Council Meeting of
July 13, 2010

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

Members of the City Council:

SUBJECT: Finance – Approve second amendment to MuniServices, LLC, agreement to extend the term to an additional three years to provide Sales and Use Tax Audit and Consulting Services to the City of Torrance, on a contingency basis, at a rate of 15% to 20% of sales tax revenues recovered

RECOMMENDATION

Recommendation of the Finance Director that the City Council approve a second amendment to the MuniServices, LLC agreement (C2005-158) to extend the term for an additional three years to July 12, 2013 to provide Sales and Use Tax Audit and Consulting Services to the City of Torrance, on a contingency basis, at a rate of 15% to 20% of sales tax revenues recovered.

FUNDING

Not Applicable

BACKGROUND

The City has used MuniServices since July 1988. The consulting service is contingency based on sales tax recovered through their efforts. MuniServices provides these sales tax services to over 150 clients in California, including nine of the largest ten taxing agencies.

Since the creation of the Audit Division in 1999 and as City staff gained more experience in this area, MuniServices role shifted to more of a backup position. MuniServices has a large number of clients and an extensive database, which allows them an advantage over the City's Audit Division in performing more in-depth analysis for variances, misallocations of tax, etc. MuniServices can also apply audit findings they have found for other client cities to Torrance for those businesses that have a presence here. They also can handle complex tax issues and have extensive experience taking cases before the State Board of Equalization.

As their role has lessened over the last several years, staff has been successful in negotiating their contingency fee downward. In 2005 the rate was renegotiated from 25% to 20%, and with the proposed amendment the rate will be at a rate of 15% to 20%. Approximately half of the findings will be billed at the rate of 20%, and the remainder, businesses that misallocates for only one quarter, will be billed at 15%.

Staff has made inquiries of other cities and professionals involved with sales tax auditing and investigated other consultants to determine if MuniServices is the most appropriate selection for the City. They have one large competitor in the marketplace, but staff believes that MuniServices has a stronger sales tax auditing program. MuniServices pursues more complicated cases and their positive interactions with Board of Equalization staff generate corrections more quickly. There are smaller competitors, but staff believes that they would not be able to provide the highest level of service and not identify many additional tax misallocations beyond what the Audit Division is currently doing.

MuniServices has provided a high level of service to the City for over 20 years and having them serve as backup auditors to the City is working well; therefore, staff is recommending that your Honorable Body approve the three-year extension with MuniServices to continue providing sales tax audit services to the City of Torrance from July 13, 2010 – July 12, 2013.

Respectfully submitted,

Scott McDonough
Audit Manager

Concur:

Eric E. Tsao
Finance Director

LeRoy J. Jackson
City Manager

Attachments: A. 2nd Amendment to the Contract, July 13, 2010
B. Amendment to the Contract, July 20, 2008
C. Contract C2005-158

AMENDMENT TO AGREEMENT (C2005-158)

This Amendment to Agreement (C2005-158) is made and entered into as of July 13, 2010, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and MuniServices LLC, a Delaware Limited Liability Company ("CONSULTANT").

RECITALS:

A. CITY and CONSULTANT entered into an Agreement as of July 20, 2005, whereby CONSULTANT agreed to provide sales and use tax audit services. The Agreement was for a three-year term.

B. On July 20, 2008, CITY and CONSULTANT entered into an Amendment to extend the Agreement for an additional two-year term.

C. CITY is satisfied with the level of service provided by CONSULTANT.

D. Both parties wish to extend the term of the contract for an additional three year term.

AGREEMENT:

1. Paragraph 2, entitled **TERM**, is amended to read in its entirety as follows:

   "**2. TERM**
   Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through July 12, 2013."

2. Paragraph 3, entitled **"COMPENSATION"** is amended to read in its entirety as follows:

   "**3. COMPENSATION**

   CONSULTANT'S Fee.

   CONSULTANT will be paid a contingency fee for its services on a sliding scale as fully set forth in Exhibit B entitled Sales and Use Tax Audit (SUTA) SALES/USE TAX ANLYSIS & REPORTING SERVICE (STARS) Agreement which is attached to this Amendment.

3. In all other respects, the Agreement entered into as of July 20, 2005 and the Amendment dated July 20, 2008 between CITY and CONSULTANT are ratified and reaffirmed and are in full force and effect.

CITY OF TORRANCE,
a municipal corporation

By: _____
Frank Scotto,
Mayor

ATTEST:

By: _____
Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

MuniServices LLC
a Delaware Limited Liability Company

By: _____
Marc Herman
President

AMENDMENT TO AGREEMENT (C2005-158)

This Amendment to Agreement (C2005-158) is made and entered into as of July 20, 2008, by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and MuniServices LLC, a Delaware Limited Liability Company ("CONSULTANT").

RECITALS:

A. CITY and CONSULTANT entered into an Agreement as of July 20, 2005, whereby CONSULTANT agreed to provide sales and use tax audit services.

B. The Agreement was for a three-year term ~~with one option for a two-year renewal.~~ MH

C. Both parties now desire to extend the Agreement for the additional two-year term.

AGREEMENT:

1. Paragraph 2, entitled **TERM**, is amended to read in its entirety as follows:

   "2. **TERM**
   Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through July 19, 2010."

2. In all other respects, the Agreement entered into as of July 20, 2005, between CITY and CONSULTANT is ratified and reaffirmed and is in full force and effect.

3. The person(s) executing this Amendment on behalf of the CONSULTANT warrant that (i) the CONSULTANT is duly organized and existing; (ii) they are duly authorized to execute this Amendment on behalf of the CONSULTANT;(iii) by so executing this Amendment , the CONSULTANT is formally bound to the provisions of this Amendment; and

C2005-158

[37202_1.DOC]

COPY

(iv) the entering into this Amendment does not violate any provision of any other agreement to which the CONSULTANT is bound

CITY OF TORRANCE,
a municipal corporation

By: _____
Frank Scotto,
Mayor

MuniServices LLC
a Delaware Limited Liability Company

By: _____
Marc Herman
President

ATTEST:

By: _____
Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

[37202_1.DOC]

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of July 20, 2005 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and MBIA MuniServices Company ("CONSULTANT").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to perform sales and use tax audit services.

B. CONSULTANT represents that it is qualified to perform those services.

AGREEMENT:

1. **SERVICES TO BE PERFORMED BY CONSULTANT**
CONSULTANT will provide the services listed in the Scope of Services attached as Exhibit A. For purposes of this Agreement Exhibit A shall include Exhibits A-1 and A-2. CONSULTANT warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

2. **TERM**
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through July 19, 2008.

3. **COMPENSATION**
CONSULTANT's Fee.

CONSULTANT will be paid a contingency fee for its services of twenty percent (20%) of new sales/use tax revenue received by the CITY as a result of CONSULTANT'S detecting, documenting and correcting point-of-sale taxpayer errors/omissions as set forth in Exhibit A.

C2005-158

COPY

4. TERMINATION OF AGREEMENT

A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.

2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONSULTANT will:

   a. cease operations as directed by CITY in the notice;
   b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
   c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

3. In case of such termination for CITY's convenience, CONSULTANT will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.

2. In the event this Agreement is terminated for cause by the default of the CONSULTANT, the CITY may, at the expense of the CONSULTANT and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONSULTANT under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONSULTANT and its surety from liability for the default. Under these circumstances, however, the CONSULTANT and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONSULTANT or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONSULTANT or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONSULTANT's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONSULTANT has been given notice and an opportunity to present evidence in mitigation.

D. Effect of Termination.

Notwithstanding non-renewal or termination of this Agreement pursuant to Sections A, B, and C above, CITY shall be obligated to pay MMC for services performed through the effective date of termination for which MMC has not been previously paid. In addition, because the services performed by MMC prior to termination may result in CITY's receipt of revenue after termination which are subject to MMC's fee in accordance with each applicable Addendum, CITY shall remain obligated after termination to provide to MMC such information as is necessary for MMC to calculate the compensation due as a result of this receipt of revenue by CITY and CITY shall remain obligated to pay MMC's invoices therefore in accordance with the terms of this Agreement.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to

perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONSULTANT authorizes CITY to deduct from any amount payable to CONSULTANT (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate CITY for any losses, costs, liabilities, or damages suffered by CITY, and all amounts for which CITY may be liable to third parties, by reason of CONSULTANT's negligent acts or omissions or willful misconduct in performing or failing to perform CONSULTANT's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONSULTANT, or any indebtedness exists that appears to be the basis for a claim of lien, CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONSULTANT to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**

Ken Flewellyn, Assistant Finance Director is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONSULTANT.

8. **CONSULTANT REPRESENTATIVE(S)**

The following principal(s) of CONSULTANT are designated as being the principal(s) and representative(s) of CONSULTANT authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Marc Herman, President
Kevin Cerutti, CFO

9. **INDEPENDENT CONTRACTOR**

The CONSULTANT is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the CONSULTANT or any of the CONSULTANT's employees, except as otherwise set forth in this Agreement. The CONSULTANT may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The CONSULTANT must obtain a City business license prior to the start of work under this Agreement, unless CONSULTANT is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**
CONSULTANT warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**
By executing this Agreement, CONSULTANT warrants that CONSULTANT (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONSULTANT warrants that CONSULTANT has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONSULTANT discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONSULTANT must immediately inform CITY of that fact and may not proceed except at CONSULTANT's risk until written instructions are received from CITY.

13. **CARE OF WORK**
CONSULTANT must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

14. **CONSULTANT'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**
Records of the CONSULTANT's time pertaining to the project, and records of accounts between CITY and the CONSULTANT, will be kept on a generally recognized accounting basis. CONSULTANT will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to CITY during normal working hours. CONSULTANT will maintain these records for three years after final payment.

15. **INDEMNIFICATION**
CONSULTANT will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONSULTANT, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONSULTANT's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by

CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONSULTANT will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONSULTANT will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of CITY will be personally liable to CONSULTANT, in the event of any default or breach by the CITY or for any amount that may become due to CONSULTANT.

17. INSURANCE

A. CONSULTANT must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:

   a. Primary Bodily Injury with limits of at least $500,000 per person, $1,000,000 per occurrence; and

   b. Primary Property Damage of at least $250,000 per occurrence; or

   c. Combined single limits of $1,000,000 per occurrence.

2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least $1,000,000 per occurrence.

3. Professional liability insurance with limits of at least $1,000,000 per occurrence.

4. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least $1,000,000.

B. The insurance provided by CONSULTANT will be primary and non-contributory.

C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.

D. CONSULTANT must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.

E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. **SUFFICIENCY OF INSURERS AND SURETIES**

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the CONSULTANT agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONSULTANT will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

19. **CONFLICT OF INTEREST**

A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.

B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. **NOTICE**

A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.

3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

CONSULTANT:

Marc Herman, President
MBIA MuniServices Company
7335 N. Palm Bluffs Ave.
Fresno, CA 93711
Fax: (559) 312-2830

CITY:

City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. **PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or CONSULTANT without the prior written consent of the other.

22. **INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. **INTERPRETATION**
The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. **SEVERABILITY**
If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. **TIME OF ESSENCE**
Time is of the essence in the performance of this Agreement.

26. **GOVERNING LAW; JURISDICTION**
This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. **COMPLIANCE WITH STATUTES AND REGULATIONS**
CONSULTANT will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. **WAIVER OF BREACH**
No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. **ATTORNEY'S FEES**
Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. **EXHIBITS**
All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. **CONSULTANT'S AUTHORITY TO EXECUTE**
The person(s) executing this Agreement on behalf of the CONSULTANT warrant that (i) the CONSULTANT is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONSULTANT; (iii) by so executing this Agreement, the CONSULTANT is formally bound to the provisions of this Agreement;

and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONSULTANT is bound.

CITY OF TORRANCE,
a Municipal Corporation

Dan Walker, Mayor

~~LeRoy J. Jackson, City Manager~~
Sue Herbers, CMC - City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By:

MBIA MuniServices Company

By:
Marc Herman
President

Attachments: Exhibit A Scope of Services

Revised: 1/30/01

EXHIBIT A

SCOPE OF SERVICES

Exhibit A	Sales and Use Tax Audit (SUTA) Agreement
Exhibit A-1	Sales and Use Tax Audit (SUTA) Addendum
Exhibit A-2	Sales and Use Tax Audit (SUTA) Second Addendum

EXHIBIT A

SALES AND USE TAX AUDIT (SUTA) AGREEMENT

OBJECTIVES AND METHODS

MMC's sales and use tax audit service is designed to maximize the City's income - and minimize the cost of lost revenue - by detecting and documenting misallocations of Bradley-Burns sales tax and local use tax activity within the statute of limitations on recoverability.

In performing the sales and use tax audit program MMC shall:

- Identify and correct the sales/use tax reporting errors of businesses that, based on the nexus of their activities, are not properly registered to the City with the State Board of Equalization.
- Identify and correct the reporting of businesses that are improperly reporting tax to state and county pools (e.g. classifying sales tax as use tax) and thereby depriving the City of sales tax revenue.
- Detect, document and correct sales/use tax reporting errors/omissions and thereby generate new, previously unrealized revenue for the City.
- Ensure through comprehensive audit measures that the revenue information used for ongoing economic analysis includes all sales/use tax generators.
- Assist the City with strategies to preserve and even enhance sales and use tax revenue generated by existing businesses within the City.

MMC's proposed sales/use tax allocation audit services for the City includes four distinct types of audit reviews:

- Taxable Nexus Field
- Permitization
- Deficiency assessment
- Quarterly Distribution Report

TAXABLE NEXUS FIELD REVIEWS

MMC's initial and periodic taxable nexus field audit reviews include a physical canvassing and evaluation of sales/use tax generating businesses located in the City. In the absence of this undertaking, significant misallocations will remain undetected. MMC's field audits focus on those businesses located in the City from which the City has not been receiving sales/use tax revenue. The result is new or 'found' revenue for the City.

PERMITIZATION REVIEWS

Wholesalers, contractors, processors, manufacturers and other non-retail businesses will frequently not have a sales tax permit properly registered to the City in which they are located

because their business operations do not include a point-of-sale qualifying activity. However, these companies will often generate local sales/use tax from the State Board of Equalization (SBE) audit deficiency assessments, occasional sales (i.e., mergers and acquisitions), and self-accrual of use tax on purchases. MMC's field audit reviews facilitate the identification and correction of improperly registered permits for companies having point-of-sale operations in the City.

DEFICIENCY ASSESSMENT REVIEWS

When the California State Board of Equalization audits taxpayers for sales/use tax compliance, it is not uncommon for the taxpayer to receive a substantial deficiency assessment due to underpayments and/or under-collections. In many cases, the local allocation portion of the deficiency assessment is distributed in error to the State pool, county pools, or other jurisdictions. Accordingly, MMC has developed proprietary criteria and techniques to detect and correct SBE deficiency assessment misallocations and thus expand the benefits produced by MMC's allocation audit service.

QUARTERLY DISTRIBUTION REPORT REVIEWS

Every three months, the City and MMC receive a Quarterly Distribution Report (QDR) from the SBE with the local allocation amount reflected by permit number.

MMC's QDR audits detect and correct taxpayer reporting errors and thereby generate new, previously unrealized sales/use tax revenue for the City. MMC's QDR audits focus on those accounts where MMC observes a substantial decline in the sales/use tax revenue allocation for a particular business entity in a given quarter. In most cases, accounts showing zero balances have either relocated or simply reported late, in which case the payments will not be reflected until the next quarter's QDR. Therefore, six months must lapse before the QDRs indicate whether a zero balance account can be attributed to a late payment or a misallocation.

Cities and counties may only recover misallocated Bradley-Burns sales tax revenue for three quarters prior to the SBE being notified of the reporting error. Therefore QDR audit reviews must be conducted in a timely manner in order to preserve the opportunity for the City to recover misallocated revenue. MMC shall conduct the QDR audit each and every quarter to minimize the potential of lost revenue to the City.

SUTA DETECTION AND DOCUMENTATION

MMC shall represent the City for purposes of examining SBE records pertaining to sales and use tax to identify errors and omissions. MMC's procedures for detecting and documenting misallocations are as follows:

- Review applicable provisions of the City's municipal code and ordinance adopted by the City to determine applicability.
- Procure a computer tape of sales/use tax permit records from the State Board of Equalization (SBE).
- Analyze sales tax distribution reports provided by the SBE for five or more of the most recent consecutive quarters.

- Clean-up, standardize and computerize data from City's quarterly sales tax distribution reports provided by SBE for previous quarters, current quarter and each future quarter service is provided.
- Prepare an aggregated list of business entities on electronic media; this list is derived from multiple private and public sources (hard copy and electronic), including specialized business listings, directories, and the City's sales and use tax payment files.
- Clean, standardize and integrate, in address-order, each entity's business name, address and payment file information, to eliminate redundancies, using MMC's proprietary software.
- Physically canvas commercial/industrial area within the City's borders.
- Develop a target list of potential point of sale/use reporting errors/omissions based on:
  1) An electronic comparison of MMC's comprehensive inventory against the SBE's quarterly distributions for the City, and
  2) An analysis of each potentially misallocated account based on proprietary guidelines established by MMC.
- Meet with designated City official(s) to review service objectives and scope, MMC workplan schedule, public relations and logistical matters.
- Contact personnel in sales, operations and/or tax accounting at each target business to determine whether a point-of-sale/use reporting error exists. (Note: this is accomplished with the highest regard to discretion and professional conduct. MMC's allocation audits are predicated on a non-controversial, constructive public relations approach which emphasizes the importance of each business to the City and the mutual benefits of correcting reporting errors.)
- Provide to the City and SBE reports addressing each taxpayer reporting error individually, including the business name, address, telephone number, California sales tax permit number, individuals contacted, date(s) of contact, nature of business, reason(s) for error, recommended corrective procedure and, if available, estimated sales/use tax revenue which should be forthcoming to the City.
- MMC may also provide suggested language for letters to be sent to the taxpayers and/or SBE from the City (or from MMC on behalf of the City) urging cooperation in promptly correcting the distribution error.
- Respond to negative findings by SBE with timely reconfirmation documentation in order to preserve the City's original dates of knowledge.
- Receive and process registration control record information monthly.
- Receive and process sales tax distribution reports quarterly.
- Coordinate with the taxpayer and State Board of Equalization to make the necessary corrections and collect eligible back quarters amounts.
- Monitor and analyze the quarterly distribution reports with an audit focus on the following:

1) Accounts with previously reported point-of-sale/use distribution errors to ensure that the corrections are made for current quarters and all eligible back quarters.

2) Major accounts comprising 90% or more of the City's total sales tax revenue to identify any irregularities or unusual deviations from the normal pattern (e.g. negative fund transfers, significant decreases, unusual increases, etc.) and ensure that the City is not receiving less revenue than it is entitled to.

3) Those accounts receiving deficiency assessments to ensure that the City receives its local allocation

- MMC shall also implement a "Use Tax Revenue Enhancement Program" (also referred to as a "Business Cooperation Program") to include the following steps to increase cooperation of businesses in the City in reporting their use taxes in such a way as to maximize local revenue to the City.

  1. On a case by case basis for businesses mutually agreed to by the City and MMC to be reviewed, MMC shall identify businesses within the City that meet the profile of being likely to have significant amounts of self-accrued use tax potentially to include major construction projects in the City.

  2. Meet with the City to review the findings identified above and determine based on mutual agreement between MMC and the City which businesses shall be subject to the following additional services:

     a. Meet with those businesses identified in 2 above to analyze their purchasing, accounting, and tax reporting processes to determine if opportunity for the business to locally accrue and report tax to the City exists;

     b. Evaluate the business level of cooperation expressed during the meeting;

     c. Persuade interested businesses to implement the necessary changes and planning ideas to increase local tax accrual and reporting;

     d. Monitor the results;

     e. Report on activities and additional tax revenue generated for the City.

DELIVERABLES

A. No more frequently than quarterly, MMC shall provide the City with the following:

1. Status of work in progress (MMC refers to this as the "Open Account Status Report") regarding accounts for whom the anticipated quarterly correction amount will exceed ten thousand dollars ($10,000) or more. MMC will also add to their standard report a brief comment section for each account that will address any problems encountered (i.e. problems with taxpayer, BOE, district offices) that might impede the correction of the misallocated account. If no problems are encountered with an individual account then this section of the report will be left blank for said account.

2. Copies of reports provided to SBE addressing each point-of-sale taxpayer reporting error individually including the business name, address, telephone number, California sales tax permit number, individuals contacted, date(s) of contact, nature of business, reason for error, and recommended corrective procedure. Listing shall be provided in hardcopy format and also be delivered in PDF format electronically. This particular report is not currently available in Excel Spreadsheet format, but will be delivered in Excel format when available..

3. Copies of SBE's written acknowledgment, if available, of all misallocation inquiries submitted on behalf of City by MMC, regardless of whether the request for reallocation was approved or denied.

4. Projected sales/use tax revenue forthcoming to City as a result of MMC's allocation audits, delineated by entity, timing of expected receipts, and one-time versus ongoing.

5. Listing of all businesses contacted as part of the "Use Tax Revenue Enhancement Program" during the previous quarter, results of each contact, what stage of the program each contacted business is at, and revenue generated by the program.

6. Listing of all businesses proposed to be contacted as part of the "Use Tax Revenue Enhancement Program" in the current quarter or more frequently if agreed to by both parties.

B. All deliverables identified in this Agreement shall be submitted to City's representative according to the following schedule:

1. Annual: Within 30 days following the close of City's fiscal year which commences July 1 and ends June 30.

2. Quarterly: Within 30 days following the close of the quarter.

COROLLARY CONSULTING

Upon mutual agreement between MMC and the CITY as to the scope of services to be provided, MMC shall provide to CITY such additional consulting services as CITY may request. Consulting services otherwise included in this Agreement will not be subject to MMC's fees for Corollary Consulting as set forth below.

SUTA DETECTION TIMING CONSIDERATIONS

For each misallocated account detected, MMC will coordinate with the business and SBE to make the necessary corrections plus retroactive adjustments for eligible amounts of sales/use tax improperly distributed in prior quarters. MMC coordinates and communicates between typically four parties; sales/operations personnel at the taxpayer's local operation, tax personnel at the company's corporate headquarters, and State Board of Equalization personnel and the in-state/out-of-state district offices. Correction of the account is considered to have been made once

the payments on identified taxpayer accounts are being properly allocated by the taxpayer to the City for the period for which the payment was made.

As needed, MMC will represent the City before state officials, boards, commissions and committees for the purpose of correcting sales tax distribution errors that have deprived the City of revenue to which it is entitled.

TIMING

MMC shall commence auditing the sales/use tax and preparing the sales tax Query System within 10 working days of receipt of a fully executed contract and Confidentiality Resolution designating MMC as the authorized City Consultant to examine sales and use tax records.

CONFIDENTIALITY PROVISIONS

MMC is authorized by this Agreement to examine sales tax and use tax records of the State Board of Equalization provided to City pursuant to contract under the Bradley-Burns Uniform Sales and Use Tax Law and California Revenue & Taxation Code applicable to transactions and use taxes.

MMC is required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.

MMC is prohibited from performing consulting services for a retailer during the term of this Agreement.

MMC is prohibited from retaining the information contained in, or derived from, those sales and use tax records, after this Agreement has expired.

This Agreement, and MMC's and CITY's obligations with respect to confidentiality of taxpayer data pursuant to the Bradley Burns Revenue and Taxation Code, shall continue until final payment for all services rendered hereunder.

PAYMENT

In order to make the proposed services self-funding for the City of Torrance, MMC's compensation for providing the initial and ongoing sales/use tax reviews and information service is entirely contingent upon MMC's ability to produce new sales/use tax revenue for City.

SALES/USE TAX CORRECTIONS

When MMC's service produces corrected allocations of new sales/use tax revenue for City, MMC's compensation shall be a contingency fee of 20% of new sales/use tax revenue received by City as a result of MMC detecting, documenting, and correcting point-of-sale taxpayer reporting errors/omissions. Said fee applies to each correction for fund transfers following detection of the misallocations by MMC and confirmation of the correction by SBE. The maximum number of economic quarters for which MMC shall be compensated for any given taxpayer shall not exceed nine (9) consecutive economic quarters (except for QDR deficiencies and as discussed below). Economic quarter is defined as a quarter for which the taxpayer is liable for the tax and is used interchangeably with the word "quarter". The nine consecutive quarters include the three (3) quarters prior to the Date of Knowledge (as the term is defined by the Board of Equalization), the quarter in which the misallocation is documented and MMC establishes a Date of Knowledge,

and the five (5) consecutive quarters following the Date of Knowledge. In the event the SBE only makes a correction on a prospective basis or on only partial backquarters, MMC shall be entitled to compensation for the first nine (9) consecutive quarters beginning with, and including, the quarter in which the correction was funded and for which additional new revenues are received by the City (see Exhibit A-1 for billing examples). When SBE written confirmation is available, MMC shall provide documentation upon City request. Disputes regarding the appropriate level of compensation on a particular invoice or part thereof will be resolved prior to payment of the disputed item by the City.

MMC understands and agrees that the business (including (QDR) audit misallocations) for which an error and/or omission is identified and a claim filed with the SBE must have been misallocating sales and use tax on its tax return for at least one (1) quarter prior to the quarter in which MMC provides notice to the SBE of the particular error and/or misallocation in order for MMC to be compensated for the account. In addition, MMC must have detected and notified the SBE of the misallocation account (including (QDR) audit misallocations) at least one (1) quarter prior to City's notification of SBE for the same account. The following table illustrates the timing and intent of a one-quarter wait period imposed on MMC.

Economic Quarter (Transaction date)	4Q04
Reporting Quarter (Tax Return filed)	1Q05
Information Quarter (Review SBE data)	2Q05
Submission Quarter	3Q05

MMC shall hold submissions of QDR errors to the SBE for one full calendar quarter following the availability of the tax return data. For example, during Calendar Quarter 2Q05, MMC is examining the 4Q04 tax-return data. MMC will provide the City one quarter additional quarter prior to submitting QDR errors as illustrated in the above table. In the above example, any submission later than 3Q05 cannot establish a valid date of knowledge for a transaction that occurred in 4Q04.

For Quarterly Distribution Report (QDR) audit misallocations, MMC will be compensated at 20% upon correction of the misallocation for the quarters identified in the inquiry filed with the State Board of Equalization. In the event that MMC generates at least two million dollars during the fiscal year, MMC's QDR rate shall drop to 15% for one subsequent year.

In the event that MMC's services hereunder require MMC to file an appeal to the Local Tax Appeals Auditor or above, MMC's compensation shall be a contingency fee of twenty percent (20%) of the new sales/use tax revenues produced for CITY for the economic quarter in which the Date of Knowledge is established, the three (3) economic quarters immediately preceding the Date of Knowledge quarter, all subsequent quarters up to and including the quarter in which the misallocation is corrected (Date of Correction) and for six (6) economic quarters after the Date of Correction. The total number of consecutive quarters will not exceed sixteen (16). As used herein, the Date of Correction refers to the quarter in which the taxpayer has correctly reported the local tax and the SBE distributes the local tax properly to City based on the taxpayer's reporting, together with any prior period reallocations.

USE TAX CORRECTIONS

Under California State Board of Equalization Regulation 1699.6, Use Tax Direct Payment Permits, taxpayers meeting certain criteria may self-assess and directly report local use tax by situs to the jurisdiction under whose ordinance the tax is levied. When a taxpayer reports its local use tax to the pools instead of situs, the SBE does not consider it a misallocation. However, from City's perspective it is a misallocation because it causes City to be deprived of the use tax revenue to which it is entitled.

When MMC detects, documents and corrects a scheduled misallocation of use tax based on its research analysis, MMC shall only be entitled to compensation for the scheduled misallocation in the quarter(s) in which the transaction takes place. This restriction does not apply to compensation in the "Use Tax Revenue Enhancement Program Accounts" section below, in that they are based upon prospective new, ongoing use tax revenue to the City as opposed to the one-time correction of already recorded transactions addressed in this section of the contract.

USE TAX REVENUE ENHANCEMENT PROGRAM ACCOUNTS

When MMC obtains agreement from a business to enter into a "Use Tax Revenue Enhancement Program" that will bring additional sales/use tax revenue to the City, the business may restructure its internal purchasing or selling procedures and/or begin to self-accrue the "use" tax. Since all additional revenue will be prospective, MMC shall be eligible to receive compensation for the first nine (9) quarters prospectively starting with the first quarter of additional revenue from the business, but in no case more than nine (9) quarters. The rate of compensation shall be 20% of net additional sales/use tax revenue received by the City as a result of the UTREP except when the additional revenue comes from the countywide or statewide pools whereupon MMC shall make the appropriate adjustment so that its compensation only applies to the net new revenue after any applicable incentives and/or rebates. This is distinct from "Use Tax Corrections" above, in that it is based upon prospective new, ongoing use tax revenue to the City as opposed to the one-time correction of already recorded transactions addressed in that section of this contract.

As documentation for compensation of use tax corrections MMC shall provide City with a copy of the inbound fax from the taxpayer, the purchase order, or the invoice forwarded by the taxpayer to MMC, to match the outbound fax sent by MMC to the taxpayer, whereby MMC instructs the taxpayer to properly report the tax by situs based on MMC's research and analysis of the subject transaction. MMC shall summarize all invoices or purchase orders for each taxpayer by reference number and attach the outbound faxes as documentation. MMC shall indicate the reporting quarter for the use tax reported by the taxpayer. All invoice and purchase order dates must be prior to the end of the reporting quarter.

AUDIT EFFICIENCY CREDITS

MMC shall modify its billing to Torrance by offering Audit Efficiency Credits (AECs) to be applied against the sales/use tax audit billings. The AECs will be offered on a sliding scale, whereby the City receives a progressively larger AEC as MMC's sales/use tax audit billings progress through specified dollar amount ranges. At the inception of the new contract, the AEC shall accumulate for an entire billing year (4 quarterly sales/use tax billings) and then restart each year. The attached table (Exhibit A-2) reflects the proposed offer to the City of Torrance to modify MMC's Sales/Use Tax Audit billing.

NEGATIVE ADJUSTMENTS

MMC shall notify City whenever MMC submits a finding or claim for another jurisdiction, or several findings or claims for another jurisdiction that, in the aggregate, if accepted by SBE, it is reasonably foreseeable would result in a reduction in quarterly sales tax revenue (including amounts removed from the Los Angeles Countywide Pool) to City of ten thousand dollars ($10,000) or more. MMC will exercise its best efforts to notify City so that the potential impact to City's budget may be evaluated.

BACKSTOP AUDIT PROGRAM

MMC shall provide its sale/use tax review service to City as a "safety net" or "backstop" to City's internal audit program. Under this program, MMC is only eligible to earn compensation if it detects and documents in writing to SBE each individual error/omission at least one (1) calendar quarter prior to City doing so. In the event that MMC detects and documents in writing to SBE an error/omission in the same quarter that City staff first detects and documents such an error/omission in writing to SBE, MMC will not be entitled to receive compensation for such detection and documentation.

No less than five (5) days prior to the end of each calendar quarter, City shall provide MMC with a listing of City's written notifications to the SBE of detected misallocations for the current Date of Knowledge quarter. MMC shall track City's submissions and shall not duplicate any City efforts, pursue correction on behalf of City identified accounts, or seek compensation for misallocations detected by the City for which the City has established a Date of Knowledge in the same or a prior quarter from MMC.

MMC shall be held harmless for detected misallocations made by City that are not submitted by City in the prescribed time and that result in a loss of sales/use tax revenue to City.

In the event that City identifies, documents, and notifies the State Board of Equalization of a reporting error or misallocation as those terms are used herein, City agrees to notify MMC of City's discovery no later than five (5) days prior to the end of the quarter. If City fails to so notify MMC and MMC later detects, documents, and reports the misallocation or reporting error to the State Board of Equalization then MMC shall be entitled to compensation for the affected account in accordance with this Agreement. MMC shall also be compensated for sales and use tax accounts that have existing and established dates of knowledge at the effective date of this Agreement, and in accordance with this Agreement, if and when they are corrected by the Board.

In the event the City documents in writing to the SBE an error/omission that the SBE refuses to correct, and the City feels they have a legitimate claim, MMC is open to assisting the city with the correction at a pre-negotiated reduced rate.

BILLING/SERVICE CONFLICTS – MULTIPLE VENDORS

It is expressly recognized that the City can contract with another vendor for similar services. The vendor who establishes the first Date of Knowledge and provides the City with sufficient documentation is entitled to receive compensation thereon.

COROLLARY CONSULTING

For any agreed scope of services to be performed by MMC for CITY as Corollary Consulting as provided for herein, MMC shall be compensated on a Time and Materials basis. MMC's standard hourly rates are as follows:

Principal - $175/hour
Director - $150/hour
Manager - $125/hour
Senior Analyst - $100/hour
Analyst - $75/hour
Administrative Support - $50/hour

All reimbursable expenses shall receive prior approval from the CITY and shall be reimbursed at cost to MMC.

EXHIBIT A - 1

SALES AND USE TAX AUDIT (SUTA) ADDENDUM

For the following examples, please refer to the diagrams below.

The examples assume that MMC shall only receive compensation if and when City receives additional revenue as a result of the claim filed by MMC and confirmed by SBE. In no event shall MMC be compensated for more than nine (9) consecutive quarters, with the exception of (i) Example 3, where the City receives additional revenue only for the quarter in which the claim is filed, the quarter in which the confirmation of correction is made and seven (7) prospective consecutive quarters, for a total number of quarters not to exceed nine (9), or (ii) where the City receives a retroactive payment thereafter for one or more of the eligible nine quarters.

EXAMPLE 1

For example, if MMC files a claim with the SBE in the fourth quarter (QTR 4) and the SBE makes a confirmation of correction in QTR 4, MMC would be entitled to compensation for the three quarters preceding the quarter in which the claim was filed with the SBE (QTRS 1, 2, and 3), the quarter in which the claim was filed with the SBE (QTR 4) and for the next five (5) consecutive quarters following the quarter in which the claim was filed with the SBE (QTRS 5-9). MMC shall not be entitled to compensation for any additional revenue received by City for quarter ten (10) and thereafter.

Quarterly Sales Tax Payments								
1 $	2 $	3 $	4 $	5 $	6 $	7 $	8 $	9 $
Three Quarters Prior to Claim Filed			Claim Filed & SBE Conf.	5 Consecutive Quarters After Claim Filed/SBE Conf.				

* SBE Conf. refers to SBE confirmation of correction

EXAMPLE 2

Similarly, if the SBE makes a confimation of correction in quarter 6 (QTR 6), then MMC would be compensated for the quarter in which the claim was filed with the SBE (QTR 4), the three quarters preceding the quarter in which the claim was filed with the SBE (QTRs 1, 2, and 3), and for the five (5) consecutive quarters following the quarter in which the claim was filed with the SBE.

<table>
<tr><td colspan="9">Quarterly Sales Tax Payments</td></tr>
<tr><td>1
$</td><td>2
$</td><td>3
$</td><td>4
$</td><td>5
$</td><td>6
$</td><td>7
$</td><td>8
$</td><td>9
$</td></tr>
<tr><td colspan="3" rowspan="3">Three Quarters Prior to Claim Filed</td><td rowspan="3">Claim Filed</td><td></td><td>SBE Conf.</td><td colspan="3"></td></tr>
<tr><td colspan="5">5 Consecutive Quarters After Claim Filed</td></tr>
<tr><td colspan="5"></td></tr>
</table>

EXAMPLE 3

In the preceding Example 2, if the claim is filed in quarter 4 (QTR 4) and SBE makes a confirmation of correction in quarter 6 (QTR 6), but no additional revenues are received for the three quarters preceding the quarter in which the claim is filed with the SBE (QTRS 1, 2, and 3), or for one quarter after the claim was filed with the SBE (QTR 5), then MMC shall be compensated for the quarter in which the claim was filed with the SBE (QTR 4) the quarter in which the SBE confirmed the correction (QTR 6), and the seven (7) consecutive quarters following the confirmation of correction (QTRs 7-13), for a total of nine (9) quarters (QTRS 4, 6, and 7-13).

Quarterly Sales Tax Payments												
1	2	3	4	5	6	7	8	9	10	11	12	13
$	$	$	$	$	$	$	$	$	$	$	$	$
No Revenues Received			Claim Filed		SBE Conf.	7 Consecutive Quarters After Confirmation of Correction for a total of nine (9) quarters (QTRS 4, 6, and 7-13)						

EXAMPLE 4

In the preceding Example 2, if the SBE makes a confirmation of correction in quarter 6 (QTR 6), but no additional revenues are received by MMC for any preceding quarter with respect to this correction, then MMC shall be compensated for the nine (9) consecutive quarters beginning with, and including, the quarter in which the correction was confirmed and for which additional new revenues were received by the City (QTRS 6-14).

Quarterly Sales Tax Payments													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
$	$	$	$	$	$	$	$	$	$	$	$	$	$
No Revenues Received			Claim Filed		SBE Conf.								
					Nine Consecutive Quarters Including Quarter in which the Confirmation of Correction is Made								

EXHIBIT A - 2

SALES AND USE TAX AUDIT (SUTA) SECOND ADDENDUM

TABLE OF AUDIT EFFICIENCY CREDITS (AECs)

The chart below depicts ranges of MMC sales/use tax audit recoveries & the associated Audit Efficiency Credit (AEC) earned by the City against MMC billings

Sales Tax AUDIT RECOVERIES	Current MMC AUDIT BILLINGS	ANNUAL AEC	Adjusted MMC Billings	Adjusted Billing Rate	Fee Reduction
$ 75,000 to $ 562,495	$ 15,000 to $ 112,499	$ 6,000	$ 9,000 to $106,499	12.0% to 18.9%	40.0% to 5.3%
$ 562,500 to $ 1,122,495	$ 112,500 to $ 224,499	$ 12,000	$100,500 to $212,499	17.9% to 18.9%	10.7% to 5.3%
$ 1,125,000 to $ 1,624,995	$ 225,000 to $ 324,999	$ 18,800	$206,200 to $306,199	18.3% to 18.8%	8.4% to 5.8%
$ 1,625,000 to $ 2,124,995	$ 325,000 to $ 424,999	$ 26,400	$298,600 to $398,599	18.4% to 18.8%	8.1% to 6.2%
$ 2,125,000 to $ 2,624,995	$ 425,000 to $ 524,999	$ 34,800	$390,200 to $490,199	18.4% to 18.7%	8.2% to 6.6%
$ 2,625,000 to $ 3,124,995	$ 525,000 to $ 624,999	$ 44,000	$481,000 to $580,999	18.3% to 18.6%	8.4% to 7.0%
$ 3,125,000 to $ 3,624,995	$ 625,000 to $ 724,999	$ 54,000	$571,000 to $670,999	18.3% to 18.5%	8.6% to 7.4%
$ 3,625,000 to $ 4,124,995	$ 725,000 to $ 824,999	$ 64,800	$660,200 to $760,199	18.2% to 18.4%	8.9% to 7.9%
$ 4,125,000 to $ 4,624,995	$ 825,000 to $ 924,999	$ 76,400	$748,600 to $848,599	18.1% to 18.3%	9.3% to 8.3%
$ 4,125,005 to $ 5,124,995	$ 825,001 to $ 1,024,999	$ 88,800	$736,201 to $936,199	17.8% to 18.3%	10.8% to 8.7%

EXHIBIT B
SALES AND USE TAX AUDIT (SUTA)
SALES/USE TAX ANALYSIS & REPORTING SERVICE (STARS)

Objectives And Methods

MuniServices's sales and use tax audit service is designed to maximize the City's income - and minimize the cost of lost revenue - by detecting and documenting misallocations of Bradley-Burns sales tax and local use tax activity within the statute of limitations on recoverability.

In performing the sales and use tax audit program MuniServices shall:

- Identify and correct the sales/use tax reporting errors of businesses that, based on the nexus of their activities, are not properly registered to the City with the State Board of Equalization.
- Identify and correct the reporting of businesses that are improperly reporting tax to state and county pools (e.g. classifying sales tax as use tax) and thereby depriving the City of sales tax revenue.
- Detect, document and correct sales/use tax reporting errors/omissions and thereby generate new, previously unrealized revenue for the City.
- Ensure through comprehensive audit measures that the revenue information used for ongoing economic analysis includes all sales/use tax generators.
- Assist the City with strategies to preserve and even enhance sales and use tax revenue generated by existing businesses within the City.

MuniServices's proposed sales/use tax allocation audit services for the City includes four distinct types of audit reviews:

- Taxable Nexus Field
- Permitization
- Deficiency assessment
- Quarterly Distribution Report

Taxable Nexus Field Reviews

MuniServices's initial and periodic taxable nexus field audit reviews include a physical canvassing and evaluation of sales/use tax generating businesses located in the City. In the absence of this undertaking, significant misallocations will remain undetected. MuniServices's field audits focus on those businesses located in the City from which the City has not been receiving sales/use tax revenue. The result is new or 'found' revenue for the City.

Permitization Reviews

Wholesalers, contractors, processors, manufacturers and other non-retail businesses will frequently not have a sales tax permit properly registered to the City in which they are located because their business operations do not include a point-of-sale qualifying activity. However, these companies will often generate local sales/use tax from the State Board of Equalization (SBE) audit deficiency assessments, occasional sales (i.e., mergers and acquisitions), and self-accrual of use tax on purchases. MuniServices's field audit reviews facilitate the identification and correction of improperly registered permits for companies having point-of-sale operations in the City.

Deficiency Assessment Reviews
When the California State Board of Equalization audits taxpayers for sales/use tax compliance, it is not uncommon for the taxpayer to receive a substantial deficiency assessment due to underpayments and/or under-collections. In many cases, the local allocation portion of the deficiency assessment is distributed in error to the State pool, county pools, or other jurisdictions. Accordingly, MuniServices has developed proprietary criteria and techniques to detect and correct SBE deficiency assessment misallocations and thus expand the benefits produced by MuniServices's allocation audit service.

Quarterly Distribution Report Reviews
Every three months, the City and MuniServices receive a Quarterly Distribution Report (QDR) from the SBE with the local allocation amount reflected by permit number.

MuniServices's QDR audits detect and correct taxpayer reporting errors and thereby generate new, previously unrealized sales/use tax revenue for the City. MuniServices's QDR audits focus on those accounts where MuniServices observes a substantial decline in the sales/use tax revenue allocation for a particular business entity in a given quarter. In most cases, accounts showing zero balances have either relocated or simply reported late, in which case the payments will not be reflected until the next quarter's QDR. Therefore, six months must lapse before the QDRs indicate whether a zero balance account can be attributed to a late payment or a misallocation.

Cities and counties may only recover misallocated Bradley-Burns sales tax revenue for three quarters prior to the SBE being notified of the reporting error. Therefore QDR audit reviews must be conducted in a timely manner in order to preserve the opportunity for the City to recover misallocated revenue. MuniServices shall conduct the QDR audit each and every quarter to minimize the potential of lost revenue to the City.

SUTA Detection And Documentation
MuniServices shall represent the City for purposes of examining SBE records pertaining to sales and use tax to identify errors and omissions. MuniServices's procedures for detecting and documenting misallocations are as follows:

- Review applicable provisions of the City's municipal code and ordinance adopted by the City to determine applicability.
- Procure a computer tape of sales/use tax permit records from the State Board of Equalization (SBE).
- Analyze sales tax distribution reports provided by the SBE for five or more of the most recent consecutive quarters.
- Clean-up, standardize and computerize data from City's quarterly sales tax distribution reports provided by SBE for previous quarters, current quarter and each future quarter service is provided.
- Prepare an aggregated list of business entities on electronic media; this list is derived from multiple private and public sources (hard copy and electronic), including specialized business listings, directories, and the City's sales and use tax payment files.
- Clean, standardize and integrate, in address-order, each entity's business name, address and payment file information, to eliminate redundancies, using MuniServices's proprietary software.

- Physically canvas commercial/industrial area within the City's borders.
- Develop a target list of potential point of sale/use reporting errors/omissions based on:
  1) An electronic comparison of MuniServices's comprehensive inventory against the SBE's quarterly distributions for the City, and
  2) An analysis of each potentially misallocated account based on proprietary guidelines established by MuniServices.
- Meet with designated City official(s) to review service objectives and scope, MuniServices workplan schedule, public relations and logistical matters.
- Contact personnel in sales, operations and/or tax accounting at each target business to determine whether a point-of-sale/use reporting error exists. (Note: this is accomplished with the highest regard to discretion and professional conduct. MuniServices's allocation audits are predicated on a non-controversial, constructive public relations approach which emphasizes the importance of each business to the City and the mutual benefits of correcting reporting errors.)
- Provide to the City and SBE reports addressing each taxpayer reporting error individually, including the business name, address, telephone number, California sales tax permit number, individuals contacted, date(s) of contact, nature of business, reason(s) for error, recommended corrective procedure and, if available, estimated sales/use tax revenue which should be forthcoming to the City.
- MuniServices may also provide suggested language for letters to be sent to the taxpayers and/or SBE from the City (or from MuniServices on behalf of the City) urging cooperation in promptly correcting the distribution error.
- Respond to negative findings by SBE with timely reconfirmation documentation in order to preserve the City's original dates of knowledge.
- Receive and process registration control record information monthly.
- Receive and process sales tax distribution reports quarterly.
- Coordinate with the taxpayer and State Board of Equalization to make the necessary corrections and collect eligible back quarters amounts.
- Monitor and analyze the quarterly distribution reports with an audit focus on the following:
  1) Accounts with previously reported point-of-sale/use distribution errors to ensure that the corrections are made for current quarters and all eligible back quarters.
  2) Major accounts comprising 90% or more of the City's total sales tax revenue to identify any irregularities or unusual deviations from the normal pattern (e.g. negative fund transfers, significant decreases, unusual increases, etc.) and ensure that the City is not receiving less revenue than it is entitled to.
  3) Those accounts receiving deficiency assessments to ensure that the City receives its local allocation

- MuniServices shall also implement a "Use Tax Revenue Enhancement Program" (also referred to as a "Business Cooperation Program") to include the following steps to increase cooperation of businesses in the City in reporting their use taxes in such a way as to maximize local revenue to the City.
  1. On a case by case basis for businesses mutually agreed to by the City and MuniServices to be reviewed, MuniServices shall identify businesses within the City that meet the profile of being likely to have significant amounts of self-accrued use tax potentially to include major construction projects in the City.

2. Meet with the City to review the findings identified above and determine based on mutual agreement between MuniServices and the City which businesses shall be subject to the following additional services:
   a. Meet with those businesses identified in 2 above to analyze their purchasing, accounting, and tax reporting processes to determine if opportunity for the business to locally accrue and report tax to the City exists;
   b. Evaluate the business level of cooperation expressed during the meeting;
   c. Persuade interested businesses to implement the necessary changes and planning ideas to increase local tax accrual and reporting;
   d. Monitor the results;
   e. Report on activities and additional tax revenue generated for the City.

Deliverables

A. No more frequently than quarterly, MuniServices shall provide the City with the following:

1. Status of work in progress (MuniServices refers to this as the "Open Account Status Report") regarding accounts for whom the anticipated quarterly correction amount will exceed ten thousand dollars ($10,000) or more. MuniServices will also add to their standard report a brief comment section for each account that will address any problems encountered (i.e. problems with taxpayer, BOE, district offices) that might impede the correction of the misallocated account. If no problems are encountered with an individual account then this section of the report will be left blank for said account.

2. Copies of reports provided to SBE addressing each point-of-sale taxpayer reporting error individually including the business name, address, telephone number, California sales tax permit number, individuals contacted, date(s) of contact, nature of business, reason for error, and recommended corrective procedure. Listing shall be provided in hardcopy format and also delivered in PDF format electronically. This particular report is not currently available in Excel Spreadsheet format, but will be delivered in Excel format when available.

3. Copies of SBE's written acknowledgment, if available, of all misallocation inquiries submitted on behalf of City by MuniServices, regardless of whether the request for reallocation was approved or denied.

4. Projected sales/use tax revenue forthcoming to City as a result of MuniServices's allocation audits, delineated by entity, timing of expected receipts, and one-time versus ongoing.

5. Listing of all businesses contacted as part of the "Use Tax Revenue Enhancement Program" during the previous quarter, results of each contact, what stage of the program each contacted business is at, and revenue generated by the program.

6. Listing of all businesses proposed to be contacted as part of the "Use Tax Revenue Enhancement Program" in the current quarter or more frequently if agreed to by both parties.

B. All deliverables identified in this Agreement shall be submitted to City's representative according to the following schedule:

1. Annual: Within 30 days following the close of City's fiscal year which commences July 1 and ends June 30.

2. Quarterly: Within 30 days following the close of the quarter.

Corollary Consulting
Upon mutual agreement between MuniServices and the City as to the scope of services to be provided, MuniServices shall provide to City such corollary consulting services as City may request. Consulting services otherwise included in this Addendum will not be subject to MuniServices's fees for Corollary Consulting as set forth below.

SUTA Detection Timing Considerations
For each misallocated account detected, MuniServices will coordinate with the business and SBE to make the necessary corrections plus retroactive adjustments for eligible amounts of sales/use tax improperly distributed in prior quarters. MuniServices coordinates and communicates between typically four parties; sales/operations personnel at the taxpayer's local operation, tax personnel at the company's corporate headquarters, and State Board of Equalization personnel and the in-state/out-of-state district offices. Correction of the account is considered to have been made once the payments on identified taxpayer accounts are being properly allocated by the taxpayer to the City for the period for which the payment was made.

As needed, MuniServices will represent the City before state officials, boards, commissions and committees for the purpose of correcting sales tax distribution errors that have deprived the City of revenue to which it is entitled.

Timing
MuniServices shall commence auditing the sales/use tax and preparing the sales tax Query System within 10 working days of receipt of a fully executed contract and Confidentiality Resolution designating MuniServices as the authorized City Consultant to examine sales and use tax records.

Confidentiality Provisions
MuniServices is authorized by this Agreement to examine sales tax and use tax records of the State Board of Equalization provided to City pursuant to contract under the Bradley-Burns Uniform Sales and Use Tax Law and California Revenue & Taxation Code applicable to transactions and use taxes.

MuniServices is required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.

MuniServices is prohibited from performing consulting services for a retailer during the term of this Agreement.

MuniServices is prohibited from retaining the information contained in, or derived from, those sales and use tax records, after this Agreement has expired.

This Agreement, and MuniServices's and City's obligations with respect to confidentiality of taxpayer data pursuant to the Bradley Burns Revenue and Taxation Code, shall continue until final payment for all services rendered hereunder.

Payment

In order to make the proposed services self-funding for the City of Torrance, MuniServices's compensation for providing the initial and ongoing sales/use tax reviews and information service is entirely contingent upon MuniServices's ability to produce new sales/use tax revenue for City.

Sales/Use Tax Corrections

When MuniServices's service produces corrected allocations of new sales/use tax revenue for City, MuniServices's compensation shall be a contingency fee of 20% of new sales/use tax revenue received by City as a result of MuniServices detecting, documenting, and correcting point-of-sale taxpayer reporting errors/omissions. Said fee applies to each correction for fund transfers following detection of the misallocations by MuniServices and confirmation of the correction by SBE. The maximum number of economic quarters for which MuniServices shall be compensated for any given taxpayer shall not exceed nine (9) consecutive economic quarters (except for QDR deficiencies and as discussed below). Economic quarter is defined as a quarter for which the taxpayer is liable for the tax and is used interchangeably with the word "quarter". The nine consecutive reporting quarters include the three (3) quarters prior to the Date of Knowledge (as the term is defined by the Board of Equalization), the quarter in which the misallocation is documented and MuniServices establishes a Date of Knowledge, and the five (5) consecutive reporting quarters following the Date of Knowledge. In the event the SBE only makes a correction on a prospective basis or only partial backquarters, MuniServices shall be entitled to compensation for the first nine (9) consecutive reporting quarters beginning with, and including, the quarter in which the correction was funded and for which additional new revenues are received by the City (see Exhibit A-1 for billing examples). When SBE written confirmation is available, MuniServices shall provide documentation upon City request. Disputes regarding the appropriate level of compensation on a particular invoice or part thereof will be resolved prior to payment of the disputed item by the City.

MuniServices understands and agrees that the business (including (QDR) audit misallocations) for which an error and/or omission is identified and a claim filed with the SBE must have been misallocating sales and use tax on its tax return for at least one (1) quarter prior to the quarter in which MuniServices provides notice to the SBE of the particular error and/or misallocation in order for MuniServices to be compensated for the account. In addition, MuniServices must have detected and notified the SBE of the misallocation account (including (QDR) audit misallocations) at least one (1) quarter prior to City's notification of SBE for the same account. The following table illustrates the timing and intent of a one-quarter wait period imposed on MuniServices.

Economic Quarter (Transaction date)	4Q04
Reporting Quarter (Tax Return filed)	1Q05
Information Quarter (Review SBE data)	2Q05
Submission Quarter	3Q05

MuniServices shall hold submissions of QDR errors to the SBE for one full calendar quarter following the availability of the tax return data. For example, during Calendar Quarter 2Q05,

MuniServices is examining the 4Q04 tax-return data. MuniServices will provide the City one quarter additional quarter prior to submitting QDR errors as illustrated in the above table. In the above example, any submission later than 3Q05 cannot establish a valid date of knowledge for a transaction that occurred in 4Q04.

For Quarterly Distribution Report (QDR) audit misallocations, MuniServices will be compensated at 15% upon correction of the misallocation for the quarters identified in the inquiry filed with the State Board of Equalization.

In the event that MuniServices's services hereunder require MuniServices to file an appeal to the Local Tax Appeals Auditor or above, MuniServices's compensation shall be a contingency fee of twenty percent (20%) of the new sales/use tax revenues produced for City for the reporting quarter in which the Date of Knowledge is established, the three (3) economic quarters immediately preceding the Date of Knowledge quarter, all subsequent quarters up to and including the quarter in which the misallocation is corrected (Date of Correction) and for six (6) economic quarters after the Date of Correction. The total number of consecutive quarters will not exceed sixteen (16). As used herein, the Date of Correction refers to the quarter in which the taxpayer has correctly reported the local tax and the SBE distributes the local tax properly to City based on the taxpayer's reporting, together with any prior period reallocations.

Use Tax Corrections

Under California State Board of Equalization Regulation 1699.6, Use Tax Direct Payment Permits, taxpayers meeting certain criteria may self-assess and directly report local use tax by situs to the jurisdiction under whose ordinance the tax is levied. When a taxpayer reports its local use tax to the pools instead of situs, the SBE does not consider it a misallocation. However, from City's perspective it is a misallocation because it causes City to be deprived of the use tax revenue to which it is entitled.

When MuniServices detects, documents and corrects a scheduled misallocation of use tax based on its research analysis, MuniServices shall only be entitled to compensation for the scheduled misallocation in the quarter(s) in which the transaction takes place. This restriction does not apply to compensation in the "Use Tax Revenue Enhancement Program Accounts" section below, in that they are based upon prospective new, ongoing use tax revenue to the City as opposed to the one-time correction of already recorded transactions addressed in this section of the contract.

Use Tax Revenue Enhancement Program Accounts

When MuniServices obtains agreement from a business to enter into a "Use Tax Revenue Enhancement Program" that will bring additional sales/use tax revenue to the City, the business may restructure its internal purchasing or selling procedures and/or begin to self-accrue the "use" tax. Since all additional revenue will be prospective, MuniServices shall be eligible to receive compensation for the first nine (9) quarters prospectively starting with the first quarter of additional revenue from the business, but in no case more than nine (9) quarters. The rate of compensation shall be 20% of net additional sales/use tax revenue received by the City as a result of the UTREP except when the additional revenue comes from the countywide or statewide pools whereupon MuniServices shall make the appropriate adjustment so that its compensation only applies to the net new revenue after any applicable incentives and/or rebates. This is distinct from "Use Tax Corrections" above, in that it is based upon prospective new, ongoing use tax revenue to the City as opposed to the one-time correction of already recorded transactions addressed in that section of this contract.

As documentation for compensation of use tax corrections MuniServices shall provide City with a copy of the inbound fax from the taxpayer, the purchase order, or the invoice forwarded by the taxpayer to MuniServices, to match the outbound fax sent by MuniServices to the taxpayer, whereby MuniServices instructs the taxpayer to properly report the tax by situs based on MuniServices's research and analysis of the subject transaction. MuniServices shall summarize all invoices or purchase orders for each taxpayer by reference number and attach the outbound faxes as documentation. MuniServices shall indicate the reporting quarter for the use tax reported by the taxpayer. All invoice and purchase order dates must be prior to the end of the reporting quarter.

Audit Efficiency Credits

MuniServices shall modify its billing to Torrance by offering Audit Efficiency Credits (AECs) to be applied against the sales/use tax audit billings. The AECs will be offered on a sliding scale, whereby the City receives a progressively larger AEC as MuniServices's sales/use tax audit billings progress through specified dollar amount ranges. At the inception of the new contract, the AEC shall accumulate for an entire billing year (4 quarterly sales/use tax billings) and then restart each year. The attached table (Exhibit A-2) reflects the proposed offer to the City of Torrance to modify MuniServices's Sales/Use Tax Audit billing.

Negative Adjustments

MuniServices shall notify City whenever MuniServices submits a finding or claim for another jurisdiction, or several findings or claims for another jurisdiction that, in the aggregate, if accepted by SBE, it is reasonably foreseeable would result in a reduction in quarterly sales tax revenue (including amounts removed from the Los Angeles Countywide Pool) to City of ten thousand dollars ($10,000) or more. MuniServices will exercise its best efforts to notify City so that the potential impact to city's budget may be evaluated.

Backstop Audit Program

MuniServices shall provide its sale/use tax review service to City as a "safety net" or "backstop" to City's internal audit program. Under this program, MuniServices is only eligible to earn compensation if it detects and documents in writing to SBE each individual error/omission at least one (1) calendar quarter prior to City doing so. In the event that MuniServices detects and documents in writing to SBE an error/omission in the same quarter that City staff first detects and documents such an error/omission in writing to SBE, MuniServices will not be entitled to receive compensation for such detection and documentation.

No less than five (5) days prior to the end of each calendar quarter, City shall provide MuniServices with a listing of City's written notifications to the SBE of detected misallocations for the current Date of Knowledge quarter. MuniServices shall track City's submissions and shall not duplicate any City efforts, pursue correction on behalf of City identified accounts, or seek compensation for misallocations detected by the City for which the City has established a Date of Knowledge in the same or a prior quarter from MuniServices.

MuniServices shall be held harmless for detected misallocations made by City that are not submitted by City in the prescribed time and that result in a loss of sales/use tax revenue to City.

In the event that City identifies, documents, and notifies the State Board of Equalization of a reporting error or misallocation as those terms are used herein, City agrees to notify MuniServices of City's discovery no later than five (5) days prior to the end of the quarter. If City fails to so notify MuniServices and MuniServices later detects, documents, and reports the

misallocation or reporting error to the State Board of Equalization then MuniServices shall be entitled to compensation for the affected account in accordance with this Agreement. MuniServices shall also be compensated for sales and use tax accounts that have existing and established dates of knowledge at the effective date of this Agreement, and in accordance with this Agreement, if and when they are corrected by the Board.

In the event the City documents in writing to the SBE an error/omission that the SBE refuses to correct, and the City feels they have a legitimate claim, MuniServices is open to assisting the city with the correction at a pre-negotiated reduced rate.

Billing/Service Conflicts – Multiple Vendors

It is expressly recognized that the City can contract with another vendor for similar services. The vendor who establishes the first Date of Knowledge and provides the City with sufficient documentation is entitled to receive compensation thereon.

Corollary Consulting

City may request that MuniServices provide corollary consulting services at any time during the term of the Agreement to which this Addendum is attached. If MuniServices and City agree on the scope of the corollary consulting services requested, then MuniServices shall provide the corollary consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, MuniServices' typical hourly rates range from $75 per hour to $250 per hour as follows:

Typical Hourly Rates:	Principal	$250.00 per hour
	Client Services	$200.00 per hour
	IT Support	$175.00 per hour
	Operational Support	
	Director	$175.00 per hour
	Manager	$150.00 per hour
	Senior Analyst	$125.00 per hour
	Analyst	$100.00 per hour
	Administrative	$ 75.00 per hour

These corollary consulting services will be invoiced at least monthly based on actual time and expenses incurred. All reimbursable expenses shall receive prior approval from the City and shall be reimbursed at cost to MuniServices

SALES/USE TAX ANALYSIS & REPORTING SERVICE (STARS)

Objectives and Methods

MuniServices' STARS Digest provides a general analysis regarding statewide trends that may affect the City's sales tax plus a specific analysis of the City's sales tax composition, changes and performance. The STARS Digest also includes the Quarterly Management Summary and specialized reports that analyze the City's sales tax economic base and performance for the latest complete quarter and benchmark year.

Timing & Reports

MuniServices shall:

- Provide the City with quarterly updated STARS Digests.
- Install the STARS Query System on a City designated PC
- Update quarterly the City's sales tax registration and allocation data from the State Board of Equalization (SBE) from MuniServices' proprietary STARS Query System on IBM compatible PCs with Microsoft Access export capacity. (note: STARS is encrypted)
- Train authorized City staff in the use of the STARS Query System.

Quarterly STARS Digest

MuniServices will provide the City with quarterly updated bound STARS Digests including accounts from which the City receives sales tax revenue. The primary reports included in the STARS Digest are:

- **Allocation Summary** - Reconciles SBE advances, cleanup payments and pool allocations with budget projections to assist the City with revenue forecasting and receipt monitoring.
- **Cash Analysis** - Quarterly aberrations due to SBE audits, fund transfers, and other causes are also identified and analyzed for budget planning and revenue forecasting purposes.
- **Top 100 Five-Year** - Historical performance of the top 100 accounts comparing current benchmark year ranking and sales tax produced with that of prior years.
- **Top 100 Detail** – Sales tax performance of the City's top 100 sales tax accounts is shown in order of sales tax produced with the results for the most recent five quarters prominently displayed. The proportion of City sales tax produced is also shown by each account.
- **Economic Category Performance** – An analysis of the changes that occurred by economic category and segment with the specific businesses responsible for the significant changes delineated.
- **Significant Change Analysis** – A report reflecting magnitude of change, indicating which key businesses grew or declined, measured in absolute dollars and percentages.
- **Business Code Classification** - This report shows the various business codes assigned by the SBE and the accounts assigned those codes in order of sales tax produced. Five quarters of sales tax data are shown for each significant account.
- **Historical Economic Composition** - Data are summarized by economic category and segment by quarters and benchmark years. Percentage of total sales tax generated by category and segment is also shown to indicate trends in sales tax composition and performance.

- **Geo-Area Reports** - Tracks sales tax performance within designated areas of the City (e.g., key shopping centers, business parks, and downtown /business districts,). Charts and printed reports are included for each geo-area.
- **Cross-Reference Reports** - Allow the user to look up any account shown in the STARS Digest by name, address or account number.

STARS Query System

MuniServices will install the STARS Query System (a software program) on a City designated, IBM-compatible PC. Each quarter, MuniServices shall provide the City with updated information from SBE on CD-ROM. The data shall be provided in an encrypted format allowing the City to export sales tax information from the Query System in an Access-compatible format.

The Query System enables City staff to analyze the contribution of sales/use tax revenue from each taxpayer in the City on an individual, grouped or sorted-order basis by business name, business type, permit number, size ranking, street address, development, shopping center or other geographic area. Reports may be generated by any year (i.e., calendar, fiscal, benchmark) or for any particular quarter for all periods stored in the historical database.

The initial STARS Digest and Sales Tax Query System shall be delivered and installed within 45 working days following receipt of a fully executed contract, confidentiality resolution and the SBE sales tax registration and payment data. Subsequent quarterly Query System updates and STARS reports will be delivered to the City within 30 days following receipt of the quarterly distribution reports from the SBE.

Compensation

The STARS Digest and Query System will be provided to the City from July 20, 2010 to July 19, 2013 for no fee.

License Agreement

The STARS Query System is licensed software provided by MuniServices. The terms and conditions of the STARS Query System License Agreement are provided to City upon installation. By installing and using the STARS Query System, City agrees to be bound by the terms of the License Agreement.