



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

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

DATE: June 7, 2012

RECOMMENDATION

Adopt a resolution authorizing the City Attorney to negotiate and execute a Seventeenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the City's outstanding Airport revenue debt to extend the term to June 30, 2013 and to increase the compensation by \$50,000 for a total amount not to exceed \$660,000.

OUTCOME

Approval of the Seventeenth Amendment will allow Orrick Herrington & Sutcliffe LLP to continue to provide legal services related to 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, which has been extended annually since 2001, 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 \$610,000, with the current term to expire on June 30, 2012.

ANALYSIS

For a number of years, 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 "Airport CP Program").

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These services generally have involved advice regarding federal income tax issues, revisions to the CP Program and the expansion of the Airport CP Program in response to the disruption in the variable rate municipal bond market in 2008. Orrick has provided these services on a time and materials basis and the firm is paid from Airport operating funds. Orrick's services related to the issuance of Airport revenue bonds have been paid from those bonds.

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.

Over the past four years the City has required a significant level of service from Orrick due to disruption in the bond market and the need to negotiate agreements with banks providing letters of credit to support the Airport CP program. This Office anticipates that the City will require reduced service over the next year as compared to prior years under the proposed extension to the time and materials agreement. However, the City will require Orrick's advice with respect the permissible expenditures of the Airport revenue bonds remaining after the completion of the Airport Master Plan projects as well as federal tax and other issues that arise from time to time related to the outstanding Airport revenue debt.

PUBLIC OUTREACH/INTEREST

This memo is posted on the City's website for the June 19, 2012 Council Agenda.

COORDINATION

This item has been coordinated with the Airport Department.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contract	2011-2012 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
523	0802	Airport Non-Personal/ Equipment	105110	\$35,764,440	\$50,000	XI-3	11/29/11 Ord # 28998

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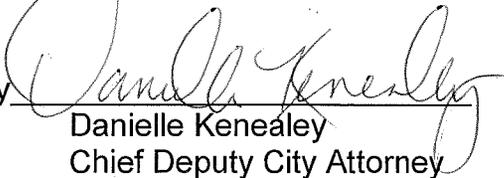
CEQA

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

RICHARD DOYLE

City Attorney

By


Danielle Kenealey

Chief Deputy City Attorney

cc: Debra Figone

For questions please contact DANIELLE KENEALEY, Chief Deputy City Attorney, at (408) 535-1916