

0150-10747-0002

**TRANSMITTAL**

TO  
Deborah Flint, Chief Executive Officer  
Department of Airports

DATE  
SEP 18 2018

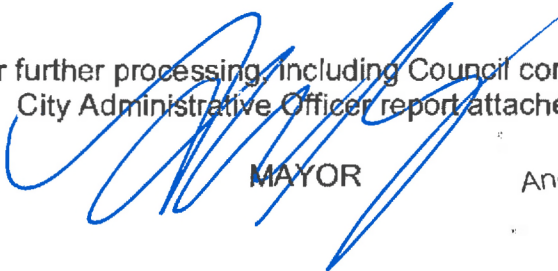
COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT  
11

**Request to Execute a Sixth Amendment to Contract with Morrison & Foerster, LLP to Extend the Contract Term for the Purpose of Continuing Legal Services in Support of the Los Angeles World Airports**

Transmitted for further processing, including Council consideration. See the City Administrative Officer report attached.



MAYOR

Ana Guerrero

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: August 28, 2018

CAO File No. 0150-10747-0002

Council File No.

Council District: 11

To: The Mayor

From: Richard H. Llewellyn, Jr., City Administrative Officer

Reference: Communication from the Los Angeles World Airports dated August 13, 2018; referred by the Mayor for report on August 15, 2018

Subject: **REQUEST TO EXECUTE A SIXTH AMENDMENT TO CONTRACT WITH MORRISON & FOERSTER, LLP TO EXTEND THE CONTRACT TERM FOR THE PURPOSE OF CONTINUING LEGAL SERVICES IN SUPPORT OF THE LOS ANGELES WORLD AIRPORTS**

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### RECOMMENDATIONS

That the Mayor:

1. Approve the proposed Sixth Amendment to Contract No. DA-4859 between the Los Angeles World Airports and the law firm of Morrison & Foerster, LLP to extend the existing contract for two years, from August 31, 2018 to August 31, 2020, in order to continue the provision of expert legal services to the Department for matters related to litigation involving deficiencies in and deterioration of the LAX Runway 25L concrete that was replaced by Tutor-Saliba/O&G Industries JV, and others, subject to City Attorney approval as to form and compliance with the City's Standard Provisions for Contracts, including the Living Wage Ordinance, Affirmative Action Program, Child Support Obligations Ordinance, Contractor Responsibility Ordinance, Equal Benefits Ordinance, the First Source Hiring Program for all non-trade LAX airport jobs, and the City Ethics Commission Form 55 pertaining to bidder contributions;
2. Authorize the Chief Executive Officer of the Los Angeles World Airports to execute the Amendment; and,
3. Return the proposed Sixth Amendment to the Department for further processing, including Council consideration and City Attorney approval.

### SUMMARY

The Chief Executive Officer of the Los Angeles World Airports (Department; LAWA) requests approval to execute a Sixth Amendment to Contract No. DA-4859 with the law firm of Morrison & Foerster, LLP (contractor) to extend, by two years without additional funds, an existing five-year contract to assist the Department with ongoing product liability litigation, including appeals, entitled *City of Los Angeles vs. Tutor-Saliba Corporation/O&G Industries Inc., JV, etc., et al* related to LAX

(Los Angeles International Airport) Runway 25L construction deficiencies. The City Attorney affirms the need to continue the contractor's services. No other substantive changes to the contract terms are being proposed.

Pursuant to City Charter Section 371(e)(2) provisions, the contractor was selected in August 2013 without using a competitive process due to the urgency of this matter and LAWA's need to prepare for, and then litigate, the case involving deterioration of the concrete surface of LAX Runway 25L that was constructed by Tutor-Saliba/O&G Industries JV at a cost of almost \$300 million. The oral arguments are expected to be scheduled during the first quarter of 2019 with Morrison & Foerster in the lead position representing the City.

The original contract with Morrison & Foerster, LLP was for \$400,000 and a three-year term from September 1, 2013 to August 31, 2016. Three subsequent amendments increased the authorized funding whereas the Fourth Amendment, approved by the Board of Airport Commissioners (Board) in August 2016, extended the term by two years to August 31, 2018. The current contract expenditure authority is \$11,500,000, of which \$894,937 remained as of the May 2018 billing. The Department will work with the contractor to develop a budget for the extended contract term.

As a result of the continued need for written briefs for the appeals process and the fact that oral arguments in the case have yet to be scheduled, the Department believes that it is important to retain the contractor and continue to benefit from the firm's demonstrated litigation and product liability expertise throughout the remainder of the legal proceedings. Execution of a Sixth Amendment requires Council approval of an exemption from the provisions of Charter Sections 371(e)(2) and (e)(10), "Competitive Bidding; Competitive Sealed Proposals; Exceptions," in that the use of competitive bidding at this time would be undesirable, impractical, or impossible.

The proposed Sixth Amendment was approved by the Board at its meeting of August 16, 2018.

## **FISCAL IMPACT STATEMENT**

A total of \$11,500,000 has been allocated to address the litigation and related issues involving LAX Runway 25L construction deficiencies, with \$894,937 in expenditure authority remaining for this contract as of the May 2018 billing. The funding needed for the two-year extension is available from the Department's Fiscal Year 2018-19 Operating Budget in Cost Center 1110004 – Legal Services Division, Commitment Item 520 – Contractual Services. The Department will work with Morrison & Foerster to develop a budget for the extended contract term.

Costs incurred under Contract No. DA-4859 will be recovered from landing fees, terminal rates and charges, and non-aeronautical revenues (e.g., concessions, parking lot revenue, etc.). Future years' funding, if needed, will be requested as part of the annual budget process. The use of outside legal services complies with the Department of Airports' adopted Financial Policies. Approval of the Sixth Amendment will have no impact on the City's General Fund.