

STAFF REPORT*CITY OF OCEANSIDE*

DATE: August 12, 2009

TO: Honorable Mayor and City Councilmembers

FROM: Financial Services Department

SUBJECT: **PROFESSIONAL SERVICES AGREEMENT FOR PROPERTY TAX SERVICES WITH HDL COREN & CONE**

SYNOPSIS

Staff recommends that the City Council approve a five-year professional services agreement with HdL Coren & Cone of Diamond Bar in the amount of \$97,500 to provide property tax services to the Financial Services Department, and authorize the City Manager to execute the agreement.

BACKGROUND

Over forty percent of the City's General Fund is funded from property taxes, necessitating the need for an effective property tax management program to assure full accountability and receipt of these revenues.

Pursuant to Oceanside City Code 28A requiring three competitive proposals, the Financial Services Department contacted three consulting firms for quotes. Due to the uniqueness of this program's requirements, only two firms responded: MuniServices and HdL Coren & Cone. The Financial Services Department has been utilizing the services of HdL Coren & Cone for the past two years due to their ability, capacity and skill in performing the services required. Staff has determined that the City will continue to benefit from their experience and expertise.

ANALYSIS

The Financial Services Department has been authorizing an annual professional services agreement with HdL Coren & Cone for property tax management services since 2007. These are very specialized services, with a limited number of firms providing this service. HdL Coren & Cone is a statewide expert in property tax data analysis, and has assisted the City in monitoring, identifying and reconciling local property taxes to the County records. Their expertise has been extremely helpful in preparation of the City's annual budget, especially in the current economy with the County Assessor making significant assessed valuation reductions. Staff is recommending a five-year agreement with HdL Coren & Cone to limit interruption of these services.

HdL Coren & Cone will provide a database on the City's network of all parcels, assessed values, sales and transfer data, owner and situs information, and City revenue. In addition, they will provide annual written reports and analyses, calculations of estimated property tax revenue, development of historical trending reports, and listing of filed property tax appeals, along with serving as the City's resource on questions relating to property taxes.

FISCAL IMPACT

Attached is the City's professional services agreement with HdL Coren & Cone. It provides information detailing the Department's agreement with the consultant. The Financial Services Department operating budget for Fiscal Year 2009/2010 includes an appropriation of \$19,500 in account 200010101-5305. Funding for years two through five will be included in the department's budget.

COMMISSION/COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced document has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

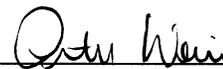
Staff recommends that the City Council approve a five-year professional services agreement with HdL Coren & Cone of Diamond Bar in the amount of \$97,500 to provide property tax services to the Financial Services Department, and authorize the City Manager to execute the agreement.

PREPARED BY:



Teri Ferro
Director of Financial Services

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager



CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: Property Tax Management Services

THIS AGREEMENT, dated August 12, 2009 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and HdL Coren & Cone, a California corporation, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. SCOPE OF WORK. The project is more particularly described as follows:

BASE SERVICES (See Exhibit A "Schedule of Performance")

- A. Analysis and Identification of Misallocation Errors (Contingent Fee)
 - a. In the first year of this Agreement, and as necessary thereafter but not less than once every five (5) years, CONSULTANT shall conduct an analysis to identify and verify in the CITY parcels on the secured Property Tax Roll which are not properly attributed to the CITY, and will provide the correct TRA designation to the proper County agency. Typical errors include parcels assigned to incorrect TRAs within the CITY or an adjacent city, and TRAs allocated to wrong taxing agencies.
 - b. CONSULTANT shall annually reconcile the annual auditor-controller assessed valuations report to the assessor's lien date rolls and identify discrepancies.
 - c. CONSULTANT shall annually review parcels on the unsecured Property Tax Roll to identify inconsistencies such as value variations, values being reported to a mailing address rather than the situs address, and errors involving TRAs (to the extent records are available).
 - d. CONSULTANT shall quarterly audit documentary transfer tax remittance detail provided by San Diego County and identify misallocations that may be recovered for CITY.

- B. Annual Services (Fixed Fee)
 - a. After the Property Tax Roll is available, CONSULTANT shall establish a data base for CITY for installation on personal computers or a network.
 - b. Utilizing the data base, CONSULTANT will provide:
 - i. A listing of the major property owners in the CITY, including the assessed value of their property.

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- ii. A listing of the major property tax payers, including an estimate of the property taxes.
 - iii. A listing of property tax transfers which occurred since the prior lien date.
 - iv. A listing of parcels that have not changed ownership since the enactment of Proposition XIII A.
 - v. A comparison of property within the CITY by county-use code designation.
 - vi. A listing by parcel of new construction activity utilizing city building department data, including building permits with assessor parcel numbers and project completion dates, to identify non-residential parcels with new construction activity and to provide reports for use in the CITY's preparation of Gann (Propositions 4 and 111) State Appropriation Limit calculations.
 - vii. A listing of multiple owned parcels.
 - viii. A listing of absentee owner parcels.
 - ix. Calculate an estimate of property tax revenue anticipated to be received for the fiscal year by the CITY. This estimate is based upon the initial information provided by the County and is subject to modifications. This estimate shall not be used to secure the indebtedness of the CITY.
 - x. Development of historical trending reports involving taxable assessed values for the CITY and RDA, median and average sales prices, foreclosure activity and related economic trends.
 - xi. Upon written request, analyses based on geographic areas designed by the CITY to include assessed valuations and square footage computations for use in community development planning.
- C. Quarterly Services (Fixed Fee)
- a. A listing of property tax appeals filed on properties in the CITY.
 - b. A listing of property transfers that have occurred since the last report.
 - c. An update of computer program parcel transfer data.
- D. On-Going Consultation (Fixed Fee)
- During the term of this Agreement, CONSULTANT will serve as the CITY's resource staff on questions relating to property tax and assist in estimating current year property tax revenues. On-going consultation would include, but not be limited to, inquiries resolved through use of the CITY's database.

OPTIONAL SERVICES

- E. Optional Services (Available on a Time & Material Basis)

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- a. Specified Data – generation of specialized data-based reports which would require additional programming, the purchase of additional data, costs for county staff research, or similar matters not necessary to carry out services outlined above.
 - b. Redevelopment Financial Services – including but not limited to:
 - i. Tax increment projections
 - ii. Feasibility studies
 - iii. Agency or Project Area cash flows
 - iv. Low and moderate income housing set-aside calculations, findings and consultations
 - v. Fiscal impact studies
 - vi. Legislative analysis
 - vii. Redevelopment plan adoption and amendment financial feasibility studies
2. **INDEPENDENT CONTRACTOR.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the Financial Services Director. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.
3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will comply with such provisions, and provide certification of such compliance as a part of this Agreement.
4. **LIABILITY INSURANCE.**
- 4.1. CONSULTANT shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.
 - 4.2. CONSULTANT shall maintain liability insurance in the following minimum limits:

Property Tax Management Services

Comprehensive General Liability Insurance (bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

Commercial General Liability Insurance (bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific aggregate	\$ 2,000,000

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

- 4.3** If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.
- 4.4** All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.
- 4.5** All insurance companies affording coverage to the CONSULTANT pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 4.6** All insurance companies affording coverage shall provide thirty (30) days written

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notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

- 4.7 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 4.8 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.
- 4.9 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.
5. **PROFESSIONAL ERRORS AND OMISSIONS INSURANCE.** Throughout the duration of this Agreement and four (4) years thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of One Million Dollars (\$1,000,000.00).

CONSULTANT shall provide evidence of compliance with these insurance requirements by providing a Certificate of Insurance.

6. **CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of CONSULTANT'S work, including the negligent acts, errors or omissions or wrongful acts or conduct of the CONSULTANT, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or

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employees founded upon, resulting or arising from the conduct, tortious acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

7. COMPENSATION.

Base Fixed Fee Services - CONSULTANT shall provide the Base Services described in Section 1 above, for a fixed annual fee of \$19,500 (invoiced quarterly).

Base Contingent Fee Services – CONSULTANT shall receive a one-time 25 percent of net general fund or tax increment property tax revenue or revenues attributable to CITY departments, districts, or funds recovered or reallocated which are directly or indirectly the result of an audit, analysis or consultation performed by CONSULTANT (including but not limited to base year value audits; administration of tax sharing agreements; tax increment allocation reviews; county allocation reviews). CONSULTANT shall separate and support said reallocation and provide CITY with an itemized invoice showing all amounts due as a result of revenue recovery or reallocation. CITY shall pay audit fees after CONSULTANT's submittal of evidence that corrections have been made by the appropriate agency. Payment to CONSULTANT shall be made within thirty (30) days after CITY receives its first remittance advice during the fiscal year for which the correction applies. The fee for documentary transfer tax audit recovery services will be 25% of documentary transfer tax recovered as a result of CONSULTANT's efforts.

Optional Services – fees for optional services shall be billed at the following hourly rates:

Partner	\$195 per hour
Principal	\$175 per hour
Associate	\$135 per hour
Senior Analyst	\$100 per hour
Analyst	\$ 65 per hour
Administrative	\$ 45 per hour

Hourly rates are exclusive of expenses and are subject to adjustment annually by CONSULTANT with CITY approval. On July 1st of each year, CONSULTANT shall provide CITY with an updated schedule of hourly rates. The rates will not be increased by more than five percent (5%) per year. In addition, expenses for Optional Services shall be billed at actual incurred costs.

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No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the Financial Services Director.

8. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing.
9. **TERM.** This Agreement shall continue in full force and effect for five (5) years. The Parties reserve the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to the non-terminating party.
10. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
11. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

12. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.
13. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

IN WITNESS WHEREOF, the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures on the dates set forth below.

Property Tax Management Services

HdL COREN & CONE
By: [Signature] N.P.
Name/Title

CITY OF OCEANSIDE
By: _____
City Manager

Date: 7-29-09

Date: _____

By: Fauly Cone PRES.
Name/Title

APPROVED AS TO FORM:
[Signature] ASST.

Date: 7-29-2009

3970617
Employer ID No.

City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On 7-29-09 before me, Kandie Schmehr, Notary Public

personally appeared R. Andrew Nickerson and Paula J. Cone

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal
Signature [Handwritten Signature]
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

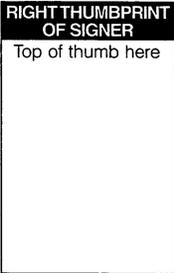
Title or Type of Document: City of Oceanside Services Agreement

Document Date: 7-29-09 Number of Pages: _____

Signer(s) Other Than Named Above: none

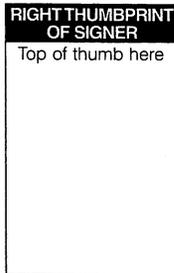
Capacity(ies) Claimed by Signer(s)

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____