

April 18, 2023

**C-16**

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Adopt a Resolution authorizing the City Manager, or designee, to execute a contract, and any necessary documents including any necessary amendments, with Utility Cost Management, LLC, of Fresno, CA, to perform an electric utility billing audit, in an amount equal to 33 percent of the identified refunds or credits realized by the City of Long Beach (City), and 33 percent of any future savings that accrue during a two year period following implementation of each correction, for a period of two years, with the option to renew for one additional one-year period to complete a second round cost saving review, at the discretion of the City Manager. (Citywide)

**DISCUSSION**

City Council approval is requested to enter into a contract with Utility Cost Management, LLC (UCM), for electric utility billing audit services. Through this process, UCM reviews the City's electric utility accounts to identify billing errors, obtain refunds, find ongoing savings opportunities on the City's electric accounts, and make recommendations to the City. UCM's analysis includes, but is not limited to, the investigation of billing calculations, inapplicable rate schedules, proper metering of services, optional rates, applicability of taxes and surcharges, and the applicability of all rules and regulations. UCM's compensation is based only on actual refunds and/or cost savings as a direct result of their work and the newly assigned rates identified by UCM and implemented by the utility company. UCM's fee is calculated at 33 percent of the identified refunds or credits realized by the City, and 33 percent of any future savings that accrue during a two-year period following implementation of each correction; therefore, the City only incurs a fee if cost savings are realized.

On October 10, 2017, the City Council adopted a Request for Proposals (RFP) FM17-009 for performing an electric utility billing audit, and awarded a contract to UCM for a period of two years, with the option to renew for two additional one-year periods. As part of UCM's original selection, City staff evaluated four proposals on the criteria set forth in the RFP. The selection committee determined that UCM was the vendor that best met the City's needs for this service based on: demonstrated competence in the industry; comprehensive experience with Southern California Edison, and the California Public Utilities Commission; and expertise and availability of key personnel.

UCM conducted a first round of review at the start of the original contract term. A second round of review was anticipated to look for additional savings resulting from rapid changes in the energy sector and the California regulatory environment. This work was put on hold during the COVID-19 pandemic and the awarded contract was permitted to terminate. When the second phase of the work was restarted, savings estimates from UCM indicated that fees were unlikely to exceed \$100,000. Based on these estimates, a purchase order was expected to be sufficient to finish this contemplated work, and UCM conducted a second round of review. Due to a highly technical finding associated with electricity discharge from battery storage, UCM's second review identified more potential savings than originally anticipated. A contractual agreement is necessary to reflect the higher level of savings that may be achievable through implementation of the identified billing corrections, and the resulting fees that would be owed to UCM, since the amount will be higher than policy allows without a City Council authorized contract.

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 when authorized by a Resolution adopted by the City Council.

UCM was selected as a result of a competitive procurement process in 2017 and continues to offer its services to City at the competitively procured price. UCM has already completed a first round savings review and requires a contract to complete a second-round review that is underway. This project is near completion and therefore it would not be a responsible use of City time or resources to re-procure these services for the second round review. This request is the most cost-effective and efficient solution to allow for the continuation of the second round of saving review. Any future savings review beyond this second round review will be subject to a new RFP process.

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley and Business Services Bureau Manager Tara Mortensen on March 31, 2023, and by Revenue Management Officer Geraldine Alejo on March 30, 2023.

#### TIMING CONSIDERATIONS

City Council action is requested on April 18, 2023, to ensure there is no interruption to services.

#### LEVINE ACT

This item is subject to the Levine Act. The Mayor, Councilmembers, and Commissioners who have received a contribution of more than \$250 within 12 months prior from a party, participant, or their representatives involved in this proceeding may do either of the following: (1) disclose the contribution on the record and recuse themselves from this proceeding; OR (2) return the portion of the contribution that exceeds \$250 within 30 days from the time the elected official knew or should have known about the contribution and participate in the proceeding.

All parties, participants, and their representatives must disclose on the record of this proceeding any contribution of more than \$250 made to the Mayor or any Councilmembers within 12 months prior to the date of the proceeding. The Mayor, Councilmembers, and Commissioners are prohibited from accepting, soliciting, or directing a contribution of more than \$250 from a party, participant, or their representatives during a proceeding and for 12 months following the date a final decision is rendered.

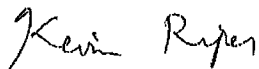
FISCAL IMPACT

The City will compensate UCM for services only if the City receives a refund or credit identified in the "Findings Letter" from UCM, and/or if the City realizes future savings as a result of the same findings. UCM's fee is calculated at 33 percent of the identified refunds or credits realized by the City, and 33 percent of any future savings that accrue during a two-year period. Any service costs associated with the recommended actions will be incurred by the applicable fund group and department. If needed, impacted departments will return to the City Council with a request for appropriation, fully offset by the refund, credit, and savings realized as a direct result of UCM's efforts. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



KEVIN RIPER  
DIRECTOR OF FINANCIAL MANAGEMENT

APPROVED:



---

THOMAS B. MODICA  
CITY MANAGER

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

1 RESOLUTION NO.  
2

3 A RESOLUTION OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH AUTHORIZING THE CITY  
5 MANAGER TO EXECUTE A CONTRACT AND ANY  
6 AMENDMENTS THERETO WITH UTILITY COST  
7 MANAGEMENT, LLC WITHOUT ADVERTISING FOR BIDS  
8 TO PERFORM AN ELECTRIC UTILITY AUDIT, IN AN  
9 AMOUNT EQUAL TO 33% OF THE IDENTIFIED REFUNDS  
10 OR CREDITS REALIZED BY THE CITY, AND 33% OF ANY  
11 FUTURE SAVINGS THAT ACCRUE DURING A TWO-YEAR  
12 PERIOD FOLLOWING IMPLEMENTATION OF EACH  
13 CORRECTION, FOR A PERIOD OF TWO YEARS, WITH  
14 THE OPTION TO RENEW FOR ONE ADDITIONAL ONE-  
15 YEAR PERIOD, TO COMPLETE A SECOND ROUND COST  
16 SAVING REVIEW  
17

18 WHEREAS, City Council approval is requested to enter into a contract with  
19 Utility Cost Management ("UCM"), for electric utility billing audit services; and

20 WHEREAS, UCM reviews the City's electric utility accounts to identify  
21 billing errors, obtain refunds, find ongoing savings opportunities on the City's electric  
22 accounts, and make recommendations to the City; and

23 WHEREAS, UCM's analysis includes, but is not limited to, the investigation  
24 of billing calculations, inapplicable rate schedules, proper metering of services, optional  
25 rates, applicability of taxes and surcharges, and the applicability of all rules and  
26 regulations; and

27 WHEREAS, UCM's compensation is based only on actual refunds and/or  
28 cost savings as a direct result of their work and the newly assigned rates identified by

1 UCM and implemented by the utility company; and

2 WHEREAS, UCM's fee is calculated at 33 percent of the identified refunds  
3 or credits realized by the City, and 33 percent of any future savings that accrue during a  
4 two-year period following implementation of each correction; therefore, the City only  
5 incurs a fee if cost savings are realized; and

6 WHEREAS, at its meeting on October 10, 2017, the City Council adopted a  
7 Request for Proposals (RFP) FM17-009 for performing an electric utility billing audit, and  
8 awarded a contract to UCM; and

9 WHEREAS, as part of UCM's original selection, City of Long Beach (City)  
10 staff evaluated four proposals on the criteria set forth in the RFP and the selection  
11 committee determined that UCM was the vendor that best met the City's needs for this  
12 service based on: demonstrated competence in the industry; comprehensive experience  
13 with California public entities Southern California Edison, and the California Public  
14 Utilities Commission; and expertise and availability of key personnel; and

15 WHEREAS, UCM conducted a first round of review at the start of the  
16 original contract term and a second round of review was anticipated to look for additional  
17 savings resulting from rapid changes in the energy sector and the California regulatory  
18 environment, however, this work was put on hold during the COVID-19 pandemic and the  
19 awarded contract was permitted to terminate; and

20 WHEREAS, when the second phase of work restarted, savings estimate  
21 from UCM indicated that fees were unlikely to exceed \$100,000, within the City  
22 manager's normal discretion for procurement awards, per Long Beach Municipal Code  
23 ("LBMC") Chapter 2.84.010; and

24 WHEREAS, based on these estimates, a purchase order was expected to  
25 be sufficient to finish this contemplated work, and UCM conducted a second round of  
26 review, however, due to a highly technical finding associated with electricity discharge  
27 from battery storage, UCM's second review identified more potential savings than  
28 originally anticipated; and

1           WHEREAS, a contractual agreement is necessary to reflect the higher level  
2 of savings that may be achievable through implementation of the identified billing  
3 corrections, and the resulting fees that would be owed to UCM, since the amount will be  
4 higher than the LBMC allows without a City Council authorized contract; and

5           WHEREAS, UCM was selected as a result of a competitive procurement  
6 process in 2017 and continues to offer its services to City at the competitively procured  
7 price and UCM has already completed a first round savings review and requires a  
8 contract to completed a second round review that is underway; and

9           WHEREAS, this project is near completion and therefore it would not be a  
10 responsible use of City time or resources to re-procure these services for the second  
11 round review; and

12           WHEREAS, as a result, no useful purpose would be served by advertising  
13 for bids and to do so would constitute an idle and useless act and an unnecessary  
14 expenditure of public funds;

15           NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
16 follows:

17           Section 1.   The above recitals are true and correct and are incorporated  
18 herein.

19           Section 2.   The City Manager is hereby authorized to enter a contract and  
20 any amendments thereto with Utility Cost Management, LLC to perform an electric utility  
21 billing audit, in an amount equal to 33% of the identified refunds or credits realized by the  
22 City, and 33 % of any future savings that accrue during a two year period following  
23 implementation of each correction, for a period of two years, with the option to renew for  
24 one (1) additional one-year period, to complete a second round cost saving review.

25           Section 3.   This resolution shall take effect immediately upon its adoption  
26 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

27 ///  
28 ///

OFFICE OF THE CITY ATTORNEY  
DAWN MCINTOSH, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Lona Beach, CA 90802-4664

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_ by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Recusal(s): Councilmembers: \_\_\_\_\_

\_\_\_\_\_

City Clerk

## **LEVINE ACT DISCLOSURE STATEMENT**

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any Long Beach City Councilmember, the Mayor, and Commissioner ("City Officer") from participating in any action related to a proceeding if they receive any political contributions totaling more than \$250 within the previous twelve months, while a proceeding is pending, and for 12 months following the date a final decision in a proceeding concerning a license, permit, entitlement, franchise or, contract (collectively "license, permit, or contract") has been made, from the person or company awarded the said license or contract. The Levine Act also requires a City Officer that has received such a contribution to disclose the contribution on the record of the proceeding.

City Officers are listed at the following sites:

- The Mayor and Councilmembers - <https://www.longbeach.gov/officials/>
- Harbor Commissioners - <https://polb.com/commission>
- Water Commissioners - <https://lbwater.org/about-us/current-water-commissioners/>
- Planning Commissioners - <https://www.longbeach.gov/mayor/action/commissions/>
- Parks and Recreation Commissioners - <https://www.longbeach.gov/mayor/action/commissions/>
- Board of Examiners, Appeals, and Condemnation - <https://www.longbeach.gov/mayor/action/commissions/>
- Cultural Heritage Commission - <https://www.longbeach.gov/mayor/action/commissions/>
- Long Beach Community Investment Company - <https://www.longbeach.gov/lbds/hn/lbcic/>

**Proposers are responsible for accessing these links to review the names prior to answering the following questions.**

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any City Officer in the 12 months preceding the date of the submission of your proposals or the anticipated date of any City Council, Board, or Commission action related to this license, permit, or contract?

YES

NO

If yes, please identify the City Officer(s):



2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any City Officer in the 12 months following any City Council, Board, or Commission action related to this license, permit, or contract?

YES

NO

If yes, please identify the City Officer(s):

Answering yes to either of the two questions above does not preclude the City of Long Beach from awarding a license, permit, or contract to your firm or any taking any subsequent action related to the said license, permit, or contract. It does, however, preclude the identified City Officers from participating in any actions related to this license, permit, or contract.

3/20/2023  
Date

Chris Wiehl  
Signature of authorized individual

Chris Wiehl  
Type or write name of authorized individual

Utility Cost Management LLC  
Type or write name of company