

Council Meeting of
April 18, 2006

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

Members of the Council:

Subject: Audit of Utility Users' Taxes Paid by Telecommunication Companies and Issuance of Subpoenas for the Production of Books and Other Documents Necessary in the Audit

RECOMMENDATION

The Finance Director recommends that the City Council authorize audits of various telecommunication companies doing business in Torrance and the issuance of subpoenas requiring non-complying companies to produce books and/or other documents required in the audit of utility users' tax as provided by Resolution 2004-118 authorized by the City Council on September 21, 2004.

FUNDING

No funding is necessary.

BACKGROUND/ANALYSIS

One of the main functions of the Audit Division of the Finance Department is the audit of tax receipts to assure compliance with the tax provisions of the Torrance Municipal Code.

In September 2004, the City Council approved Resolution No. 2004-118 that allowed the Finance Department to issue subpoenas to be executed by the Mayor and the City Clerk to obtain books or other documents required for such audits from businesses providing telecommunication services in the City.

The Finance Director requests authorization from Council to initiate such audits of a limited number of telecommunication companies operating in Torrance that require a subpoena to release the information required by the Audit Division. The companies that may be subject to the issuance of the subpoena include, but are not limited to, the following telecommunication providers:

IBM Global Services
MCI WorldCom
Nextel Boost of California
Qwest
Southwestern Bell
Sprint Communications
Tracfone Wireless
Verizon Communications
Verizon Wireless

Upon receipt of authority to investigate the utility users' taxes remitted by these and other telecommunication companies to the City of Torrance, staff will forward a subpoena to each telecommunication service provider that ignores or refuses to comply with the City's request for production of business records.

Respectfully submitted,

ERIC E. TSAO
FINANCE DIRECTOR

By 
Saboohi Currim
Audit Manager

CONCUR:


Eric E. Tsao
Finance Director


LeRoy J. Jackson
City Manager

Attachments:

- A. Resolution 2004-118
- B. Subpoena template approved September 21, 2004

RESOLUTION NO. 2004-118

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF TORRANCE AUTHORIZING AN AUDIT OF TELECOMMUNICATION COMPANIES AND THE ISSUANCE OF SUBPOENAS REQUIRING PRODUCTION OF BOOKS OR OTHER DOCUMENTS NECESSARY IN THE AUDIT OF TAXES PAID TO THE CITY OF TORRANCE.

WHEREAS, the City of Torrance collects certain taxes from individuals and businesses servicing other businesses and residents or otherwise doing business in the City of Torrance; and

WHEREAS, it is a normal and desirable business practice to audit tax revenues to assure compliance with the City's various tax ordinances; and

WHEREAS, some individuals and businesses refuse or ignore the City's request for production of books or other documents necessary in the tax audit; and

WHEREAS, both the United States Code Title 18, Part I, Chapter 121, section 2703, and the California Government Code section 37104, authorize a government legislative body to issue subpoenas to require attendance of witnesses or production of documents in any action or proceeding pending before the City Council;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Torrance does hereby authorize the Finance Department to conduct an audit of telecommunication companies, to issue subpoenas to be executed by the Mayor and attested by the City Clerk requiring the attendance of witnesses or production of books or other documents for evidence or testimony necessary in the audit of certain municipal tax revenues, and to report its findings back to the City Council.

INTRODUCED, APPROVED, AND ADOPTED this 21st day of September, 2004.

APPROVED AS TO FORM:
JOHN FELLOWS III, City Attorney

by /s/ Ron Pohl
Ronald T. Pohl, Assistant City Attorney

 /s/ Michael Mauno
Mayor Pro Tem Michael H. Mauno

ATTEST:

 /s/ Sue Herbers
Sue Herbers, CMC
City Clerk

TORRANCE CITY COUNCIL RESOLUTION NO. 2004-118

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF TORRANCE)

I, Sue Herbers, City Clerk of the City of Torrance, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Torrance at a regular meeting of said Council held on the 21st day of September, 2004 by the following roll call vote:

AYES:	COUNCILMEMBERS	Lieu, McIntyre, Nowatka, Scotto, Witkowsky, and Mayor Pro Tem Mauno.
NOES:	COUNCILMEMBERS	None.
ABSTAIN:	COUNCILMEMBERS	None.
ABSENT:	COUNCILMEMBERS	Mayor Walker.

/s/ Sue Herbers
Sue Herbers, CMC
City Clerk of the City of Torrance

In re: A Proceeding to Examine and)	SUBPOENA
Inspect Records of Persons or Entities)	For the Production of
Responsible for the Collection and/or)	Business Records
Payment of City Utility User Taxes)	
<u>and Franchise Fees</u>)	Gov't. Code § 37104 et seq.
		18 U.S.C. § 2703(c)(1)(E)

TO: THE CUSTODIAN OF RECORDS OF _____
(Insert Company Name)

FROM: CITY OF TORRANCE

1. YOU ARE ORDERED TO PRODUCE BUSINESS RECORDS described in Item 3 as follows:
 - a. By delivery of a true, legible, and durable copy of the business records described in Item 3 to the City of Torrance, attention Saboohi Currim, Audit Manager, Finance Department, 3031 Torrance Boulevard, Torrance, CA 90503.

2. The records are to be produced no later than 20 days after the issuance of the subpoena, or 15 days after service, whichever is later. Reasonable costs of copying and postage are recoverable from the city. The records shall be accompanied by an affidavit of the custodian or other qualified witness stating in substance each of the following:
 - a. The affiant is the duly authorized custodian of records or other qualified witness and has authority to certify the records;
 - b. The copy is a true copy of all the records described in the subpoena; and,
 - c. If _____ (Insert Company Name) has none of the records described, or only part thereof, the custodian or other qualified witness shall so state in the affidavit, and deliver the affidavit and such records as are available.

3. The records to be produced are as follows:
 - a. For the period of _____ to _____:
 1. Chart of accounts with account descriptions, usage and exemption codes;

2. Description of the various telephone services provided;
3. Monthly electronic revenue reports and UUT reports within the City of Torrance showing gross revenues, taxable and non-taxable revenues, usage and non-usage revenues, other charges and all taxes billed. These detailed revenue reports should include customer number, name, address, invoice number and should include total revenue earned within the City of Torrance. Electronic reports should be in either Excel or Access file format;
4. Aging reports showing accounts receivable balances to verify write-offs;
5. City approved exemption forms;
6. Quarterly returns to California Public Utilities Commission;
7. Detailed description of basis of UUT used to calculate UUT due the City of Torrance;
8. Supporting schedules on monthly UUT remittances to the City of Torrance;
9. Copies of invoices or billing statements;
10. Description of billing and collection systems and their corresponding flow chart;
11. Additional records may be requested as necessary.

Date Issued: _____

Dan Walker, Mayor

ATTEST:

Sue Herbers, City Clerk