



REPORT TO THE

BOARD OF AIRPORT COMMISSIONERS

D. Dazé

D Dazé (Nov 10, 2021 11:18 PST)

Reviewed by: Tim Dazé, City Attorney

Brian C. Ostler

Brian Ostler (Nov 10, 2021 11:21 PST)

Brian Ostler, City Attorney

Justin Erbacci

Justin Erbacci (Nov 10, 2021 11:21 PST)

Justin Erbacci, Chief Executive Officer

Meeting Date:

11/18/2021

CAO Review:

- Completed
- Pending
- N/A

<u>Reviewed for</u>	<u>Date</u>	<u>Approval Status</u>	<u>By</u>
Finance	11/2/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	JS
CEQA	11/1/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	VW
Procurement	11/3/2021	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> Cond	BG
Guest Experience	11/2/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	TB
Strategic Planning	11/2/2021	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> NA	KC

SUBJECT

Request to approve the Second Amendment to Contract No. DA-5336 with the law firm of Hunt Ortmann Palffy Nieves Darling & Mah, Inc. for legal services to assist the Los Angeles World Airports and the City Attorney with public contracting, construction litigation issues, and other related legal issues involving the Los Angeles International Airport and Van Nuys Airport. The Second Amendment will increase the contract by \$1,165,000 for a total of \$2,015,000 and add two additional years through December 19, 2023.

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 Second Amendment to Contract No. DA-5336 with the law firm of Hunt Ortmann Palffy Nieves Darling & Mah, Inc. for legal services to assist the Los Angeles World Airports and the City Attorney with public contracting, construction litigation issues, and other related legal issues. The Second Amendment will increase the contract by \$1,165,000 for a total of \$2,015,000 and add two additional years through December 19, 2023.

5. AUTHORIZE the Chief Executive Officer to execute the above-referenced contract after approval as to form by the City Attorney and after approval by the Los Angeles City Council.

DISCUSSION

1. Purpose

Approval of this Second Amendment to Contract No. DA-5336 with the law firm of Hunt Ortmann Palffy Nieves Darling & Mah, Inc. (Firm) will allow the law firm to continue providing legal services to assist the Los Angeles World Airports (LAWA) and the City Attorney with public contracting, construction litigation issues, and other related legal services. The Second Amendment will increase the contract by \$1,165,000 to a total of \$2,015,000 and add two additional years through December 19, 2023.

2. Prior Related Actions

- **December 20, 2018 – Resolution No. 26670 (DA-5336)**
The Board of Airport Commissioners (Board) authorized the Chief Executive Officer and the City Attorney's Office to enter into a three-year legal services agreement with the Firm. The initial contract amount was for \$500,000. The contract called for work to be paid on an hourly basis.
- **September 10, 2019 – Resolution No. 26858 (DA-5336A)**
The Board authorized the Chief Executive Officer and the City Attorney's Office to approve the First Amendment to add funds in the amount of \$350,000 for a total of \$850,000.

3. Current Action

Approval of this Second Amendment to Contract No. DA-5336 will allow the Firm to continue providing legal services to assist LAWA and the City Attorney with public contracting, construction litigation issues, and other related legal services. It is anticipated that the Firm primarily will be used to assist with the closeout of the Midfield Satellite Concourse (MSC) North project. The Second Amendment will increase the contract by \$1,165,000 to a total of \$2,015,000 and add two additional years. The amended dollar amount will cover the budgeted amount for the first year of the amendment. If the claims for the MSC project have not been resolved after the first year, LAWA staff will seek the Board's approval of funding for the second year.

Among other matters, for the past three years the Firm has been assigned to assist the City Attorney's Office with advice regarding the Midfield Satellite Concourse North project. This has included helping evaluate and respond to various claims made by the prime contractor Turner-PCL, Joint Venture. This project reached substantial completion in early 2021 and, since that time, the LAWA project team has been working closely with the City Attorney and the Firm to work through the dispute resolution process with the prime contractor and to close out the contract. This has included working with subject matter experts and a project neutral to help evaluate and negotiate claims. The prime contractor has made significant claims and this closeout process is continuing. Because the Firm has spent valuable time and resources assisting LAWA and the City Attorney on this matter, to hire a new firm who would need to spend significant time researching the file and being brought up to speed on all of the issues in order to handle the continued closeout and potential litigation, would not

be practical or advantageous to LAWA. The Firm has provided a budget for these continued activities.

Procurement Process

Contract No. DA-5336 was procured through a competitive proposal process which included participation from representatives of the Office of the City Attorney and LAWA management.

Fiscal Impact

The contract authority will be in the amount of \$1,165,000 to cover the scope of work for the remainder of the contract.

4. Alternatives Considered

- ***Take No Action***

Currently, there are no attorneys within the Airport Division who have the same level of expertise, knowledge, experience, proficiency, or skills as do the outside counsel attorneys in order to represent LAWA in the various types of complex and sophisticated construction litigation matters that are in process or anticipated. However, the legal expertise for these tasks is temporary and occasional in nature and, thus, the employment of permanent counsel for these legal services is not justified. To provide the necessary support to LAWA for these services, we are recommending the continued assistance of outside counsel with specialized legal skills pertinent to construction matters, including litigation.

APPROPRIATIONS

Funds for this contract are currently available in the Fiscal Year 2021-2022 Los Angeles World Airports Operating Budget in 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 City Attorney has approved this item.
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. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. will be required to comply with the provisions of City Charter Section 609(e) and related ordinances.
5. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. 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. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. has a current Affirmative Action Plan on file with the City of Los Angeles and is required by contract to comply with the provisions of the Affirmative Action Program.
8. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. has been assigned Business Tax Registration Certificate number 0000104519-0001-9.
9. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. is required by contract to comply with the provisions of the Child Support Obligations Ordinance.
10. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. has approved insurance documents, in the terms and amounts required, on file with the Los Angeles World Airports.
11. Pursuant to Charter Section 1022, staff determined that the work specified in this contract can be performed more feasibly or economically by an Independent Contractor than by City employees.
12. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. has submitted the Contractor Responsibility Program Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.
13. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. must be determined by the 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. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. will comply with the provisions of the First Source Hiring Program for all non-trade LAX Airport jobs.
15. Hunt Ortmann Palffy Nieves Darling & Mah, Inc. has submitted the Bidder Certification CEC Form 50 and Bidder Contributions CEC Form 55 and comply with its provisions.
16. This action is not subject to the provisions of the Iran Contracting Act.