

September 5, 2023

C-16

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt Specifications No. RFP FM23-225 and award a contract to Hinderliter, de Llamas & Associates (dba HdL Companies), of Brea, CA, for sales, use, and transaction and use tax auditing, projection, recovery, and consultant services, in a total annual amount not to exceed \$150,000, for a period of two years, with the option to renew for three additional one-year periods, at the discretion of the City Manager;

Authorize the City Manager, or designee, to compensate HdL Companies for its contractual share of new or misallocated sales, use, and transaction and use tax revenue, contingent on actual revenues received from the California Department of Tax and Fee Administration (CDTFA), as a direct result of HdL Companies' detection and correction efforts pursuant to contract terms, including payment for such revenues received following close of said contract; and,

Adopt a Resolution authorizing HdL Companies to examine all records related to sales, use, and transaction and use tax collected by the CDTFA. (Citywide)

DISCUSSION

City Council approval is requested to enter into a contract with HdL Companies for sales, use, and transaction and use tax auditing, projection, recovery, and consultant services. City Council approval is also requested to authorize payment to HDL Companies due after the expiration of the contract with the City of Long Beach (City). Compensation is on a contingency basis, as HdL Companies will receive its contractual share of new or misallocated sales, use, and transaction and use tax revenue received by the City as a direct result of HDL Companies' auditing efforts while under contract with the City. The timing of payments is subject to when the CDTFA reviews, approves, and remits actual revenues to the City. Due to these timing considerations, which may extend beyond the contract end date, authorization is requested to process payments for compensation due after the contract ends. Finally, State law requires that local jurisdictions adopt a Resolution authorizing a consultant to review state records to perform revenue auditing and recovery services. City Council approval is requested to adopt a Resolution authorizing HdL to examine all records available with the CDTFA related to the City's sales, use, and transaction and use tax.

The Request for Proposals (RFP) was advertised in the Long Beach Press-Telegram on February 14, 2023, and 72 potential proposers specializing in sales, use, and transaction and use tax auditing, projection, recovery, and consultant services were notified of the RFP opportunity. Of those potential proposers, 25 downloaded the RFP via the City's electronic bid system. The RFP document was made available from the Purchasing Division, located on the sixth floor of City Hall, and the Division's website at www.longbeach.gov/purchasing. An RFP announcement was also included in the Purchasing Division's weekly update of Open Bid Opportunities, which is sent to 42 local, minority-owned, and women-owned business groups. There were two proposals received on March 28, 2023. Of those two proposers, none were Minority-owned Business Enterprises (MBEs), Women-owned Business Enterprises (WBEs), certified Small Business Enterprises (SBEs), and/or Long Beach vendors (Local).

After a thorough review of the proposal, presentation, and interview process, the selection committee determined that HdL Companies of Brea, CA (not a MBE, WBE, SBE, or Local), was the most qualified firm to provide the services. In addition to meeting the City's requirements outlined in the RFP, HDL Companies was selected because it showed itself to excel in staff expertise necessary to conduct robust analysis on economic factors impacting the City and its sales, use, and transaction and use tax performance.

Local Business Outreach

To align with the City's outreach goal, Long Beach businesses are encouraged to submit proposals for City contracts. The Purchasing Division also assists businesses with registering on the LB Buys database to download RFP specifications. Through outreach, one Long Beach vendor was notified to submit proposals, of which one downloaded and none submitted a proposal. The Purchasing Division is committed to continuing to perform outreach to local vendors to expand the bidder pool.

This matter was reviewed by Deputy City Attorney Monica Kilaita and Purchasing Agent Michelle Wilson on August 15, 2023, and by Revenue Management Officer Geraldine Alejo on August 7, 2023.

TIMING CONSIDERATIONS

City Council action to adopt Specifications No. RFP FM23-225, award a contract, and adopt a Resolution authorizing access to the City sales, use, and transaction and use tax information to HdL Companies is requested on September 5, 2023, to ensure continuous auditing, projection, recovery, and consultant services.

FISCAL IMPACT

The total annual amount of the contract will not exceed \$150,000. This is appropriated in the General Fund Group in the Citywide Activities Department. Of this amount, \$90,000 is estimated to cover HDL Companies' 15 percent contingency fee from audit services, as well as ongoing sales, use, and transaction and use tax, projection, analysis, reporting,

and access to its sales tax database. Payment of HDL Companies' contingency fee of 15 percent of new or misallocated sales and use tax revenue will be based on actual tax revenue realized by the City as a direct result of HDL Companies' audit detection and correction efforts. Payments will not be issued until actual revenues are remitted by the CDTFA and deposited in the General Fund Group. The remaining amount of \$60,000 is estimated for as-needed specialized analysis and support as requested by City staff, including economic analysis and economic development consultant services and utility users' tax and franchise fee review and projection services. 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
FINANCIAL MANAGEMENT

APPROVED:



THOMAS B. MODICA
CITY MANAGER

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

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AUTHORIZING HINDERLITER, DE LAMAS & ASSOCIATES, DBA HDL COMPANIES, COMPANIES, TO EXAMINE ALL RECORDS RELATED TO SALES, USE, AND TRANSACTION AND USE TAX COLLECTED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, on July 19, 2016, the City Council authorized a contract with the California Department of Tax and Fee Administration (“CDTFA”) to perform all functions incident to the administration and collection of the Transactions and Use Tax adopted by the voters and the local sales and use taxes; and

WHEREAS, the City deems it necessary for authorized representatives of the City to examine confidential sales, use and transactions and use tax records of the CDTFA pertaining to sales, use and transactions and use taxes collected by the CDTFA for City; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of CDTFA records and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from sales, use or transactions and use tax records of the CDTFA; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code requires that any person designated by City shall have an existing contract to examine City’s sales, use and transactions and use tax records;

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

Section 1. That the Director of the Department of Financial Management,

1 or other officer or employee of City designated in writing by the City Manager to the
2 California Department of Tax and Fee Administration is hereby appointed to represent City
3 with authority to examine all of the sales, use and transactions and use tax records of the
4 CDTFA pertaining to sales, use and transactions and use taxes collected for City by the
5 California Department of Tax and Fee Administration pursuant to the contract between City
6 and the CDTFA. Information obtained by examination of CDTFA records shall be used for
7 purposes related to the collection of City's sales, use and transactions and use taxes by
8 the CDTFA pursuant to the contract.

9 Section 2. That the Director of the Department of Financial Management,
10 or other officer or employee of City designated in writing by the City Manager to the CDTFA,
11 is also hereby appointed to represent City with the authority to examine those sales, use
12 and transactions and use tax records of the CDTFA for purposes related to the following
13 governmental functions of City:

14 Section 3. Tracking and economic development;

15 Section 4. Forecasting and budget related functions;

16 Section 5. Detection of misallocations and deficiencies.

17 The information obtained by examination of CDTFA records shall be used
18 only for those governmental functions of City listed above.

19 Section 6. That Hinderliter, De Llamas & Associates is hereby designated
20 and authorized to examine all of the sales, use and transactions and use tax records of the
21 CDTFA pertaining to all sales and use taxes collected for City and any transaction and use
22 taxes collected for City under the following Transactions and Use Tax Ordinances and any
23 future Transactions and Use Tax Ordinances that may be enacted in the City: Measure A
24 - Effective January 1, 2023. The person or entity designated by this Section meets all of
25 the following conditions:

26 A. Has an existing contract with City to examine sales, use and
27 transactions and use tax records;

28 B. Is required by that contract to disclose information contained in, or

1 derived from those sales, use and transactions and use tax records only to an officer or
2 employee authorized under Section 1 of this resolution to examine the information;

3 C. Is prohibited by that contract from performing consulting services for
4 a retailer during the term of that contract; and

5 D. Is prohibited by that contract from retaining the information contained
6 in, or derived from those sales, use and transactions and use tax records after that contract
7 has expired.

8 Section 7. The information obtained by examination of CDTFA records
9 shall be used only for purposes related to the collection of City's sales, used and
10 transactions and use taxes by the CDTFA pursuant to the contracts between City and the
11 CDTFA and for purposes relating to the governmental functions of City listed in Section 2
12 of this resolution.

13 Section 8. This resolution shall take effect immediately upon its adoption
14 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

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 _____, 2023, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk