on November 20, 2006, for federal regulatory and litigation matters. The Contract has been amended five times for additional funds and time extensions. This Sixth Amendment to extend the term for an additional one year allows 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) advice concerning the continuing negotiations with respect to terminal rates and charges with the long term lease airlines operating at Los Angeles International Airport (LAX), which is the subject of interim settlement agreements; and (iii) representation of LAWA in the American Airlines bankruptcy proceedings.

Given the continued need for such services, LAWA staff requests that the Board of Airport Commissioners (BOAC) authorize the Sixth Amendment to Contract No. DA-4159 to extend the contract for an additional one year and increase the authority by \$200,000 for a total contract amount of \$4,400,000. There is \$326,474 remaining under Contract No. DA-4159. When appropriate, the Firm will be required to provide a detailed budget for its services.

2. Prior Related Actions

On December 4, 2006, the BOAC authorized its Executive Director and the City Attorney to enter into a three-year Contract with the Firm (Resolution No. 23153). The Contract was initially approved for \$1,500,000.

On May 21, 2007, the BOAC authorized its Executive Director and the City Attorney to approve a First Amendment to the Contract (Resolution No. 23294) for an increase in the maximum amount of the Contract to \$4,000,000.

On October 19, 2009, the BOAC authorized its Executive Director and the City Attorney to approve a Second Amendment to the Contract (Resolution No. 23925) for an increase in the maximum amount of the Contract to \$4,200,000 and to extend the Contract for one year.

On October 4, 2010, the BOAC authorized its Executive Director and the City Attorney to approve a Third Amendment to the Contract (Resolution No. 24249) to extend the Contract to May 19, 2011.

On May 2, 2011, the BOAC authorized its Executive Director and the City Attorney to approve a Fourth Amendment to the Contract (Resolution No. 24442) to extend the Contract to May 19, 2012.

On April 2, 2012, the BOAC authorized its Executive Director and the City Attorney to approve a Fifth Amendment to the Contract (Resolution No. 24762) to extend the Contract to May 19, 2013.

3. Current Action

There are three ongoing legal matters that require Kaye Scholer's continued assistance. 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 did not continue. A brief description of these matters and their current status follows:

Rates and Charges Litigation.

In late 2006, the BOAC approved a Tariff which imposed new terminal rates and charges on the airlines operating at LAX without long term leases. In early 2007, seven domestic airlines operating at Terminals 1 and 3 (the "T1/3 Complainants"), filed a complaint with the DOT alleging that these new terminal rates and charges were unreasonable and discriminatory. Twenty-two international airlines operating at TBIT (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, subsequently filed a petition for review of the DOT Decision in the U.S. 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 the request. Since then, LAWA has settled with several of the T-1/3 complainants. However, negotiations are continuing with the remaining litigants. At a minimum, there will be further briefings and evidentiary hearings on the remanded issues if the stay is lifted. 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 LAX Two, which comprised Northwest Airlines, Hawaiian Airlines, and Air Canada) 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, LAX Two, Delta Airlines, and Continental Airlines have since settled claims with LAWA relating to this matter. However, negotiations are continuing with respect to the future M&O charges with American Airlines and Kaye Scholer's continued assistance would benefit LAWA.

American Airlines Bankruptcy.

In November 2011, American Airlines filed for Chapter 11 protection in the U. S. Bankruptcy Court in the Southern District of New York. Kaye Scholer has been representing LAWA in the M&O negotiations with the various airlines, including American, continuity of representation of the Department on this issue during the American bankruptcy proceedings was seen as essential for the successful completion of the negotiations and related matters.

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.

The City Attorney and LAWA respectfully request that the BOAC authorize the Executive Director to approve the Sixth Amendment to Contract No. DA-4159 with the law firm of Kaye Scholer, LLP to extend the term of the Contract for an additional one year and increase the authority by \$200,000.

4. Alternatives Considered

**** Do Not Use Outside Counsel***

Due to the volume of the legal work required to adequately represent LAWA, and because of the continuing need to assist the City Attorney in advising LAWA management on the various matters, LAWA Management and the City Attorney requires the assistance of outside counsel. Kaye Scholer brings a particular expertise, history, and experience to these matters.

**** Use a Different Firm***

The alternative would be to contract with a law firm at a possibly higher rate than the Firm's rate with the likelihood of the law firm billing far more hours due to its unfamiliarity with these specific cases.

FISCAL & ECONOMIC IMPACT STATEMENT:

Funds for this Amendment are available in the FY2012-2013 Los Angeles World Airports 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.

STANDARD PROVISIONS:

1. This item, as a continuing administrative 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.
2. The Contract Amendment will be approved by the City Attorney as to form.
3. The Contract Amendment shall become final pursuant to the provisions of Los Angeles City Charter Section 373 and 275.

4. Kaye Scholer LLP will be required to comply with the provisions of City Charter Section 609(e) and related ordinances
5. Kaye Scholer LLP will comply with the provisions of the Living Wage Ordinance.
6. This item is not subject to the provisions of the Minority/Women Business Enterprise Program pursuant to Executive Directive 2001-26.
7. Kaye Scholer LLP will comply with the provisions of the Affirmative Action Program.
8. Kaye Scholer LLP has been assigned a Business Tax Registration Certificate Number 0000641007.
9. Kaye Scholer LLP will comply with the provisions of the Child Support Obligations Ordinance.
10. Kaye Scholer LLP must have approved insurance documents, in the terms and amounts required, on file with Los Angeles World Airports prior to execution of the Amendment.
11. Pursuant to Charter Section 1022, staff determined the work specified on the proposed contract can be performed more feasibly or economically by an Independent Contractor than by City employees.
12. Kaye Scholer LLP has submitted the Contractor Responsibility Program Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.
13. Kaye Scholer LLP has been determined by Public Works, Office of Contract Compliance to be in full compliance with the provisions of the Equal Benefits Ordinance.
14. Kaye Scholer LLP will be required to comply with the provisions of the First Source Hiring Program for all non-trade LAX Airport jobs.
15. Kaye Scholer LLP has submitted the Bidder Contributions CEC Form 55 and will comply with its provisions.

**SIXTH 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 SIXTH 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, bankruptcy 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, City and Outside Counsel are desirous of amending the Contract for the purpose of extending the Contract for an additional one year, 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 (\$4,400,000), and to add additional required provisions; 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 extend the contract for one additional year as follows:

This Agreement shall begin on November 20, 2006 and shall continue until May 19, 2014, unless terminated earlier under the provisions of this Agreement.

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 Four Hundred Thousand Dollars (\$4,400,000) for this Agreement."

3. Exhibit A, Standard Provisions for City Contractor, is amended to add the following as Sections PSC-30 and PSC-31:

"PSC-30. Municipal Lobbying Ordinance.

Outside Counsel shall comply with the provisions of the City of Los Angeles Municipal Lobbying Ordinance."

"PSC-31. Compliance with Los Angeles City Charter Section 470(c)(12).

Outside Counsel, its Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at One Hundred Thousand Dollars (\$100,000) or more and requires approval of a City elected official. Additionally, Contractor is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least One Hundred Thousand Dollars (\$100,000) for performance under this contract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions.

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract #_____. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to Contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's

information included must be provided to Contractor within 5 business days. Failure to comply may result in termination of contract or any other available legal remedy, including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960."

Outside Counsel, its Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available."

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

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

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 MARCH 29, 2013

APPROVED AS TO FORM
CARMEN A. TRUTANICH, City Attorney

By _____
Anne Haley
Assistant City Attorney
Date 4/5/13

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



Los Angeles World Airports

30 May 2013

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

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. Arellas
Robert D. Beyer
Ann M. Holister
Raúl Pérez
Fernando M. Torres-Gil

Gina Marie Lindsey
Executive Director

SUBJECT: Sixth Amendment to Contract DA-4159 with Kaye Scholer LLP

Pursuant to Sections 373 and 275 of the City Charter, the Board of Airport Commissioners hereby transmits for your approval said Sixth Amendment to Contract DA-4159 with Kaye Scholer LLP.

The Board, at its meeting held on April 2, 2013, by Resolution 25073, approved said Sixth Amendment, subject to approval by your Honorable Body.

RECOMMENDATIONS FOR CITY COUNCIL

1. APPROVE the Sixth Amendment to Contract DA-4159 with Kaye Scholer LLP
2. CONCUR in the Board's action authorizing the Executive Director to execute said Sixth Amendment, and
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.

MAYOR'S TRANSMITTAL

There will be no fiscal impact to the City General Fund as a result of this action.



Los Angeles City Council
30 May 2013
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CONCLUSION

Please return the attached Sixth Amendment to the Department of Airports Board Office upon your approval and Certification of such approval.

Very truly yours,



Grace Miguel, Commission Executive Assistant I
BOARD OF AIRPORT COMMISSIONERS

Attachment:

Resolution 25073
Sixth Amendment to Contract DA-4159

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

*Los Angeles
World Airports*

BOARD FILE NO. DA-4159F

RESOLUTION NO. 25073

WHEREAS, on recommendation of Management, there was presented for approval, Sixth Amendment to Contract DA-4159 with the law firm of Kaye Scholer LLP to extend the contract term by one (1) year and increase the authority by \$200,000 for legal services relating to federal regulatory and litigation matters; and

WHEREAS, there are three (3) ongoing legal matters that require Kaye Scholer's continued assistance. In each of these matters, litigation has resulted and Kaye Scholer has represented Los Angeles World Airports (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 did not continue. A brief description of these matters and their current status follows:

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City of Los Angeles

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Mayor

Board of Airport
Commissioners

Michael A. Lawson
President

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Vice President

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Executive Director

In late 2006, the Board of Airport Commissioners approved a 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 U.S. Department of Transportation (DOT) alleging that these new terminal rates and charges were unreasonable and discriminatory. Twenty-two (22) international airlines operating at the Tom Bradley International Terminal (the "TBIT Complainants") also filed a complaint with DOT. A lengthy trial before an administrative law judge followed.

In June 2007, DOT issued its Final Decision. The parties, including the City, subsequently filed a petition for review of the DOT Decision in the U.S. 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 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 DOT for further consideration. The parties requested DOT to stay proceedings while the parties discussed a possible settlement. DOT has granted the request. Since then, LAWA has settled with several of the T-1/3 Complainants. However, negotiations are continuing with the remaining litigants. At a minimum, there will be further briefings and evidentiary hearings on the remanded issues if the stay is lifted. 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 LAX Two, which comprised Northwest Airlines, Hawaiian Airlines and Air Canada) 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, LAX Two, Delta Airlines, and Continental Airlines have since settled claims with LAWA relating to this matter. However, negotiations are continuing with respect to the future M&O charges with American Airlines and Kaye Scholer's continued assistance would benefit LAWA.

- American Airlines Bankruptcy

In November 2011, American Airlines filed for Chapter 11 protection in the U.S. Bankruptcy Court in the Southern District of New York. Kaye Scholer has been representing LAWA in the M&O negotiations with various airlines, including American, continuity of representation of the Department on this issue during the American bankruptcy proceedings was seen as essential for successful completion of the negotiations and related matters.

- General Advice

With respect to the "General Advice on Aviation Law" task, LAWA anticipates need for ongoing advice related to the New Lease Form, Tariff, and M&Os; and

WHEREAS, funds for the Sixth Amendment are available in Fiscal Year 2012-2013 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, a continuing administrative 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 will comply with the provisions of the Living Wage Ordinance; and

WHEREAS, Kaye Scholer will comply with the provisions of the Affirmative Action Program; and

WHEREAS, Kaye Scholer has been assigned Business Tax Registration Certificate 0000641007; and

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

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

WHEREAS, pursuant to Charter Section 1022, staff determined that the work specified on the contract can be performed more feasibly or economically by an independent contractor 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 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; and

WHEREAS, Kaye Scholer has submitted the Bidder Contributions City Ethics Commission Form 55, and will comply with its provisions; and

WHEREAS, Kaye Scholer will be required to comply with the provisions of City Charter Section 609(e) and related ordinances; and

WHEREAS, actions taken by the Board of Airport Commissioners will become final pursuant to 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 Sixth Amendment to Contract DA-4159 with Kaye Scholer LLP to extend the term by one (1) year to May 19, 2014 and increase the authority by \$200,000 for legal services relating to federal regulatory and litigation matters; found that the Sixth Amendment is exempt from competitive bidding pursuant to Charter Section 373(e)(10); and authorized the Executive Director to execute the Sixth Amendment to Contract DA-4159 with Kaye Scholer LLP upon approval as to form by the City Attorney and upon approval by the Los Angeles City Council.

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I hereby certify that this Resolution No. 25073 is true and correct, as adopted by the Board of Airport Commissioners at its Regular Meeting held on Tuesday, April 2, 2013.



Sandra J. Miller — Secretary
BOARD OF AIRPORT COMMISSIONERS