

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2009 DEC -3 PM 5:04

TO: Office of the City Administrator
ATTN: Dan Lindheim, City Administrator
FROM: Finance and Management Agency
DATE: December 15, 2009

RE: A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH HINDERLITER, DE LLAMAS AND ASSOCIATES FOR SALES AND USE TAX DATA AND AUDITING SERVICES FOR AN AMOUNT NOT TO EXCEED \$11,500 ANNUALLY IN FIXED COSTS PLUS ADDITIONAL AUDIT FEES BASED ON PERCENTAGES OF SALES AND USE TAX REVENUE DISCOVERED AND RECOVERED BY THE CITY AS A RESULT OF AN AUDIT AND AUTHORIZING THE CITY ADMINSTRATOR TO ENTER INTO A THREE PARTY PROFESSIONAL SERVICES CONTRACT WITH THE REDEVELOPMENT AGENCY AND HDL COREN & CONE FOR PROPERTY TAX DATA AND AUDITING SERVICES FOR AN AMOUNT NOT TO EXCEED \$22,000 ANNUALLY IN FIXED COSTS PLUS ADDITIONAL AUDIT FEES BASED ON PERCENTAGES OF PROPERTY TAX REVENUE DISCOVERED AND RECOVERED BY THE CITY AS A RESULT OF AN AUDIT; AND AUTHORIZING BOTH CONTRACTS FOR AN INITIAL THREE-YEAR PERIOD ENDING DECEMBER30, 2012 WITH TWO OPTIONAL ANNUAL EXTENSIONS OF THE CONTRACTS

AN AGENCY RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO ENTER INTO A THREE PARTY PROFESSIONAL SERVICES CONTRACT WITH THE CITY OF OAKLAND AND HDL COREN & CONE FOR PROPERTY TAX DATA AND AUDITING SERVICES FOR AN AMOUNT NOT TO EXCEED \$22,000 ANNUALLY IN FIXED COSTS PLUS ADDITIONAL AUDIT FEES BASED ON PERCENTAGES OF TAX REVENUE DISCOVERED AND RECOVERED BY THE CITY AS A RESULT OF AN AUDIT FOR AN INITIAL THREE-YEAR CONTRACT PERIOD ENDING DECEMBER 30, 2012; AND AUTHORIZING TWO OPTIONAL ANNUAL EXTENSIONS OF THE CONTRACT

Item: _____
Finance Committee
December 15, 2009

SUMMARY

City and Agency resolutions have been prepared authorizing the City Administrator/Agency Administrator to enter into contracts with the affiliated companies, Hinderliter, de Llamas and Associates and HdL Coren & Cone (HdL), for tax auditing and data services for an initial three year period plus two optional annual extensions. The City of Oakland received two responses to a Request for Proposals (RFP) for specialized tax audit services. A selection committee composed of staff from the Finance and Management Agency determined that Hinderliter, de Llamas and Associates/ HdL Coren & Cone offered the most advantageous proposal based on price, technology, and responsiveness. HdL will be paid based on a percentage of the additional revenue recovered from the tax audits. In addition, HdL will provide data services and annual training to City staff to build local capacity to conduct more extensive in-house tax audits for a fixed fee of \$22,000 annually for property tax data and \$11,500 annually for sales and use tax data.

FISCAL IMPACT

The Finance and Management Agency's Revenue Division currently collects the majority of the City's local tax revenue, and conducts tax audits to ensure compliance with local tax ordinances. Tax auditing firms similar to HdL assist in capturing additional tax revenue utilizing specialized staff, technology and resources that are typically far beyond the capacity of most local government agencies. HdL will conduct specialized audits for the City's property and sales taxes and will provide data reports. They will be compensated under their contract as follows:

- A. Sales and Use Tax: HdL will receive 15% of revenue discovered and recovered by the City as a result of an audit with a cap of \$50,000 for any single audit recovery (revenue recovery will be calculated based on any retroactive recovery plus eight future quarters)
- B. Property Tax 25% of revenue discovered and recovered by the City as a result of an audit
- C. A fixed annual fee of \$11,500 will be paid to Hinderliter, De Llamas and Associates for Sales and Use Tax data to and specialized software which will be paid from the following three sources: \$4,500 from General Purpose Fund (1010), Budget Division Organization (02811), Undetermined Project, \$2,500 from General Purpose Fund (1010), Revenue Division Organization (08721), Undetermined Project and \$4,500 from Oakland Redevelopment Agency Projects Fund (7780), Business Development Organization (88559), to be divided equally between Coliseum Project (C82620) and Army Base Project (P235310).

D. A fixed annual fee of \$22,000 will be paid to HdL Coren and Cone for Property Tax data and specialized software, which will be paid by the Redevelopment Agency from Agency Land Sales Proceeds Fund (9553), Capital Improvement Projects Organization (94800), and Downtown Capital Project (P130610). These funds are included in the 2009-11 Budget.

BACKGROUND

The Finance and Management Agency issued an RFP to elicit proposals from qualified firms for tax auditing and data services to replace the current tax contract that expired on March 31, 2009.

The work to be performed is intended to meet the City's and Agency's primary objectives, which are:

1. Ensure complete and accurate remittance of sales and use taxes, and property taxes
2. Enhance the revenue base by identifying non-compliant individuals or businesses in the reporting and payment of taxes
3. Provide information about new or proposed legislation that could affect tax receipts
4. Train the audit staff to use new tools and data services to build the capacity to perform complex tax audits
5. Provide easily accessible data on past, current, and projected tax revenues

The City of Oakland sent an invitation to participate in the RFP to nine firms and published a notice in the San Francisco Chronicle advertising the RFP. A pre-proposal conference was conducted on July 2, 2009 and was attended by representatives from two firms. On July 16, 2009, responses to the RFP were received from Hinderliter, de Llamas and Associates/ HdL Coren & Cone (HdL) and MBIA Muni Services Company (MBIA), both of which specialize in providing this type of consulting service requested. On July 31, 2009, each of the two bidders gave a sixty-minute presentation clarifying their proposals and discussing the services their firms provide. Based upon review and evaluation of the responses to the RFP and interviews and reference checks, the selection committee, comprised of senior staff in the Finance and Management Agency, selected HdL.

Reference checks with HdL's references were positive which reflected the City's own experience with this firm over the past eleven years. The City has been under contract with HdL for sales and use tax and property tax consulting and auditing service since 1998 and has realized \$7.8 million in additional revenues because of HdL's efforts. Staff is very satisfied with HdL, as the firm consistently excels in responsiveness and effectiveness. HdL provides excellent software tools that facilitate technical analysis and support for local audits and revenue forecasting. HdL's bid offered the best pricing of the two proposals, offering both a lower percentage recovery fee and a cap on the recovery amount for any single audit.

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The Department of Contracting and Purchasing conducted an availability analysis to identify local firms that could perform the scope of services stated in the RFP. The results of the research found that there were no certified firms that provide tax auditing services as defined in the RFP.

KEY ISSUES AND IMPACTS

The City will receive a major benefit from contracting with HdL by increasing revenue from existing local tax sources. Contracting with HdL will increase the City's tax revenues, without raising taxes, and ensure that the City receives its fair share of tax allocation. HdL will perform audits and compliance reviews of sales and use tax allocations and property assessment valuations. In this net revenue proposition, the contingent audit fee (based upon a percentage of revenues identified) will be payable only after the additional revenues are received. Without this audit service, the City may lose some revenue that it otherwise is entitled to collect. In addition, the data services provided by the contract will assist the City's Budget Department and the Redevelopment Agency with projecting future tax revenues.

Currently, the Revenue Division of the Finance and Management Agency performs audits of the Business Tax, Transient Occupancy Tax, Real Property Transfer Tax and Parking Tax. This Division also monitors reviews and files appeals on unfavorable sales tax reallocations based upon the State Board of Equalization audits. The new contract with HdL will assist City staff in utilizing HdL's specialized software and obtaining valuable data to expand local capacity to complete complex tax audits, potentially resulting in enhanced revenue streams to the City.

In addition, the data services provided by HdL are used by both the Budget Office, Economic Development, and the Redevelopment Agency to project future tax revenues, identify key taxpayers, and to analyze growth trends.

SUSTAINABLE OPPORTUNITIES

Economic: The City will realize additional revenue to support local government services without raising taxes.

Environmental: These tax services offer no direct environmental opportunity. However, the recommended contractor HdL employs a number of sustainability measures that offer environmental benefits. All HdL's paper products used in the production of deliverables are acid-free; toner cartridges are recycled after use; a recycling company picks up bins of paper trash to be shredded and recycled every other week; waste is separated (aluminum, glass, plastic and paper products); workstations and furniture are chosen for their ergonomic benefits; and its

building contains environmental controls that shut off the electrical and HVAC services during non operational hours.

Social Equity: The expanded capabilities offered through HdL's tax auditing services will enhance the City's tax enforcement and compliance efforts and promote equitable treatment of all taxpayers.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no impacts on disability and senior citizen access.

RECOMMENDATION AND RATIONALE

It is recommended that the City Council and Agency Board authorize the City Administrator/Agency Administrator to enter into an initial three-year contract plus two optional one year extensions with Hinderliter, de Llamas and Associates and HdL Coren & Cone, to provide specialized tax audit and data services. HdL was selected on the basis of quality and scope of services, price, technology and responsiveness. The contracted services from HdL will assist the City with greater tax compliance, enhance City staff capabilities to perform more complex tax audits, and result in increased revenues without raising tax rates.

Kathleen Salvo Boyd
CITY CLERK

2009 DEC -3 PM 5: 04

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH HINDERLITER, DE LLAMAS AND ASSOCIATES FOR SALES AND USE TAX DATA AND AUDITING SERVICES FOR AN AMOUNT NOT TO EXCEED \$11,500 ANNUALLY IN FIXED COSTS PLUS ADDITIONAL AUDIT FEES BASED ON PERCENTAGES OF SALES AND USE TAX REVENUE DISCOVERED AND RECOVERED BY THE CITY AS A RESULT OF AN AUDIT AND AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A THREE PARTY PROFESSIONAL SERVICES CONTRACT WITH THE REDEVELOPMENT AGENCY AND HDL COREN & CONE FOR PROPERTY TAX DATA AND AUDITING SERVICES FOR AN AMOUNT NOT TO EXCEED \$22,000 ANNUALLY IN FIXED COSTS PLUS ADDITIONAL AUDIT FEES BASED ON PERCENTAGES OF PROPERTY TAX REVENUE DISCOVERED AND RECOVERED BY THE CITY AS A RESULT OF AN AUDIT; AND AUTHORIZING BOTH CONTRACTS FOR AN INITIAL THREE-YEAR PERIOD ENDING DECEMBER30, 2012 WITH TWO OPTIONAL ANNUAL EXTENSIONS OF THE CONTRACTS

WHEREAS, the City of Oakland seeks to increase its revenue by securing payment of all taxes owed to the City; and

WHEREAS, in order to best achieve such an increase in revenue, the Finance and Management Agency ("FMA") has determined that a contract with a tax auditing firm would provide the City with valuable information and services; and

WHEREAS, FMA issued a request for proposals ("RFP") for tax auditing and data services services; and

WHEREAS, based upon a review and evaluation of the responses to the RFP, staff recommends entering into a contract with the affiliated companies Hinderliter, de Llamas and Associates and HdL Coren & Cone, jointly referred to as "HdL"; and

WHEREAS, the data and training to be obtained through the contract with HdL will be used by FMA for tax auditing and by the City for revenue projections and trend analysis; and

WHEREAS, the City has been under contract with HdL for Sales and Use Tax and Property Tax consulting and auditing services since 1998 and has realized an \$7,800,000 in additional revenue as a result of services provided by HdL; and

WHEREAS, FMA has reviewed the services and determined that this firm continues to provide the best and most cost-effective services; and

WHEREAS, HdL presents the best package of services and cost effectiveness; now, therefore, be it

RESOLVED, that the City Council of the City of Oakland hereby finds, determines, declares and resolves as follows:

Section 1. All recitals set forth above are true and correct.

Section 2. That the City Administrator is authorized to enter into a three-year professional services contract with HdL for data and tax auditing services, and, as the case may be, the City Administrator, at her or his sole discretion, may exercise an option to extend the contract for up to two additional one-year terms.

Section 3. HdL will conduct specialized audits for the City's property and sales taxes and will be compensated under their contract as follows:

- A. Sales and Use Tax: HdL will receive 15% of revenue discovered and recovered by the City as a result of an audit with a cap of \$50,000 for any single audit recovery (revenue recovery will be calculated based on any retroactive recovery plus eight future quarters)
- B. Property Tax 25% of revenue discovered and recovered by the City as a result of an audit
- C. A fixed annual fee of \$11,500 will be paid to Hinderliter, de Llamas and Associates for Sales and Use Tax data to and specialized software
- D. A fixed annual fee of \$22,000 will be paid to HdL Coren and Cone for Property Tax data and specialized software; and be it

FURTHER RESOLVED, the funding for the \$22,000 annual fee for the Property Tax data will be allocated by the Redevelopment Agency from Agency Land Sales Proceeds Fund (9553), Capital Improvement Projects Organization (94800), Downtown Capital Project (P130610); and be it

FURTHER RESOLVED, the funding for the \$11,500 annual fee for the Sales and Use tax data will be allocated by the City from the following three sources: \$4,500 from General Purpose Fund (1010), Budget Division Organization (02811), Undetermined Project, \$2,500 from General Purpose Fund (1010), Revenue Division Organization (08721), Undetermined Project and \$4,500 from Oakland Redevelopment Agency Projects Fund (7780), Business Development Organization (88559), to be divided equally between Coliseum Project (C82620) and Army Base Project (P235310).

FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSENTION -

ATTEST: _____
La Tonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

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APPROVED AS TO FORM AND LEGALITY:


Kathleen J. Boyd
AGENCY COUNSEL

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO ENTER INTO A THREE PARTY PROFESSIONAL SERVICES CONTRACT WITH THE CITY OF OAKLAND AND HDL COREN & CONE FOR PROPERTY TAX DATA AND AUDITING SERVICES FOR AN AMOUNT NOT TO EXCEED \$22,000 ANNUALLY IN FIXED COSTS PLUS ADDITIONAL AUDIT FEES BASED ON PERCENTAGES OF TAX REVENUE DISCOVERED AND RECOVERED BY THE CITY AS A RESULT OF AN AUDIT FOR AN INITIAL THREE-YEAR CONTRACT PERIOD ENDING DECEMBER 30, 2012; AND AUTHORIZING TWO OPTIONAL ANNUAL EXTENSIONS OF THE CONTRACT.

WHEREAS, the Redevelopment Agency and the City of Oakland track property tax data to develop estimates of future revenues and to analyze growth trends; and

WHEREAS, the Agency seeks to increase its revenue by securing payment of all taxes owed to the Agency; and

WHEREAS, the Agency and the City's Finance and Management Agency ("FMA") have determined that a contract with a tax auditing firm would provide the City and Agency with valuable information and services; and

WHEREAS, staff from FMA issued a request for proposals ("RFP") for property tax auditing services and data services; and

WHEREAS, based upon a review and evaluation of the responses to the RFP, staff recommends entering into a contract with HdL Coren & Cone ("HdL"); and

WHEREAS, the data and training to be obtained through the contract with HdL will be used by the City and Redevelopment Agency for revenue estimation and by FMA for tax auditing; and

WHEREAS, the City and Agency have been under contract with HdL for Sales and Use Tax and Property Tax consulting and auditing services since 1998 and have realized \$7,800,000 in additional revenue as a result of services provided by HdL; and

WHEREAS, staff has reviewed the services and determined that this firm continues to provide the best and most cost-effective services; and

WHEREAS, the Agency finds that the services provided pursuant to the agreement authorized hereunder are of a professional, scientific or technical nature and are temporary in nature; and

WHEREAS, the Agency finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

RESOLVED: That the Agency Administrator is hereby authorized to negotiate and enter into a three-year professional services contract with HdL for an amount not to exceed \$22,000 annually for property tax data and auditing services; and be it

FURTHER RESOLVED: The funding for the \$22,000 annual fee will be allocated by the Agency from Agency Land Sales Proceeds Fund (9553), Capital Improvement Projects Organization (94800), Downtown Capital Project (P130610); and be it

FURTHER RESOLVED: That HdL will conduct specialized audits for the City's property taxes and will be compensated a total of 25% of revenue discovered and recovered by the City as a result of an audit; and be it

FURTHER RESOLVED: That the Agency Administrator, at his sole discretion, may exercise an option to extend the contract for up to two additional one-year terms; and be it

FURTHER RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines that this action complies with CEQA because this action on the part of the Agency is exempt from CEQA pursuant to Section 15306 (information collection) and Section 15061(b)(3) (general rule) of the CEQA guidelines; and be it

FURTHER RESOLVED: That the Agency Administrator or his designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action; and be it

FURTHER RESOLVED: That the Agency Administrator or his designee is hereby authorized to take whatever action is necessary with respect to this contract consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by Agency Counsel for form and legality prior to execution, and a copy shall be placed on file with the Agency Secretary.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
CHAIRPERSON BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
Secretary, Redevelopment Agency
of the City of Oakland