

HARBOR DIVISION

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DATE: FEBRUARY 4, 2020

FROM: OFFICE OF THE CITY ATTORNEY

SUBJECT: RESOLUTION NO. _____ - PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND BATES GROUP LLC

SUMMARY:

The Office of the City Attorney (Office) requests approval of a professional services agreement between the City Los Angeles Harbor Department (Harbor Department) and Bates Group LLC (Bates Group), for forensic accounting and litigation support regarding employment matters and Fair Labor Standards Act (FLSA) issues. The proposed Agreement is for a term of three years with compensation authority of \$300,000. This is the only accounting firm on retainer for employment matters. The Harbor Department is financially responsible for payment for legal services rendered under the proposed Agreement.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Section 2(f), of the Los Angeles City CEQA Guidelines;

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2. Find in accordance to Charter Section 1022 that the scope of work of the proposed Agreement can be more economically and feasibly provided by an independent contractor than by City employees;
3. Approve a Professional Services Agreement with Bates Group LLC in the amount of \$300,000 for a three-year term;
4. Authorize the Executive Director and Board Secretary to execute and attest to the Agreement; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background – In accordance with Charter Section 275, the Office has determined that it requires specialized forensic accounting services in connection with employment, wage and hour, and FLSA issues requiring specialized expertise and resources that exceed staff resources in this highly specialized area.

Need For Forensic Services and Scope Of Work – The Agreement (Transmittal 2) is necessary because the Harbor Department routinely engages in employment, wage and hour and FLSA matters and issues. Due to the steady work in this area the Office of the City Attorney has need for specialized expertise for assessing accounting systems and the presentation of accounts. Other necessary services include data collection, data preparation, data analysis and reporting.

Selection Process – The Bates Group consultants tasked to provide the Harbor Department with forensic accounting services were retained in 2018 using a competitive Request For Proposal (RFP) process. Based upon the RFP Selection Committee's application scores and rankings, the consultants were selected for a one-year Executive Director Agreement with the Harbor Department in the amount of \$150,000.

The consultants became affiliated with Bates Group and a new agreement with Bates Group commenced November 12, 2018 and terminated on November 13, 2019 (Transmittal 1). Bates Group expended a total of \$141,407 and actively assisted the Harbor Department in forensic accounting services. The consultants have specialized knowledge and experience with Harbor Department issues and a sole source selection is needed for the proposed new agreement to continue to retain Bates Group for reconstructing, detecting or supporting claims disputing hourly wages and related benefits.

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Proposed Agreement Terms – The Agreement terms are as follows:

- **Term:** Three years from the date of execution of the Executive Director
- **Contract Authority:** Maximum amount not to exceed \$300,000
- **Scope of Work:** Forensic Accounting Services for Harbor Department employment and FLSA issues
- **Standard City and Harbor Department Agreement provisions**

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a professional services Agreement with Bates Group LLC for ongoing forensic accounting services for employment matters and Fair Labor Standards Act issues, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed action is for the approval of an Agreement for forensic accounting and litigation support services for a three-year term and compensation authority of \$300,000. The Harbor Department is financially responsible for payment for professional services rendered under the proposed Agreement. Funding in the amount of \$150,000 has been included in the approved FY 2019-20 Operating Budget within the Harbor Department City Attorney’s Office Account No. 54410 (Legal Fees and Services), Division No. 120 and Program No. 000. Funding in the amount of \$100,000 will be requested as part of the annual budget adoption process in FY 2020-21 within the Harbor Department City Attorney’s Office Account No. 54410, Division No. 120 and Program No. 000. Funding for future years, if necessary, will be requested as part of the annual budget adoption process. A funding out clause is included in the Agreement. This clause stipulates that if, in any subsequent fiscal year, funds are not appropriated by the City for the work required by the Agreement, then the Agreement shall be terminated. However, the termination would not relieve the parties of liability for any obligation previously incurred.

The proposed appropriation for Bates Group is detailed below:

Firm	FY 19-20	FY 20-21	FY 21-22	FY 22-23	TOTAL
Bates Group	\$150,000	\$100,000	\$25,000	\$25,000	\$300,000

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CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the proposed Agreement as to form and legality.

TRANSMITTALS:

1. Executive Director Agreement with Bates Group LLC AG E-7006
2. Professional Services Agreement with Bates Group



HELEN SOK
Deputy City Attorney

FIS Approval: 

CA Approval: 

APPROVED:

By 

JANNA B. SIDLEY
General Counsel, Harbor Department

APPROVED:

By 

EUGENE D. SEROKA
Executive Director

Author: HELEN SOK
Board Meeting: February 20, 2020