

**Report to the
BOARD OF AIRPORT COMMISSIONERS**

<p><i>D. Dazé</i> <u>D Dazé (Sep 30, 2022 13:33 PDT)</u> Tim Dazé, Assistant City Attorney City Attorney's Office</p>	<p>Meeting Date</p> <p>10/6/2022</p>			
	<p>Needs Council Approval: <input checked="" type="checkbox"/> Y</p>			
<p><i>Brian C. Ostler</i> Brian C. Ostler, City Attorney <i>BCO</i></p>	Reviewed for/by	Date	Approval Status	By
	Finance	9/19/2022	<input checked="" type="checkbox"/> Y <input type="checkbox"/> NA	JS
<p><i>Justin Erbacci</i> <u>Justin Erbacci (Sep 30, 2022 15:21 PDT)</u> Justin Erbacci, Chief Executive Officer</p>	CEQA	9/19/2022	<input checked="" type="checkbox"/> Y	VW
	Procurement	9/19/2022	<input checked="" type="checkbox"/> Y <input type="checkbox"/> Cond	QM
	Guest Experience	9/21/2022	<input checked="" type="checkbox"/> Y	TB
	Strategic Planning	9/26/2022	<input checked="" type="checkbox"/> Y	BNZ

SUBJECT

Request to approve the Sixth Amendment to Contract No. DA-5355 with the law firm of Anderson & Kreiger, LLP, for legal services to assist Los Angeles World Airports and the Los Angeles City Attorney with federal regulatory work and related matters, including litigation. The Sixth Amendment will increase the three-year contract by \$1,300,000 for a total not-to-exceed amount of \$5,900,000.

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. FIND that the work can be performed more economically or feasibly by an independent contractor than by City employees.
4. APPROVE the Sixth Amendment to Contract No. DA-5355 with the law firm of Anderson & Kreiger, LLP, for legal services to assist Los Angeles World Airports and the Los Angeles City Attorney with federal regulatory work and related matters, including litigation. The Sixth Amendment will increase the three-year contract by \$1,300,000 for a total not-to-exceed amount of \$5,900,000.

5. AUTHORIZE the Chief Executive Officer, or designee, to execute the Sixth Amendment to Contract No. DA-5355 with Anderson & Kreiger, LLP, after the approval as to form by the City Attorney and City Council.

DISCUSSION

1. Purpose

To approve the Sixth Amendment to Contract No. DA-5355 with the law firm of Anderson & Kreiger, LLP (Firm), for legal services to assist Los Angeles World Airports (LAWA) and the Los Angeles City Attorney (City Attorney) with federal regulatory work and related matters, including litigation, to increase the three-year contract by \$1,300,000, for a total of \$5,900,000.

2. Prior Related Actions/History of Board Actions

- **May 2, 2019 – Resolution No. 26748 (DA-5355)**
The Board of Airport Commissioners (Board) approved a three-year contract with the law firm of Anderson & Kreiger, LLP, in the amount of \$200,000 to assist the City Attorney and LAWA with legal services. The Firm was retained after a comprehensive search conducted by the Los Angeles City Attorney's Office through a Request for Proposal (RFP) process. Under the contract, the Firm is paid on an hourly basis for services performed.
- **December 19, 2019 – Resolution No. 26909 (DA-5355A)**
The Board approved a First Amendment to the contract with the law firm of Anderson & Kreiger, LLP, in the amount of \$1,000,000 to assist the City Attorney and LAWA with legal services.
- **June 18, 2020 – Resolution No. 27037 (DA-5355B)**
The Board approved a Second Amendment to the contract with Anderson & Kreiger, LLP, in the amount of \$500,000, to assist the City Attorney and LAWA with legal services.
- **November 19, 2020 – Resolution No. 27133 (DA-5355C)**
The Board approved a Third Amendment to the contract with Anderson & Kreiger, LLP, in the amount of \$900,000, to assist the City Attorney and LAWA with legal services.
- **August 12, 2021 – Resolution No. 27315 (DA-5355D)**
The Board approved a Fourth Amendment to the contract with Anderson & Kreiger, LLP, in the amount of \$1,100,000, to assist the City Attorney and LAWA with legal services.
- **January 6, 2022 – Resolution No. 27412 (DA-5355E)**
The Board approved a Fifth Amendment to the contract with Anderson & Kreiger, LLP, in the amount of \$900,000, to assist the City Attorney and LAWA with legal services.

3. Background

As a result of the ongoing requirements of federal regulatory advice and the defense of the City and LAWA in the Turo Litigation, it is necessary to add additional funds to the Firm's contract in order to pay the outstanding invoices.

In addition to the Turo litigation, Anderson & Kreiger, LLP has regularly assisted LAWA with many federal regulatory issues, including but not limited to, TSA and FAA legislation and regulations, airport rates and charges, FAA land use regulations, revenue diversion, grant assurances, federal inclusivity programs, federal funding, and airport accessibility. A portion of the outstanding invoices also includes services for the federal regulatory work performed under the contract.

4. Current Action/Rationale

The firm of Anderson & Kreiger, LLP currently is under contract with the City Attorney's Office to assist the Office with the federal regulatory advice listed above and litigation, including the case of *Turo, Inc. v. City of Los Angeles*, case number 2:18-cv-06055-CAS (GJSx) ("Turo Litigation").

The Turo litigation has successfully settled. Turo will be paying LAWA the sum of \$5,100,000 for attorney's fees and costs. Additionally, Turo is entering into a non-exclusive license agreement (NELA) with LAWA to operate its business at LAX. Revenue from the NELA is anticipated to generate LAWA approximately \$2,300,000 the first year.

5. Selection Process

The Firm was retained in May of 2019 for federal regulatory advice and litigation matters following an RFP issued by the City Attorney's Office. At the time of the issuance of the RFP, it was not contemplated that the Firm would be representing LAWA and the City in the Turo, Inc. litigation or many other matters as mentioned above. Due to a conflict that arose with the law firm which was initially representing LAWA in the Turo, Inc. litigation, the firm was substituted out in favor of Anderson & Kreiger, LLP.

6. Fiscal Impact

The contract is for a term of four years and, if the amendment is approved, the contract authority will be increased to a not-to-exceed amount of \$5,900,000. Costs incurred under this contract are recovered through landing fees, terminal rates and charges, and non-aeronautical revenues.

7. Alternatives Considered

- **Take No Action**

Presently, the City Attorney's Office does not have sufficient in-house expertise to handle certain complex federal regulatory and related litigation matters and, therefore, requires outside counsel's assistance. While the City Attorney's Office provides legal services and closely oversees and manages the firm's services, LAWA's continued need for specialized legal services exceeds in-house capacity. Given the highly complex, technical, and often a need to look to outside counsel to assist in fully addressing these

aspects of advice—both in transactional and litigation matters—it is necessary to use the services of outside counsel such as Anderson & Kreiger, LLP.

APPROPRIATIONS

Funds for this contract are available in the Fiscal Year 2022-23 Los Angeles World Airports Operating Budget in LAX Cost Center 1110004 – Legal Services Division, Commitment Item 520 – Contractual Services. Funds for subsequent years will be requested as part of the annual budget process.

STANDARD PROVISIONS

1. This action, as a continuing administrative activity, is exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.
2. The proposed document(s) is/are subject to approval as to form by the City Attorney.
3. Actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 373.
4. Anderson & Kreiger, LLP is required to comply with the provisions of City Charter Section 609(e) and related ordinances.
5. Anderson & Kreiger, LLP is required by contract to comply with the provisions of the Living Wage Ordinance.
6. This item is not subject to the provisions of the SBE/LBE/LSBE/DVBE Program.
7. Anderson & Kreiger, LLP is required by contract to comply with the provisions of the Affirmative Action Program.
8. Anderson & Kreiger, LLP has been assigned Business Tax Registration Certificate No. 0002330068-0001-1.
9. Anderson & Kreiger, LLP is required by contract to comply with the provisions of the Child Support Obligations Ordinance.
10. Anderson & Kreiger, LLP has approved insurance documents, in the terms and amounts required, on file with the Los Angeles World Airports.
11. Pursuant to Charter Section 1022, it has been determined that the work specified in this contract can be performed more feasibly or economically by an Independent Contractor than by City employees.
12. Anderson & Kreiger, LLP has submitted the Contractor Responsibility Program Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.

13. Anderson & Kreiger, LLP must be determined by the Department of Public Works, Office of Contract Compliance, to be in full compliance with the provisions of the Equal Benefits Ordinance prior to execution of the contract amendment.
14. Anderson & Kreiger, LLP will be required to comply with the provisions of the First Source Hiring Program for all non-trade LAX Airport jobs.
15. Anderson & Kreiger, LLP has submitted the Bidder Contributions CEC Form 55 and will comply with its provisions.
16. Anderson & Kreiger, LLP has submitted the MLO Bidder Contributions CEC Form 50 and will comply with its provisions.
17. Anderson & Kreiger, LLP will be required to comply with the provisions of the Iran Contracting Act of 2010 Affidavit.

**SIXTH AMENDMENT
TO PROFESSIONAL SERVICES CONTRACT NUMBER DA-5355
BETWEEN
THE CITY OF LOS ANGELES
AND
ANDERSON & KREIGER LLP**

THIS SIXTH AMENDMENT to Contract Number **DA-5355** 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 ANDERSON & KREIGER LLP (hereinafter referred to as "Outside Counsel").

WITNESSETH

WHEREAS, the City and the Outside Counsel entered into a contract wherein Outside Counsel agreed to assist the City Attorney with federal regulatory work, and related matters, including litigation, said Contract effective March 1, 2019, which hereinafter shall be referred to as the Contract; and

WHEREAS, the Contract provides for amendments; and

WHEREAS, the City and Outside Counsel are desirous of amending the Contract for the purpose of adding the sum of One Million Three Hundred Thousand Dollars (\$1,300,000), thereby increasing the total contract amount not to exceed Five Million Nine Hundred Thousand Dollars (\$5,900,000); 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 V, paragraph A, Approved Funds, is amended to add the sum of One Million Three Hundred Thousand Dollars (\$1,300,000) and to read as follows:

The Airport Board of Commissioners has approved Five Million Nine Hundred Thousand Dollars (\$5,900,000) for this Contract. The City will not pay Outside Counsel for any work done or costs incurred in excess of the approved amount unless additional approvals are made by Airport Board of Commissioners and an amendment to this Contract is executed by the parties.

2. This amendment is executed in two (2) duplicate originals, each of which is deemed to be an original. This amendment consists of three (3) pages.

3. This agreement and any other document necessary for the consummation of the transaction contemplated by this agreement may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associated with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this agreement had been delivered that had been signed using a handwritten signature. All parties to this agreement (i) agree that an electronic signature, whether digital or encrypted, of a party to this agreement is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this agreement based on the foregoing forms of signature. If this agreement has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and the California Uniform Electronic Transactions Act ("UETA") (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

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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 _____
Justin Erbacci
Chief Executive Officer
Department of Airports

By _____
Tatiana Starostina
Chief Financial Officer
Department of Airports

Date _____

Date _____

THE CITY OF LOS ANGELES,
MICHAEL N. FEUER, City Attorney

By _____
Michael N. Feuer
City Attorney

Date _____

ANDERSON & KREIGER LLP

By *J. M. Muller*
Date 9/27/22

APPROVED AS TO FORM
MICHAEL N. FEUER, City Attorney

By *Anne Haley*
Anne Haley
Assistant City Attorney

Date 9/27/22

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