COUNCIL AGENDA: 1-08-08
ITEM: 2.6

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: **Fourth Amendment and Continuation Agreement for Legal Services with Nossaman Guthner Knox & Elliott LLP**

DATE: December 12, 2007

RECOMMENDATION

Adoption of a resolution authorizing the City Attorney to negotiate and execute a Fourth Amendment and Continuation Agreement with Nossaman Guthner Knox & Elliott LLP for legal services related to the Design-Build Agreement for the Airport Terminal Area Improvement Program, continuing the term from January 1, 2008 through December 31, 2008 with no increase in total compensation.

OUTCOME

Approval of this Fourth Amendment and Continuation Agreement will allow the consultant to continue to provide legal services related to the negotiation of design and construction task orders associated with the Design-Build Agreement for the Airport Terminal Area Improvement Program ("TAIP") between the City and Hensel Phelps Construction Co., the Design Build Firm.

BACKGROUND

On June 22, 2006, the City Attorney executed a $100,000 agreement with Nossaman Guthner Knox & Elliott LLP ("Nossaman") for legal services in connection with the negotiation of the Design-Build Agreement for the TAIP. The City Attorney's Office selected Nossaman through a Request for Qualifications ("RFQ") that was distributed to a number of California law firms and advertised on the City and Airport web sites. Nossaman has extensive experience negotiating and advising both public and private owners in connection with the negotiation of design-build agreements.

In order to support the significant staff time and legal services committed to the negotiation of the Design-Build Agreement during the July 2006 Council recess, the City Attorney determined that it was necessary to exercise his authority, pursuant to Resolution No. 64250, to execute a First Amendment to increase the total

compensation to $150,000. On August 15, 2006, Council adopted Resolution No. 73348 authorizing the City Attorney to negotiate and execute a Second Amendment to increase the total compensation to $250,000. On October 17, 2006, Council adopted Resolution No. 73448 to negotiate and execute a Third Amendment to increase the total compensation to $350,000 and extend the term to June 30, 2007. On June 15, 2007, a Minor Contract Amendment was executed extending the Agreement through December 31, 2007, with no increase in total compensation.

ANALYSIS

Nossaman has provided vital support to the City Attorney's Office in negotiating and drafting the Design-Build Agreement with both Bechtel and Hensel Phelps, as well as assisting in negotiating task orders for design and construction services. The City Attorney's Office is recommending that the Agreement with Nossaman be continued to December 31, 2008 to provide ongoing support to the City Attorney's Office as necessary for the task order negotiations. Nossaman has proposed to increase its hourly rates effective January 1, 2008; however, the total compensation under the Agreement will not be increased.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

This item does not appear to qualify as an item of significant interest based on the established criteria. This memo is posted on the City's website for the January 15, 2008 Council Agenda.

COORDINATION

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Not a project.

RICHARD DOYLE
City Attorney

By _____
Kevin Fisher
Sr. Deputy City Attorney

cc: Debra Figone

For questions please contact KEVIN FISHER, Senior Deputy City Attorney, at (408) 535-1943