



SAN DIEGO COUNTY  
REGIONAL AIRPORT AUTHORITY  
**STAFF REPORT**

Item No.  
**11**

Meeting Date: **MARCH 1, 2012**

**Subject:**

**Approve and Authorize the President/CEO to Execute a Fourth Amendment to the Agreement with Luce Forward Hamilton & Scripps, LLP**

**Recommendation:**

Adopt Resolution No. 2012-0029, approving and authorizing the President/CEO to execute a Fourth Amendment to the Agreement for Professional Legal Services between the Authority and Luce, Forward, Hamilton & Scripps, LLP increasing the compensation by \$300,000 for a total not-to-exceed compensation amount of \$1,100,000 and extending the term for one year, to expire no later than July 31, 2013.

**Background/Justification:**

On August 1, 2009, the Authority entered into a professional legal services Agreement with Luce, Forward, Hamilton & Scripps, LLP ("Law Firm") to provide general legal services related to a broad range of issues as directed by the Authority's General Counsel. The term of the Agreement was one year with two one-year options to renew and the maximum amount of compensation was \$300,000. The First Amendment to the Agreement exercised the first one-year option resulting in an extension of the term to expire no later than July 31, 2011. The Second Amendment to the Agreement exercised the second one-year option resulting in an expiration date no later than July 31, 2012. On October 6, 2011, the Board approved the Third Amendment which increased the compensation amount by \$500,000 as a result of the ongoing litigation entitled *West Tech Contractors, Inc. v. San Diego County Regional Airport Authority*, San Diego Superior Court Case No. 37-2010-0010656-CU-BC-CTL (the "Litigation"). This Fourth Amendment is needed to increase the compensation amount by \$300,000 due to the ongoing Litigation and extend the term for one year to terminate no later than July 31, 2013. Law Firm is representing the Authority in the Litigation which was scheduled for trial on April 16, 2012, however, the judge presiding over the case recused himself resulting in the case being reassigned to Judge Jeffrey B. Barton. The court has set a status conference for March 16, 2012 at which time, a trial date will likely be set.

**Fiscal Impact:**

Funds for this Agreement are in the FY2012 budget.

000086

**Authority Strategies:**

This item supports one or more of the Authority Strategies, as follows:

- Community Strategy     Customer Strategy     Employee Strategy     Financial Strategy     Operations Strategy

**Environmental Review:**

- A. This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA, Pub. Res. Code §21065.
- B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

**Equal Opportunity Program:**

The Authority's small business program promotes the use of small, local, disadvantaged, and other business enterprises, on all contracts, to provide equal opportunity for qualified firms. By providing education programs, making resources available, and communicating through effective outreach, the Authority strives for diversity in all contracting opportunities.

The Authority has a Disadvantaged Business Enterprise ("DBE") Plan as required by the Department of Transportation, 49 CFR Part 26. The DBE Plan calls for the Authority to submit an annual over-all goal for DBE participation on all federally funded projects.

This project does not use federal funds; therefore, it will not be applied toward the Authority's over-all DBE goal.

**Prepared by:**

AMY GONZALEZ  
DIRECTOR, COUNSEL SERVICES

RESOLUTION NO. 2012-0029

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY APPROVING AND AUTHORIZING THE PRESIDENT/CEO TO EXECUTE A FOURTH AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL LEGAL SERVICES BETWEEN THE AUTHORITY AND LUCE, FORWARD, HAMILTON & SCRIPPS, LLP INCREASING THE COMPENSATION BY \$300,000 FOR A TOTAL NOT-TO-EXCEED COMPENSATION AMOUNT OF \$1,100,000 AND EXTENDING THE TERM FOR ONE YEAR TO EXPIRE NO LATER THAN JULY 31, 2013

WHEREAS, on August 1, 2009, the Authority entered into a professional legal services Agreement with Luce, Forward, Hamilton & Scripps, LLP ("Law Firm") to provide general legal services related to a broad range of issues as directed by the Authority's General Counsel; and

WHEREAS, the term of the Agreement was one year with two one-year options to renew and the amount of compensation was \$300,000; and

WHEREAS, the First Amendment to the Agreement exercised the first one-year option resulting in an extension of the term to expire no later than July 31, 2011, the Second Amendment to the Agreement exercised the second one-year option resulting in an expiration date no later than July 31, 2012, the Third Amendment increased the compensation by \$500,000; and

WHEREAS, this Fourth Amendment is needed to increase the compensation amount and extend the term as a result of the ongoing litigation entitled *West Tech Contractors, Inc. v. San Diego County Regional Airport Authority*, San Diego Superior Court Case No. 37-2010-0010656-CU-BC-CTL (the "Litigation"); and

WHEREAS, Law Firm is representing the Authority in the Litigation which was scheduled for trial on April 16, 2012, however the trial date has been vacated due to Judge Strauss' recusal and a new trial date has not been set.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves and authorizes the President/CEO to execute a Fourth Amendment to the Agreement for Professional Legal Services between the Authority and Luce, Forward, Hamilton & Scripps, LLP increasing the compensation by \$300,000 for a total not-to-exceed compensation amount of \$1,100,000 and extending the term for one year to expire no later than July 31, 2013.

BE IT FURTHER RESOLVED that this Board action is not a project" as defined by the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code §21065; nor is it a "development" as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 1<sup>st</sup> day of March, 2012, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

---

TONY R. RUSSELL  
DIRECTOR, CORPORATE SERVICES/  
AUTHORITY CLERK

APPROVED AS TO FORM:

---

BRETON K. LOBNER  
GENERAL COUNSEL