



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

Item No.

**11**

Meeting Date: **OCTOBER 6, 2011**

**Subject:**

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

**Recommendation:**

Adopt Resolution No. 2011-0120, approving and authorizing the President/CEO to execute a Third Amendment to the agreement for professional legal services between the Authority and Luce, Forward, Hamilton & Scripps, LLP, increasing the compensation amount by \$500,000, for a total amount not to exceed \$800,000.

**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 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 extended the term for one year resulting in an expiration date no later than July 31, 2012.

This Third Amendment is needed to increase 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"). Law Firm is representing the Authority in the Litigation which is scheduled for trial in January 2012.

**Fiscal Impact:**

Funds for this Agreement are in the FY2012 budget.

**Authority Strategies:**

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

- Community Strategy     Customer Strategy     Employee Strategy     Financial Strategy     Operations Strategy

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**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. 2011-0120

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, APPROVING AND AUTHORIZING THE PRESIDENT/CEO TO EXECUTE A THIRD AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL LEGAL SERVICES BETWEEN THE AUTHORITY AND LUCE, FORWARD, HAMILTON & SCRIPPS, LLP, INCREASING THE COMPENSATION AMOUNT BY \$500,000, FOR A TOTAL AMOUNT NOT TO EXCEED \$800,000.

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 and the Second Amendment to the Agreement extended the term for one year resulting in an expiration date no later than July 31, 2012; and

WHEREAS, this Third Amendment is needed to increase the compensation amount 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 is scheduled for trial in January 2012.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves and authorizes the President/CEO to execute a Third Amendment to the agreement for professional legal services between the Authority and Luce, Forward, Hamilton & Scripps, LLP, increasing the compensation amount by \$500,000, for a total amount not to exceed \$800,000.

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.

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**PASSED, ADOPTED, AND APPROVED** by the Board of the San Diego County Regional Airport Authority at a regular meeting this 6<sup>th</sup> day of October, 2011, by the following vote:

**AYES:** Board Members:

**NOES:** Board Members:

**ABSENT:** Board Members:

**ATTEST:**

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**TONY R. RUSSELL**  
**DIRECTOR, CORPORATE SERVICES/  
AUTHORITY CLERK**

**APPROVED AS TO FORM:**

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**BRETON K. LOBNER**  
**GENERAL COUNSEL**

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