

Document No. 65787
Filed NOV 14 2016

Office of the District Clerk

(2)

ASSIGNMENT AND ASSUMPTION AGREEMENT
between
ACME BUSINESS CONSULTING, LLC
and
EXCELERATE, LLC
for
AS NEEDED PROJECT MANAGEMENT OFFICE (PMO) SERVICES
AGREEMENT NO. 156-2014

ACME BUSINESS CONSULTING, LLC, an Oregon Limited Liability Corporation wishes to assign its interests in the above referenced agreement to EXCELERATE, LLC, a California Limited Liability Corporation.

Recitals:

The Agreement is on file in the office of the District Clerk as Document No. 62695 dated December 18, 2014. It is now proposed to assign the Agreement to EXCELERATE, LLC, and have EXCELERATE, LLC assume all of the debts and obligations of the agreement.

The Parties Agree:

1. As of November 8, 2016, the undersigned, ACME BUSINESS CONSULTING, LLC hereby assigns and transfers to EXCELERATE LLC all of ACME BUSINESS CONSULTING, LLC's right, title, and interest in and to the above Agreement.
2. EXCELERATE, LLC, hereby assumes all of the debts and obligations of ACME BUSINESS CONSULTING, LLC, regarding the above Agreement, as of November 8, 2016, and agrees to fully and faithfully perform each and every term, covenant, and condition thereof.
3. This assignment and assumption is subject to the consent of San Diego Unified Port District.

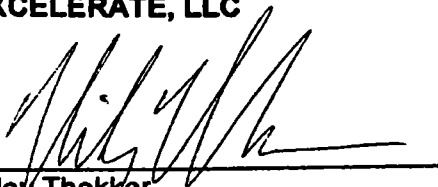
4. All other terms, covenants, and conditions in the original Agreement shall remain in full force and effect and shall be applicable to this Agreement.

**ACME BUSINESS
CONSULTING, LLC**



Peter Lizotte
Founder/Principal

EXCELERATE, LLC



Nilay Thakkar
President

A manually signed copy of this Agreement transmitted by email or any other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

RESOLUTION 2016-171**RESOLUTION CONSENTING TO ASSIGNMENT
AND ASSUMPTION OF AN AGREEMENT FOR AS
NEEDED PROJECT MANAGEMENT SERVICES
FROM ACME BUSINESS CONSULTING, LLC TO
EXCELERATE LLC**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1, (Port Act); and

WHEREAS, the Board of Port Commissioners (BPC) adopted BPC Policy No. 110 to establish a policy governing the processing and administration of public projects, consulting and service agreements, the purchasing of supplies, materials, and equipment, and grants; and

WHEREAS, on October 14, 2014 the Board of Port Commissioners adopted a resolution authorizing an agreement with ACME Business Consulting, LLC (ACME) for as-needed services to the Information Technology Project Management Office; and

WHEREAS, ACME was acquired by a firm that no longer does business in San Diego and has indicated that it cannot carry out the demands of the contract; and

WHEREAS, ACME has agreed to assign all of its San Diego business to Excelerate, LLC (Excelerate); and

WHEREAS, Excelerate is a company that was created by a former principal of ACME, who established a company which would continue to do business in San Diego; and

WHEREAS, District IT staff has done due diligence and determined Excelerate is proficient in all areas of expertise which ACME possessed and staff recommends this assignment to Excelerate.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or her designated representative is hereby authorized on behalf of the San Diego Unified Port District to consent to Assignment and Assumption of a Professional Services Agreement for as-needed Project Management Services from ACME Business Consulting, LLC to

2016-171

Excelerate, LLC.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of November, 2016, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Nelson, and Valderrama.

NAYS: None.

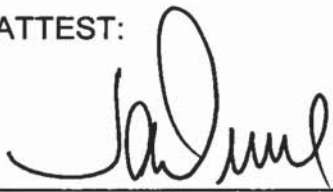
EXCUSED: Moore.

ABSENT: None.

ABSTAIN: None.


Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:


Timothy A. Deuel
District Clerk

(Seal)



File #:2016-0566

DATE: November 8, 2016

SUBJECT:

RESOLUTION CONSENTING TO ASSIGNMENT AND ASSUMPTION OF AN AGREEMENT FOR AS NEEDED PROJECT MANAGEMENT SERVICES FROM ACME BUSINESS CONSULTING, LLC TO EXCELERATE LLC

EXECUTIVE SUMMARY:

On October 14, 2014 the Board of Port Commissioners adopted a resolution authorizing an agreement with ACME Business Consulting, LLC (ACME) for as-needed Information Technology Project Management Services. ACME was recently acquired by a firm who no longer does business in San Diego. Therefore, ACME has agreed to assign all of its San Diego business to a third party, Excelerate LLC (Excelerate).

RECOMMENDATION:

Adopt a Resolution Consenting to Assignment and Assumption of a Professional Services Agreement for As Needed Project Management Services from ACME Business Consulting, LLC to Excelerate LLC.

FISCAL IMPACT:

The proposed Board action would have no additional fiscal impact to the District.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal:

- A Port with an innovative and motivated workforce.

DISCUSSION:

On October 14, 2014 the Board of Port Commissioners adopted a resolution authorizing an agreement with ACME for as-needed Information Technology Project Management Services. A contract with ACME was executed in order to carry out the resolution, and to provide as-needed services to the Information Technology Project Management Office.

Recently, ACME was acquired by a firm that no longer does business in San Diego and has indicated

File #:2016-0566

that it cannot carry out the demands of the contract. ACME has agreed to assign all of its San Diego business to Excelerate. Excelerate is a company that was created by a former principal of ACME, who established a company which would continue to do business in San Diego. District IT staff has done due diligence and determined Excelerate is proficient in all areas of expertise which ACME possessed and staff recommends this assignment and assumption of the District's agreement to Excelerate.

General Counsel's Comments:

The Office of the General Counsel reviewed the assignment and assumption agreement between ACME Business Consulting, LLC and Excelerate, LLC, and approves as to form and legality.

Environmental Review:

The proposed Board action (change) does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

In addition, the proposed Board action (change) allows for the District to implement its obligations under the Port Act and/or other laws. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, the proposed Board action (change) does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

Chrissy Joslin
Senior Management Analyst, Information Technology

Attachment(s):

Attachment A: Agreement 156-2014 Excelerate LLC.

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3. This assignment and assumption is subject to the consent of San Diego Unified Port District.

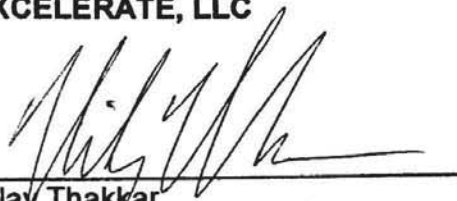
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Nilay Thakkar
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DRAFT**RESOLUTION 20xx-xxx****RESOLUTION CONSENTING TO ASSIGNMENT
AND ASSUMPTION OF AN AGREEMENT FOR AS
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WHEREAS, on October 14, 2014 the Board of Port Commissioners adopted a resolution authorizing an agreement with ACME Business Consulting, LLC (ACME) for as-needed services to the Information Technology Project Management Office; and

WHEREAS, ACME was acquired by a firm that no longer does business in San Diego and has indicated that it cannot carry out the demands of the contract; and

WHEREAS, ACME has agreed to assign all of its San Diego business to Excelsate, LLC (Excelsate); and

WHEREAS, Excelsate is a company that was created by a former principal of ACME, who established a company which would continue to do business in San Diego; and

WHEREAS, District IT staff has done due diligence and determined Excelsate is proficient in all areas of expertise which ACME possessed and staff recommends this assignment to Excelsate.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

That the Executive Director or her designated representative is hereby authorized on behalf of the San Diego Unified Port District to consent to Assignment and Assumption of a Professional Services Agreement for as-needed Project Management Services from ACME Business Consulting, LLC to Excelsate, LLC.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of November, 2016, by the following vote: