

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: March 14, 2022

CAO File No. 0150-12045-0000

Council File No.

Council District: 11

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Communication from the Los Angeles World Airports dated January 19, 2022; referred by the Mayor for a report on January 19, 2022

Subject: **REQUEST TO EXECUTE A PROPOSED FIFTH AMENDMENT TO CONTRACT NO. DA-5355 WITH ANDERSON & KRIEGER, LLP FOR LEGAL SERVICE SUPPORT TO LOS ANGELES WORLD AIRPORT AND THE LOS ANGELES CITY ATTORNEY**

RECOMMENDATION

That the Mayor:

1. Approve a proposed Fifth Amendment to Contract No. DA-5355 with the law firm Anderson & Krieger, LLP, to extend the contract term by one year to February 28, 2023, and increase the contract authority by \$900,000 to \$4,600,000, for legal service assistance comprised of federal regulatory work, legal affairs, and litigation proceedings to Los Angeles World Airports and the Los Angeles City Attorney, subject to City Attorney approval as to form and compliance with the City's Standard Provisions, including: City Charter Section 609(e); Living Wage Ordinance, Affirmative Action Program, Business Tax Registration Certification, Child Support Obligations Ordinance, Contractor Responsibility Program, First Source Hiring Program, Bidder Contributions CEC Form 55, MLO Bidder Contributions CEC Form 50, and the Iran Contracting Act of 2010;
2. Authorize the Chief Executive Officer to execute the proposed Fifth Amendment to Contract No. DA-5355, upon approval by the Los Angeles City Council, and prior to the execution of the Amendment, Anderson & Krieger, LLP must:
 - a. Have approved insurance documents, in the terms and amounts required, on file with the Los Angeles World Airports; and
 - b. Be determined by Public Works, Office of Contract Compliance to be in full compliance with the provisions of the Equal Benefits Ordinance; and

3. Return the request to the Los Angeles World Airports for further processing, including Council Consideration.

SUMMARY

The Executive Director of the Los Angeles World Airports (LAWA) Board of Airport Commissioners (BOAC) requests approval to execute a Fifth Amendment to Contract No. DA-5355 (Contract) with the law firm Anderson & Krieger, LLP (Anderson & Krieger; Contractor), to extend the term by one year and increase the contract authority by \$900,000, for a total not-to-exceed \$4,600,000, to assist LAWA and the City Attorney with federal regulatory work and related legal matters, including litigation. Although the term of the contract expired on February 28, 2022, approval of the proposed Fifth Amendment will extend the Agreement to February 28, 2023.

Pursuant to City Charter Sections 272(c) and 275, proprietary City departments, through their Boards, and with written consent of the City Attorney, may contract with attorneys outside of the City Attorney's Office to assist the City Attorney in providing legal services to proprietary departments. LAWA has, with authorization from the City Attorney, elected to contract with Anderson & Krieger for federal regulatory advice and litigation proceedings, including the civil lawsuit involving Turo, Inc. v. City of Los Angeles (City). In addition to defending the City and LAWA in the civil matter, the City and LAWA are countersuing Turo, Inc. (Turo), alleging that the company is engaged in an unlawful commercial rental car business that violates LAWA ground transportation rules at Los Angeles International Airport (LAX).

As reported by LAWA staff, the Contract became effective on March 1, 2019. From the original contract through its Fourth Amendment, Anderson & Krieger has provided legal advice to the City Attorney and LAWA in connection with the Northside development project, ARSAC mediation, the Airline Cost Stabilization and Recovery Plan, lease negotiations at Van Nuys Airport, and other challenges that encompasses federal regulatory matters, such as Federal Aviation Administration (FAA) regulations.

During the extension period, the contractor will assist LAWA by providing advice and litigation counsel relative to ongoing federal regulatory matters involving complex aviation challenges. According to the Department, the legal services of Anderson & Krieger is an essential factor for litigation involving the Turo lawsuits. There are extensive amounts of legal proceedings surrounding the Turo litigation, including competing discovery motions, requests for protective orders, and numerous depositions that are scheduled to take place over the forthcoming weeks. While settlement negotiations are ongoing, discovery processes are to be completed by March 31, 2022, followed by the motion closeout date of June 1, 2022. Although there's no definitive timeline in which the Turo case will come to a close, LAWA anticipates that pending litigation will conclude by July 2022, and subsequent trial hearings are expected in September 2022.

In addition to defending LAWA in the federal litigation matters with Turo, the Department will benefit from the Contractor's in-depth experience, expertise, and history of a wide range of complex federal administrative and judicial proceedings involving aviation law. These benefits also provide an added layer of value to the City Attorney's Office because it allows the Office to develop in-house

capabilities from the knowledge acquired from the specialized subject matter, enabling the City Attorney to assume key components of the work normally performed by Anderson & Krieger.

Funding allocated for the award of the Contract through the Fourth Amendment totals \$3.7 million. Of that amount, approximately \$1,955 remains. The table below demonstrates the expenditures LAWA distributed to Anderson & Krieger for specialized legal service support over the previous three years.

| Yearly Expenditures | |
|----------------------------|--------------------|
| 2019 | \$363,856 |
| 2020 | \$2,230,441 |
| 2021 | \$1,103,748 |
| Total | \$3,698,045 |

Approval of the proposed Fifth Amendment will provide LAWA and the City Attorney an opportunity to secure Anderson & Krieger's legal services to carry out difficult federal regulatory and related litigation matters through February 28, 2023. The Department released a Request for Proposal and anticipates that a new contract will be awarded by May 2022.

The BOAC approved the proposed Fifth Amendment at its meeting on January 6, 2022. Actions taken on this item by the BOAC will become final pursuant to the provisions of Los Angeles City Charter Section 373.

FISCAL IMPACT STATEMENT

Approval of the proposed Fifth Amendment with Anderson & Krieger, LLP to assist Los Angeles World Airport and the Los Angeles City Attorney with federal regulatory work and related matters, including litigation will have no impact on the General Fund. Funds for the proposed Contract Amendment are available in the Fiscal Year 2021-22 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. Costs will be recovered through landing fees and terminal building rates and charges, as well as through non-aeronautical revenues. This item complies with the Department of Airports' adopted Financial Policies.