

Council Meeting
December 6, 2011

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the City Council:

SUBJECT: Finance, City Attorney – Adopt a RESOLUTION authorizing Holland & Knight, attorneys, to examine sales and use tax records of the California State Board of Equalization.

Expenditure: None

RECOMMENDATION:

The Finance Director and the City Attorney recommend that City Council adopt the attached **RESOLUTION** granting Holland & Knight, attorney's, access to examine City of Torrance sales and use tax records with the California State Board of Equalization.

Funding

Not applicable

BACKGROUND/ANALYSIS

The Audit Division of the Finance Department reviews and audits the sales and use tax revenues received by the City from the State Board of Equalization. The Board collects sales and use taxes for all cities in California. To perform this work, staff has access to confidential records maintained by the Board.

California Revenue and Taxation Code Section 7056 requires a resolution by the governing body naming who in the City can access confidential sales tax records. The City Manager, Assistant City Manager, Finance Director, Assistant Finance Director and their designees are currently on the resolution. Individuals other than employees or officers of the City must be named separately.

In 2005, Council approved the addition of MuniServices, sales tax consultants who serve as a backstop to the City's audit program and in 2006 Al Koch, a sales tax attorney who was associated with MunServices, was also added to the resolution. In 2011 Robert E. Cendejas, attorney, was added to the resolution because of specialized expertise in the State of California's allocation framework.

At this time, staff would like to grant Holland & Knight access to City sales tax information. Holland & Knight has specialized legal knowledge that will assist the City in protecting the City's interests with regards to the allocation of sales tax by the State Board of Equalization.

Respectfully submitted,

ERIC E. TSAO
FINANCE DIRECTOR

By 
Scott McDonough
Audit Manager

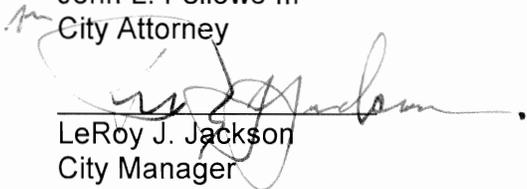
CONCUR:



Eric E. Tsao
Finance Director



John L. Fellows III
City Attorney



LeRoy J. Jackson
City Manager

Attachment: RESOLUTION

RESOLUTION NO. 2011 - _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF TORRANCE AUTHORIZING EXAMINATION OF
SALES AND USE TAX RECORDS**

WHEREAS, pursuant to ordinance, the City of Torrance entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local sales and use taxes; and

WHEREAS, the City Council of the City of Torrance deems it desirable and necessary for authorized representatives of the City to examine confidential sales and use tax records of the State Board of Equalization pertaining to sales and use taxes collected by the Board for the City pursuant to that contract; and

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

WHEREAS, the City previously adopted Resolution No. 2005-60 designating MBIA MuniServices Company to examine the sales and use tax records of the Board; and

WHEREAS, the City previously adopted Resolution No. 2006-40 designating Albin C. Koch to examine the sales and use tax records of the Board; and

WHEREAS, the City previously adopted Resolution 2011-22 designating Robert E. Cendejas to examine the sales and use tax records of the Board; and

WHEREAS, this Resolution is in addition to and does not supersede Resolutions No. 2005-60, No. 2006-40 and No. 2011-22; and

WHEREAS, the City has retained special counsel Holland & Knight in addition to MBIA MuniServices Company; Albin C. Koch; and Robert E. Cendejas to represent the City and to examine the sales and use tax records of the Board in accordance with Section 7056 of the California Revenue and Taxation Code:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TORRANCE HEREBY RESOLVES AS FOLLOWS:

Section 1.

That the City Manager, Assistant City Manager, Director of Finance, Assistant Finance Director, or other officer or employee of the City designated in writing by the City Manager, Assistant City Manager, Director of Finance or Assistant Finance Director to the State Board of Equalization ("Board"), are hereby appointed to represent the City with authority

to examine sales and use tax records of the Board pertaining to sales and use taxes collected for the City by the Board pursuant to the contract between the City and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales and use taxes by the Board pursuant to that contract.

Section 2.

That the City Manager, Assistant City Manager, Director of Finance or Assistant Finance Director, or other officer or employee of the City designated in writing by the City Manager, Assistant City Manager, Director of Finance or Assistant Finance Director to the Board, are hereby appointed to represent the City with authority to examine those sales and use tax records of the Board, for purposes of review of records for accuracy of local tax allocation.

Section 3.

The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales and use taxes by the Board pursuant to the contract between the City and the Board and for purposes relating to the governmental functions of the City listed in Sections 1 and 2 of this Resolution.

Section 4

That Holland & Knight is hereby designated to examine the sales and use tax records of the Board pertaining to sales and use taxes collected for the City by the Board. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the City to examine those sales and use tax records;
- b) is required by that contract to disclose information contained in, or derived from, those sales and use tax records only to the officer or employee authorized under Sections 1 and 2 of this Resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales and use tax records, after that contract has expired.

The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales and use taxes by the Board pursuant to the contract

between the City and the Board and for purposes relating to the governmental functions listed in Sections 1 and 2 of this Resolution.

INTRODUCED, APPROVED, AND ADOPTED this _____ day of _____, 2011.

Mayor of the City of Torrance

ATTEST:

City Clerk of the City of Torrance

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By _____
Patrick Q. Sullivan
Assistant City Attorney