



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Fourteenth Amendment to  
Agreement for Legal Services  
related to the Airport with Orrick  
Herrington & Sutcliffe LLP

**DATE:** June 11, 2010

## **RECOMMENDATION**

Adopt a resolution authorizing the City Attorney to negotiate and execute a Fourteenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the financing of improvements at the Norman Y. Mineta San Jose International Airport and the City's outstanding Airport revenue debt, extending the term through June 30, 2011 and increasing compensation by \$50,000, for a total amount not to exceed \$475,000.

## **OUTCOME**

Approval of the Fourteenth Amendment will allow Orrick Herrington & Sutcliffe LLP to continue to provide legal services related to the financing of improvements at the Norman Y. Mineta San Jose International Airport and the City's outstanding Airport revenue debt.

## **BACKGROUND**

On September 12, 2001, the City entered into an agreement for legal services with Orrick Herrington & Sutcliffe LLP ("Orrick"), in an amount not to exceed \$50,000, and with an initial term to expire on June 30, 2002. Under this agreement, Orrick has provided legal and technical advice on issues related to financing improvements at the Norman Y. Mineta San Jose International Airport as well as issues involving the City's outstanding Airport revenue debt, as requested by the City Attorney.

This agreement has since been amended to increase total compensation to an amount not to exceed \$425,000, with the current term to expire on June 30, 2010.

## **ANALYSIS**

Orrick has provided services related to the Airport finance issues for a number of years.

June 11, 2010

**Subject: Agreement with Orrick, Herrington & Sutcliffe LLP**

Page 2

Since 2001, Orrick has provided legal services regarding methods to finance Airport improvements as well as advice concerning the City's outstanding Airport revenue bonds and the Airport's subordinated commercial paper program (the "CP Program"). These services generally have involved advice regarding federal income tax issues, revisions to the CP Program and the expansion of the CP Program in response to the disruption in the variable rate municipal bond market.

The City Attorney's Office has retained Orrick due to the firm's breadth of experience in the area of municipal finance generally and the City's Airport revenue debt specifically. It would not be in the public interest to conduct a competitive process for these services in light of: (1) Orrick's experience and expertise in municipal finance; and (2) the need for continuity as the Airport's debt portfolio has become more complex due to the financings required to implement the first phase of the Airport Master Plan.

The current agreement will expire on June 30, 2010. The proposed amendment would extend the term through June 30, 2011 and increase the compensation by \$50,000. This amendment is required to continue the services related to Airport finance issues, including but not limited to, the permissible expenditures of the Airport revenue bonds remaining after the Airport Master Plan projects are completed, the extension of the letters of credit supporting the CP Program and federal income tax advice.

#### **PUBLIC OUTREACH/INTEREST**

This memo is posted on the City's website for the June 22, 2010 Council Agenda.

#### **COORDINATION**

This item has been coordinated with the Airport Department.

HONORABLE MAYOR AND CITY COUNCIL

June 11, 2010

**Subject: Agreement with Orrick, Herrington & Sutcliffe LLP**

Page 3

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	Adopted Budget Page	Last Budget Action (Date, Ord. No.)
523	0802	Airport Non-Personal	\$44,473,210	\$50,000	XI-3	10/20/09 Ord. #28653

**CEQA**

Not a Project; PP10-066, services that involve no physical changes to the environment.

RICHARD DOYLE  
City Attorney

By   
Danielle Kenealey  
Chief Deputy City Attorney

cc: Debra Figone

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