



CITY OF LONG BEACH **R-22**

LONG BEACH AIRPORT

4100 East Donald Douglas Drive • Long Beach, CA 90808 • (562) 570-2619 • Fax (562) 570-2601

November 1, 2016

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution authorizing the City Manager, or designee, to execute a contract with Brüel & Kjaer EMS, Inc., a Delaware corporation, including any necessary amendments thereto, for the maintenance, upgrade and support of the Long Beach Airport Noise and Operations Monitoring System (ANOMS), in the amount of \$232,873, for a period of one year, with the option to renew for two additional one-year periods; authorize an annual contingency in the amount of \$50,000 for additional services, plus a 3.5 percent annual CPI increase, for a total amount not to exceed \$873,356 for the proposed three-year term. (District 5)

DISCUSSION

The Long Beach Airport (Airport) utilizes the ANOMS to enforce the City's Noise Compatibility Ordinance, Long Beach Municipal Code (LBMC) Chapter 16.43 (Noise Ordinance). The City's Noise Ordinance, enacted in 1995, is recognized as one of the strictest in the country and the administration of the ordinance requires specialized, unique and custom data processing and reporting programs. The California Airport Noise Standards (California Code of Regulations, Title 21, Section 5000 et seq.) apply to any airport that is determined to have a noise problem by the local County Board of Supervisors in accordance with the provisions in the regulation.

A competitive bid process was conducted in 1991 for an ANOMS, which resulted in an award to Lochard Corporation, predecessor in interest to Brüel & Kjaer EMS, Inc. (B&K). The installation of the ANOMS enabled Airport staff to ensure flight data accuracy and completeness for monitoring and compiling the Annual Noise Analysis Budget, Los Angeles County Quarterly Reporting, complaint entry investigations, community reports, tenant and user fly-quiet procedures and reports for noise violation enforcement. The Airport's ANOMS is comprised of a network of 18 noise monitors that measure the noise environment and a short-range passive radar system (PASSUR) that collects aircraft identification and flight tracking data.

Since April 2001, the City Council has adopted a resolution every three years to authorize execution of an agreement without advertising for bids, and concurrently, authorized execution of a contract with B&K for continued maintenance, upgrade and technical support of the ANOMS. Most recently, on December 3, 2013, the City Council authorized the adoption of Resolution 13-0122 for the execution of an agreement without advertising

for bids, and concurrently, authorized the execution of Contract No. 33335 with B&K for the continued maintenance, upgrade and technical support of the ANOMS. The contract allows for renewals in one-year intervals to provide flexibility for the Airport to upgrade the ANOMS in the event that new or updated noise monitoring technology becomes available.

Contract No. 33335 will expire on November 30, 2016. The proposed new agreement will contain the following major terms and provisions:

- Customer: City of Long Beach, Long Beach Airport.
- Supplier: Brüel & Kjaer EMS, Inc.
- Term: Initial term of one year, commencing December 1, 2016, through November 30, 2017.
- Options to Extend: The Agreement shall provide for two one-year options to further extend the term.
- Service Fee: Annual service fee of \$232,873.
- Service Fee Increases: Annual service fee increases shall be based on the annual Consumer Price Index (CPI) if and when an option to extend is exercised.
- Additional Services: Additional services are available from Brüel & Kjaer EMS, Inc., for replacement, modification or enhancement of software and hardware. Costs for these additional services are outside of the Service Fee listed above and shall be determined based on a separate fee schedule. A contingency of \$50,000 is included as an estimate for the initial term and for additional terms if and when an option to extend is exercised.

A competitive procurement process for the maintenance and support of the ANOMS is not feasible, due to the proprietary nature of the equipment and the uniqueness of the installation at the Airport. The ANOMS hardware/software components are proprietary to B&K on both an intellectual and technical basis. The associated hardware/software combination was designed by B&K and is used solely with B&K solutions. Due to the uniqueness and enforcement requirements of the Noise Ordinance, the Airport ANOMS installation includes customized data collection and processing algorithms specific to the Airport. The software stores historical data in customized databases and includes specialized reporting tools that were developed and maintained only by B&K.

City Charter Section 1801 requires that contracts for City purchases be awarded to the lowest responsible bidder after a competitive bid process, but allows for awards without a competitive bid process if accompanied by a Resolution adopted by the City Council.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on October 4, 2016 and by Budget Management Officer Rhutu Amin Gharib on October 10, 2016.

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TIMING CONSIDERATIONS

City Council action on this matter is requested on November 1, 2016, in order to expedite the execution of the agreement to prevent a lapse in service for maintenance of the Airport's ANOMS.

FISCAL IMPACT

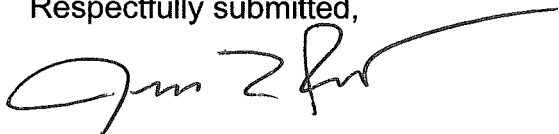
The annual service fee for the contract's initial year is \$232,873. Utilizing an estimated annual CPI increase of 3.5 percent, the total service fee for the Agreement for the proposed three-year total term, including a \$50,000 contingency per year for Additional Services, is approximately \$873,356. This reflects a \$17,050 total increase from the previous three-year contract with B&K.

Annual payment for FY 17 of approximately \$232,873 is budgeted in the Airport Fund (EF 320) in the Airport Department (AP). Funding for future years based on subsequent options to extend the term shall be included in the annual budget process. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JESS L. ROMO, A.A.E.
DIRECTOR, LONG BEACH AIRPORT

APPROVED:


PATRICK H. WEST
CITY MANAGER

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AUTHORIZING THE CITY
MANAGER TO EXECUTE A CONTRACT AND ANY
AMENDMENTS THERETO WITH BRÜEL & KJAER EMS
INC. WITHOUT ADVERTISING FOR BIDS FOR THE
MAINTENANCE, UPGRADE AND SUPPORT OF THE LONG
BEACH AIRPORT NOISE AND OPERATIONS
MONITORING SYSTEM (ANOMS) IN AN AMOUNT NOT TO
EXCEED \$873,356

WHEREAS, the Long Beach Airport utilizes the Airport Noise and Operations
Monitoring System ("ANOMS") to enforce the City's noise compatibility ordinance; and

WHEREAS, the City's noise ordinance (LBMC Chapter 16.43) is recognized
as one of the strictest in the country and the administration of the ordinance requires
specialized, unique and custom data processing and reporting programs; and

WHEREAS, a competitive bid process was conducted in 1991 for an
ANOMS, which resulted in an award to Lochard Corporation, predecessor in interest to
Bruel & Kjaer EMS Inc.; and

WHEREAS, the installation of the ANOMS system enabled airport staff to
ensure flight data accuracy and completeness for monitoring and compiling the annual
noise analysis budget, Los Angeles County Quarterly reporting, complaint entry
investigations, community reports, tenant and user fly-quiet procedures and reports for
noise violation enforcement; and

WHEREAS, due to the unique nature and enforcement requirements of
LBMC 16.43, the ANOMS installation includes customized data collection and processing
algorithms specific to the Long Beach Airport; and

1 WHEREAS, the associated hardware/software combination was designed by
2 Bruel & Kjaer EMS Inc. and is used solely with Bruel & Kjaer EMS Inc. solutions; and

3 WHEREAS, Bruel & Kjaer EMS Inc. is the only company capable of providing
4 technical support and services needed for maintaining, upgrading and supporting the
5 ANOMS system; and

6 WHEREAS, no useful purpose would be served by advertising for bids and
7 to do so would constitute an idle and useless act and an unnecessary expenditure of public
8 funds because Bruel & Kjaer EMS Inc. is the only corporation, firm or individual that could
9 or would bid for the maintenance, upgrade and support of the Airport Noise and Operations
10 Monitoring System;

11 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
12 follows:

13 Section 1. The City Manager is hereby authorized to enter a contract,
14 without advertising for bids, with Bruel & Kjaer EMS Inc. for the maintenance, upgrade and
15 support of the Airport Noise and Operations Monitoring System (ANOMS) for a period of
16 one (1) year with the option to extend for two (2) additional one-year periods in an amount
17 not to exceed Eight Hundred Seventy-Three Thousand Three Hundred Fifty-Six Dollars
18 (\$873,356). If the sole source status of Bruel & Kjaer EMS Inc. changes, City shall publicly
19 bid instead of extending the contract.

20 Section 2. This resolution shall take effect immediately upon its adoption
21 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council
of the City of Long Beach at its meeting of _____, 2016
by the following vote:

Ayes:	Councilmembers:	_____

Noes:	Councilmembers:	_____

Absent:	Councilmembers:	_____

City Clerk

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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Long Beach, CA 90802-4664