

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

AGREEMENT

**31164**

1  
2  
3 THIS AGREEMENT is made and entered, in duplicate, as of May 19, 2009  
4 for reference purposes only, pursuant to a minute order adopted by the City Council of  
5 the City of Long Beach at its meeting on May 12, 2009, by and between DS &  
6 ASSOCIATES, LLC (DBA DOWNEY, SMITH & FIER), a California limited liability  
7 company ("Consultant"), with a place of business at 4010 Watson Plaza Drive, Suite 190,  
8 Lakewood, California 90712, and the CITY OF LONG BEACH, a municipal corporation  
9 ("City").

10 WHEREAS, City requires specialized services requiring unique skills to be  
11 performed in connection with a reverse sales tax audit to recover overpayments of local  
12 sales tax, use tax and other revenue ("Project"); and

13 WHEREAS, City has selected Consultant in accordance with City's  
14 administrative procedures using a Request for Proposals ("RFP"), attached hereto as  
15 Exhibit "A-1", attached to this Agreement and incorporated by this reference, and City has  
16 determined that Consultant and its employees are qualified, licensed, if so required, and  
17 experienced in performing these specialized services; and

18 WHEREAS, City desires to have Consultant perform these specialized  
19 services, and Consultant is willing and able to do so on the terms and conditions in this  
20 Agreement;

21 NOW, THEREFORE, in consideration of the mutual terms, covenants, and  
22 conditions in this Agreement, the parties agree as follows:

23 1. SCOPE OF WORK OR SERVICES.

24 A. Consultant shall furnish specialized services more particularly  
25 described in Exhibit "A-2", attached to this Agreement and incorporated by this  
26 reference, in accordance with the standards of the profession, and City shall pay for  
27 these services in the manner described below, not to exceed Three Hundred Fifty  
28 Thousand Dollars (\$350,000.00), at the rates or charges shown in Exhibit "A-2".

1                   B.     Consultant may select the time and place of performance for  
2 these services; provided, however, that access to City documents, records and the  
3 like, if needed by Consultant, shall be available only during City's normal business  
4 hours and provided that milestones for performance, if any, are met.

5                   C.     City shall pay to Consultant an audit fee equal to twenty  
6 percent (20%) of recovery of overpaid sales and use tax actually received by the  
7 City as a result of audit and recovery work performed by Consultant under this  
8 Agreement. The audit fee is a fixed contingent rate under Option 3 more  
9 particularly described in Exhibit "A-2", and shall only be based on actual net  
10 recovery of tax overpayments through tax refunds or credits received by the City,  
11 and not through any other means. "Net recovery" is the amount of tax  
12 overpayment collected and received by the City as a result of the audit and  
13 recovery work performed by Consultant under this Agreement, minus any offset or  
14 tax revenue required to be paid by City in connection with or as a result of such  
15 recovery. The recovery of overpaid sales and use tax shall not include any  
16 amounts determined by the City or Consultant to be attributable to causes other  
17 than Consultant's services hereunder. Consultant shall provide to the City an  
18 itemized monthly invoice showing calculations on which the audit fee is based.

19                   D.     Consultant agrees to be paid on a contingency fee basis, and  
20 City shall not be liable to pay for any other fees or reimbursable costs or  
21 expenses.

22                   E.     Consultant represents that Consultant has obtained all  
23 necessary information on conditions and circumstances that may affect its  
24 performance and has conducted site visits, if necessary.

25                   F.     CAUTION: Consultant shall not begin work until this  
26 Agreement has been signed by both parties and until Consultant's evidence of  
27 insurance has been delivered to and approved by City.

28                   2.     TERM. The term of this Agreement shall commence at midnight on

1 May 1, 2009, and shall terminate at 11:59 p.m. on April 30, 2010, unless sooner  
2 terminated as provided in this Agreement, or unless the services or the Project is  
3 completed sooner. City shall have the option to extend the term of the Agreement for two  
4 (2) consecutive additional periods of one (1) year each by giving notice to Consultant of  
5 City's desire to extend.

6 3. COORDINATION AND ORGANIZATION.

7 A. Consultant shall coordinate its performance with City's  
8 representative, if any, named in Exhibit "B", attached to this Agreement and  
9 incorporated by this reference. Consultant shall advise and inform City's  
10 representative of the work in progress on the Project in sufficient detail so as to  
11 assist City's representative in making presentations and in holding meetings on  
12 the Project. City shall furnish to Consultant information or materials, if any,  
13 described in Exhibit "C", attached to this Agreement and incorporated by this  
14 reference, and shall perform any other tasks described in the Exhibit.

15 B. The parties acknowledge that a substantial inducement to City  
16 for entering this Agreement was and is the reputation and skill of Consultant's key  
17 employee, Jim Fier. City shall have the right to approve any person proposed by  
18 Consultant to replace that key employee.

19 4. INDEPENDENT CONTRACTOR. In performing its services,  
20 Consultant is and shall act as an independent contractor and not an employee,  
21 representative or agent of City. Consultant shall have control of Consultant's work and  
22 the manner in which it is performed. Consultant shall be free to contract for similar  
23 services to be performed for others during this Agreement; provided, however, that  
24 Consultant acts in accordance with Section 9 and Section 11 of this Agreement.  
25 Consultant acknowledges and agrees that (a) City will not withhold taxes of any kind from  
26 Consultant's compensation; (b) City will not secure workers' compensation or pay  
27 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide  
28 and Consultant is not entitled to any of the usual and customary rights, benefits or

1 privileges of City employees. Consultant expressly warrants that neither Consultant nor  
2 any of Consultant's employees or agents shall represent themselves to be employees or  
3 agents of City.

4 5. INSURANCE.

5 A. As a condition precedent to the effectiveness of this  
6 Agreement, Consultant shall procure and maintain, at Consultant's expense for the  
7 duration of this Agreement, from insurance companies that are admitted to write  
8 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
9 Company or from authorized non-admitted insurance companies subject to  
10 Section 1763 of the California Insurance Code and that have ratings of or  
11 equivalent to A:VIII by A.M. Best Company, the following insurance:

12 (a) Commercial general liability insurance (equivalent in scope to  
13 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than  
14 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This  
15 coverage shall include but not be limited to broad form contractual liability,  
16 cross liability, independent contractors liability, and products and  
17 completed operations liability. City, its boards and commissions, and their  
18 officials, employees and agents shall be named as additional insureds by  
19 endorsement (on City's endorsement form or on an endorsement  
20 equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and  
21 this insurance shall contain no special limitations on the scope of  
22 protection given to City, its boards and commissions, and their officials,  
23 employees and agents. This policy shall be endorsed to state that the  
24 insurer waives its right of subrogation against City, its boards and  
25 commissions, and their officials, employees and agents.

26 (b) Workers' Compensation insurance as required by the California  
27 Labor Code and employer's liability insurance in an amount not less than  
28 \$1,000,000. This policy shall be endorsed to state that the insurer waives

1 its right of subrogation against City, its boards and commissions, and their  
2 officials, employees and agents.

3 (c) Professional liability or errors and omissions insurance in an  
4 amount not less than \$1,000,000 per claim.

5 B. Any self-insurance program, self-insured retention, or  
6 deductible must be separately approved in writing by City's Risk Manager or  
7 designee and shall protect City, its officials, employees and agents in the same  
8 manner and to the same extent as they would have been protected had the policy  
9 or policies not contained retention or deductible provisions.

10 C. Each insurance policy shall be endorsed to state that  
11 coverage shall not be reduced, non-renewed or canceled except after thirty (30)  
12 days prior written notice to City, shall be primary and not contributing to any other  
13 insurance or self-insurance maintained by City, and shall be endorsed to state that  
14 coverage maintained by City shall be excess to and shall not contribute to  
15 insurance or self-insurance maintained by Consultant. Consultant shall notify City  
16 in writing within five (5) days after any insurance has been voided by the insurer or  
17 cancelled by the insured.

18 D. If this coverage is written on a "claims made" basis, it must  
19 provide for an extended reporting period of not less than one hundred eighty (180)  
20 days, commencing on the date this Agreement expires or is terminated, unless  
21 Consultant guarantees that Consultant will provide to City evidence of  
22 uninterrupted, continuing coverage for a period of not less than three (3) years,  
23 commencing on the date this Agreement expires or is terminated.

24 E. Consultant shall require that all subconsultants or contractors  
25 that Consultant uses in the performance of these services maintain insurance in  
26 compliance with this Section unless otherwise agreed in writing by City's Risk  
27 Manager or designee.

28 F. Prior to the start of performance, Consultant shall deliver to

1 City certificates of insurance and the endorsements for approval as to sufficiency  
2 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of  
3 the insurance, furnish to City certificates of insurance and endorsements  
4 evidencing renewal of the insurance. City reserves the right to require complete  
5 certified copies of all policies of Consultant and Consultant's subconsultants and  
6 contractors, at any time. Consultant shall make available to City's Risk Manager  
7 or designee all books, records and other information relating to this insurance,  
8 during normal business hours.

9 G. Any modification or waiver of these insurance requirements  
10 shall only be made with the approval of City's Risk Manager or designee. Not  
11 more frequently than once a year, City's Risk Manager or designee may require  
12 that Consultant, Consultant's subconsultants and contractors change the amount,  
13 scope or types of coverages required in this Section if, in his or her sole opinion,  
14 the amount, scope or types of coverages are not adequate.

15 H. The procuring or existence of insurance shall not be  
16 construed or deemed as a limitation on liability relating to Consultant's  
17 performance or as full performance of or compliance with the indemnification  
18 provisions of this Agreement.

19 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
20 contemplates the personal services of Consultant and Consultant's employees, and the  
21 parties acknowledge that a substantial inducement to City for entering this Agreement  
22 was and is the professional reputation and competence of Consultant and Consultant's  
23 employees. Consultant shall not assign its rights or delegate its duties under this  
24 Agreement, or any interest in this Agreement, or any portion of it, without the prior  
25 approval of City, except that Consultant may with the prior approval of the City Manager  
26 of City, assign any moneys due or to become due Consultant under this Agreement. Any  
27 attempted assignment or delegation shall be void, and any assignee or delegate shall  
28 acquire no right or interest by reason of an attempted assignment or delegation.

1 Furthermore, Consultant shall not subcontract any portion of its performance without the  
2 prior approval of the City Manager or designee, or substitute an approved subconsultant  
3 or contractor without approval prior to the substitution. Nothing stated in this Section  
4 shall prevent Consultant from employing as many employees as Consultant deems  
5 necessary for performance of this Agreement.

6 7. CONFLICT OF INTEREST. Consultant, by executing this  
7 Agreement, certifies that, at the time Consultant executes this Agreement and for its  
8 duration, Consultant does not and will not perform services for any other client which  
9 would create a conflict, whether monetary or otherwise, as between the interests of City  
10 and the interests of that other client. And, Consultant shall obtain similar certifications  
11 from Consultant's employees, subconsultants and contractors.

12 8. MATERIALS. Consultant shall furnish all labor and supervision,  
13 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
14 necessary to or used in the performance of Consultant's obligations under this  
15 Agreement, except as stated in Exhibit "C".

16 9. OWNERSHIP OF DATA. All materials, information and data  
17 prepared, developed or assembled by Consultant or furnished to Consultant in  
18 connection with this Agreement, including but not limited to documents, estimates,  
19 calculations, studies, maps, graphs, charts, computer disks, computer source  
20 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
21 information, material and memorandum ("Data") shall be the exclusive property of City.  
22 Data shall be given to City, and City shall have the unrestricted right to use and disclose  
23 the Data in any manner and for any purpose without payment of further compensation to  
24 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that  
25 Data shall not be made available to any person or entity for use without the prior approval  
26 of City. This warranty shall survive termination of this Agreement for five (5) years.

27 10. TERMINATION. Either party shall have the right to terminate this  
28 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days

1 prior notice to the other party. In the event of termination under this Section, City shall  
2 pay Consultant for services satisfactorily performed and costs incurred up to the effective  
3 date of termination for which Consultant has not been previously paid. The procedures  
4 for payment in Section 1.B. with regard to invoices shall apply. On the effective date of  
5 termination, Consultant shall deliver to City all Data developed or accumulated in the  
6 performance of this Agreement, whether in draft or final form, or in process. And,  
7 Consultant acknowledges and agrees that City's obligation to make final payment is  
8 conditioned on Consultant's delivery of the Data to City.

9 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and  
10 shall not disclose the Data or use the Data directly or indirectly, other than in the course  
11 of performing its services, during the term of this Agreement and for five (5) years  
12 following expiration or termination of this Agreement. In addition, Consultant shall keep  
13 confidential all information, whether written, oral or visual, obtained by any means  
14 whatsoever in the course of performing its services for the same period of time.  
15 Consultant shall not disclose any or all of the Data to any third party, or use it for  
16 Consultant's own benefit or the benefit of others except for the purpose of this  
17 Agreement.

18 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
19 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates  
20 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available  
21 without breach of this Agreement by Consultant; or (c) a third party who has a right to  
22 disclose does so to Consultant without restrictions on further disclosure; or (d) must be  
23 disclosed pursuant to subpoena or court order.

24 13. ADDITIONAL COSTS AND REDESIGN.

25 A. Any costs incurred by City due to Consultant's failure to meet  
26 the standards required by the scope of work or Consultant's failure to perform fully  
27 the tasks described in the scope of work which, in either case, causes City to  
28 request that Consultant perform again all or part of the Scope of Work shall be at



1 the sole cost of Consultant and City shall not pay any additional compensation to  
2 Consultant for its re-performance.

3 B. If the Project involves construction and the scope of work  
4 requires Consultant to prepare plans and specifications with an estimate of the  
5 cost of construction, then Consultant may be required to modify the plans and  
6 specifications, any construction documents relating to the plans and specifications,  
7 and Consultant's estimate, at no cost to City, when the lowest bid for construction  
8 received by City exceeds by more than ten percent (10%) Consultant's estimate.  
9 This modification shall be submitted in a timely fashion to allow City to receive new  
10 bids within four (4) months after the date on which the original plans and  
11 specifications were submitted by Consultant.

12 14. AMENDMENT. This Agreement, including all Exhibits, shall not be  
13 amended, nor any provision or breach waived, except in writing signed by the parties  
14 which expressly refers to this Agreement.

15 15. LAW. This Agreement shall be governed by and construed pursuant  
16 to the laws of the State of California (except those provisions of California law pertaining  
17 to conflicts of laws). Consultant shall comply with all laws, ordinances, rules and  
18 regulations of and obtain all permits, licenses and certificates required by all federal, state  
19 and local governmental authorities.

20 16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
21 constitutes the entire understanding between the parties and supersedes all other  
22 agreements, oral or written, with respect to the subject matter in this Agreement.

23 17. INDEMNITY. Consultant shall, with respect to services performed in  
24 connection with this Agreement, indemnify and hold harmless City, its Boards,  
25 Commissions, and their officials, employees and agents (collectively in this Section,  
26 "City") from and against any and all liability, claims, allegations, demands, damage, loss,  
27 causes of action, proceedings, penalties, costs and expenses (including attorney's fees,  
28 court costs, and expert and witness fees) (collectively "Claims" or individually "Claim")

1 arising, directly or indirectly, in whole or in part, out of any negligent act or omission of  
2 Consultant, its officers, employees, agents, sub-consultants or anyone under  
3 Consultant's control (collectively "Indemnitor"), breach of this Agreement by Indemnitor,  
4 misrepresentation or willful misconduct by Indemnitor, and Claims by any employee of  
5 Indemnitor relating in any way to workers' compensation. Independent of the duty to  
6 indemnify and as a free-standing duty on the part of Consultant, Consultant shall defend  
7 City and shall continue this defense until the Claim is resolved, whether by settlement,  
8 judgment or otherwise. No finding or judgment of negligence, fault, breach or the like on  
9 the part of Indemnitor shall be required for the duty to defend to arise. Consultant shall  
10 notify City of any Claim within ten (10) days. Likewise, City shall notify Consultant of any  
11 Claim, shall tender the defense of the Claim to Consultant, and shall assist Consultant at  
12 Consultant's sole expense, as may be reasonably requested, in the defense.

13 18. AMBIGUITY. In the event of any conflict or ambiguity between this  
14 Agreement and any Exhibit, the provisions of this Agreement shall govern.

15 19. COSTS. If there is any legal proceeding between the parties to  
16 enforce or interpret this Agreement or to protect or establish any rights or remedies under  
17 it, the prevailing party shall be entitled to its costs, including reasonable attorneys' fees.

18 20. NONDISCRIMINATION.

19 A. In connection with performance of this Agreement and subject  
20 to applicable rules and regulations, Consultant shall not discriminate against any  
21 employee or applicant for employment because of race, religion, national origin,  
22 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
23 disability. Consultant shall ensure that applicants are employed, and that  
24 employees are treated during their employment, without regard to these bases.  
25 These actions shall include, but not be limited to, the following: employment,  
26 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
27 termination; rates of pay or other forms of compensation; and selection for training,  
28 including apprenticeship.

1                   B. It is the policy of City to encourage the participation of  
2 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
3 procurement process, and Consultant agrees to use its best efforts to carry out  
4 this policy in its use of subconsultants and contractors to the fullest extent  
5 consistent with the efficient performance of this Agreement. Consultant may rely  
6 on written representations by subconsultants and contractors regarding their  
7 status. City's policy is attached as Exhibit "D" to this Agreement. Consultant shall  
8 report to City in May and in December or, in the case of short-term agreements,  
9 prior to invoicing for final payment, the names of all subconsultants and  
10 contractors hired by Consultant for this Project and information on whether or not  
11 they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as  
12 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

13                   21. NOTICES. Any notice or approval required by this Agreement shall  
14 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
15 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
16 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a  
17 copy to the City Engineer at the same address. Notice of change of address shall be  
18 given in the same manner as stated for other notices. Notice shall be deemed given on  
19 the date deposited in the mail or on the date personal delivery is made, whichever occurs  
20 first.

21                   22. COPYRIGHTS AND PATENT RIGHTS.

22                   A. Consultant shall place the following copyright protection on all  
23 Data: © City of Long Beach, California \_\_\_\_\_, inserting the appropriate year.

24                   B. City reserves the exclusive right to seek and obtain a patent  
25 or copyright registration on any Data or other result arising from Consultant's  
26 performance of this Agreement. By executing this Agreement, Consultant assigns  
27 any ownership interest Consultant may have in the Data to City.

28                   C. Consultant warrants that the Data does not violate or infringe

1 any patent, copyright, trade secret or other proprietary right of any other party.  
2 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials  
3 and employees harmless from any and all claims, demands, damages, loss,  
4 liability, causes of action, costs or expenses (including reasonable attorney's fees)  
5 whether or not reduced to judgment, arising from any breach or alleged breach of  
6 this warranty.

7 23. COVENANT AGAINST CONTINGENT FEES. Consultant warrants  
8 that Consultant has not employed or retained any entity or person to solicit or obtain this  
9 Agreement and that Consultant has not paid or agreed to pay any entity or person any  
10 fee, commission or other monies based on or from the award of this Agreement. If  
11 Consultant breaches this warranty, City shall have the right to terminate this Agreement  
12 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct  
13 from payments due under this Agreement or otherwise recover the full amount of the fee,  
14 commission or other monies.

15 24. WAIVER. The acceptance of any services or the payment of any  
16 money by City shall not operate as a waiver of any provision of this Agreement or of any  
17 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
18 Agreement shall not constitute a waiver of any other or subsequent breach of this  
19 Agreement.

20 25. CONTINUATION. Termination or expiration of this Agreement shall  
21 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
22 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

23 26. TAX REPORTING. As required by federal and state law, City is  
24 obligated to and will report the payment of compensation to Consultant on Form 1099-  
25 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
26 resulting from payments under this Agreement. Consultant's Employer Identification  
27 Number is [REDACTED] If Consultant has a Social Security Number rather than an  
28 Employer Identification Number, then Consultant shall submit that Social Security

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 Number in writing to City's Accounts Payable, Department of Financial Management.  
2 Consultant acknowledges and agrees that City has no obligation to pay Consultant until  
3 Consultant provides one of these numbers.

4 27. ADVERTISING. Consultant shall not use the name of City, its  
5 officials or employees in any advertising or solicitation for business or as a reference,  
6 without the prior approval of the City Manager or designee.

7 28. AUDIT. City shall have the right at all reasonable times during the  
8 term of this Agreement and for a period of five (5) years after termination or expiration of  
9 this Agreement to examine, audit, inspect, review, extract information from and copy all  
10 books, records, accounts and other documents of Consultant relating to this Agreement.

11 29. THIRD PARTY BENEFICIARY. This Agreement is not intended or  
12 designed to or entered for the purpose of creating any benefit or right for any person or  
13 entity of any kind that is not a party to this Agreement.

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///


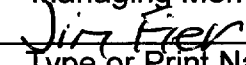
27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

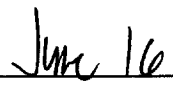
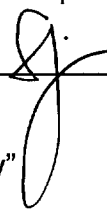
IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

DS & ASSOCIATES, LLC  
(DBA DOWNEY, SMITH & FIER),  
a California limited liability company

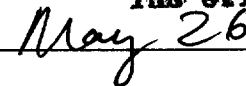
By , 2009  
Managing Member  
  
Type or Print Name

"Consultant"

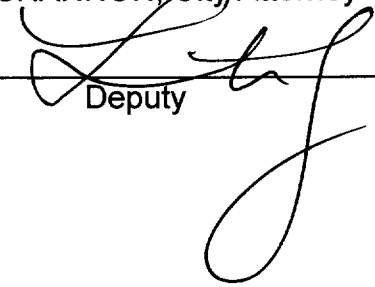
CITY OF LONG BEACH,  
a municipal corporation

, 2009  
By  Assistant City Manager  
City Manager  
"City"

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.**

This Agreement is approved as to form on , 2009.

ROBERT E. SHANNON, City Attorney

By   
Deputy

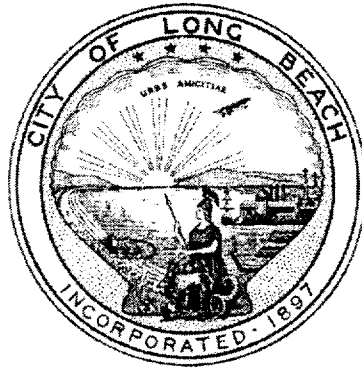
OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

# EXHIBIT “A-1”

Request for Proposals

# Request For Proposal

## Reverse Sales Tax Audit



Issued 2/24/09



## TABLE OF CONTENTS

Section 1	Overview of Project	Page 3
Section 2	Acronyms/Definitions	Page 3
Section 3	Scope and Description of Work	Page 4
Section 4	Submittal Instructions	Page 5
Section 5	Preparation and Format of Proposal	Page 6
Section 6	Proposal Evaluation and Award Process	Page 8
Section 7	Terms, Conditions and Exceptions	Page 10

ATTACHMENT A  
ATTACHMENT B  
ATTACHMENT C

## 1. OVERVIEW OF PROJECT

The City of Long Beach (City), through the Office of the City Auditor (OCA) desires to engage the services of a professional external, independent firm (Vendor) to conduct a reverse sales tax audit on behalf of the City. The purpose of this audit is to determine whether the City has over-remitted sales or use taxes to the State of California or other jurisdictions and if so, to recover those funds.

The engagement is anticipated to begin in Spring 2009 and be completed in Summer 2009; specific deadlines will be discussed by the City and the awarded vendor and delineated in the contract.

The information below identifies minimum qualifications, background information and project scope, time considerations and other requirements, and audit fees.

## 2. ACRONYMS/DEFINITIONS

For the purposes of this RFP, the following acronyms/definitions will be used:

### ***Awarded***

***Vendor*** The organization/individual that is awarded and has an approved contract with the City of Long Beach, California for the services identified in this RFP.

### ***Evaluation***

***Committee*** An independent committee comprised solely of representatives of the City established to review proposals submitted in response to the RFP, score the proposals, and select a vendor.

***May*** Indicates something that is not mandatory but permissible.

***RFP*** Request for Proposal.

***Shall/Must*** Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.

***Should*** Indicates something that is recommended but not mandatory. If the vendor fails to provide recommended information, the City may, at its sole option, ask the vendor to provide the information or evaluate the proposal without the information.

***City*** The City of Long Beach and any department or agency identified herein.

### ***Sub-***

***contractor*** Third party not directly employed by the vendor who will provide services identified in this RFP.

***Vendor*** Organization/individual submitting a proposal in response to this RFP.

### **3. SCOPE AND DESCRIPTION OF WORK**

The City of Long Beach, California operates under a City Charter first adopted in 1921 and amended many times since. Under the Charter, the City Auditor is an independently elected official who serves as the general auditor of all City departments, commissions, and offices.

The City provides a full range of municipal services, including police and fire, library, recreation, street repair, etc. Additionally, the City has several enterprise operations, including gas and water utilities, an airport, and one of the world's busiest harbors. The City's annual budget for FY09, across all funds, was over \$3 billion. Further information about the City can be found on the City's website, [www.longbeach.gov](http://www.longbeach.gov).

In accordance with its Charter duties, the Office of the City Auditor seeks to retain a vendor to conduct a review of the sales and use taxes remitted by all City departments. While responsibility for the payment of sales and use taxes for most City departments is with the Financial Management Department, administration for some departments is conducted separately (e.g, the Harbor Department and the Water Department).

The City has recently undergone an audit by the State Board of Equalization, which has determined that the City is not underpaying sales and use taxes. However, this review did not focus on potential overpayments that the City has made to the State Board of Equalization, or to other government entities. For example, overpayments could result from an out-of-state vendor inappropriately applying sales tax under the rules of its home state, even though the transaction is not taxable under California law. Similarly, the City could be over-remitting use taxes if it inadvertently applied them to non-taxable transactions.

The City currently conducts sales tax allocation audits, in which it ensures that it is receiving the proper revenue for sales made in the City. Such tax allocation audits, which focus on the sales tax revenue to the City and not on its sales tax expenditures, are separate and distinct from this proposed audit.

The City envisions this project to proceed in phases, in which transactions in various departments (including the Water and Harbor Departments) are reviewed for potential recoveries to the City. The scheduling and order of this engagement will be decided by mutual agreement between the City and the awarded vendor.

4. **SUBMITTAL INSTRUCTIONS**

4.1 The City Auditor's Office will accept questions and/or comments in writing. For questions regarding this RFP, submit all inquiries via email to [nancy.Balogh@longbeach.gov](mailto:nancy.Balogh@longbeach.gov) by Friday, March 6. Responses to the questions will be posted on the City Auditor's website ([www.cityauditorlauradoud.com](http://www.cityauditorlauradoud.com)) no later than Wednesday, March 11. All vendors are recommended to visit the abovementioned City website on a regular basis as the responses may be posted earlier than the date above.

4.2 RFP Timeline

<b>TASK</b>	<b>DATE/TIME</b>
Deadline for submitting questions	Friday, March 6
Answers to all questions submitted available	Wednesday, March 11
Deadline for submission of proposals	Fri., March 13 at 4:30 p.m.
Evaluation period	March 16-27
Selection of vendor	On or about March 27

**NOTE: These dates represent a tentative schedule of events. The City reserves the right to modify these dates at any time, with appropriate notice to prospective vendors.**

4.3 Vendors shall submit one (1) signed original proposal marked "ORIGINAL" and three identical copies as follows:

City of Long Beach  
City Auditor's Office  
Attn: Nancy Balogh  
333 W. Ocean Blvd, 8<sup>th</sup> Floor  
Long Beach CA 90802

Proposals shall be clearly labeled in a sealed envelope or box as follows:

LONG BEACH CITY AUDITOR'S OFFICE  
REQUEST FOR PROPOSAL—REVERSE SALES TAX AUDIT

4.4 The City will not be held responsible for proposal envelopes mishandled as a result of the envelope not being properly prepared. Facsimile or telephone proposals will NOT be considered unless otherwise authorized; however, proposals may be modified by fax or written notice provided such notice is received prior to the opening of the proposals.

- 4.5 Proposals must be received by 4:30 p.m. local time, Friday March 13. Proposals that do not arrive by the specified date and time WILL NOT BE ACCEPTED. Vendors may submit their proposal any time prior to the above stated deadline.
- 4.6 The proposal should be presented in a format that corresponds to and references sections outlined below and should be presented in the same order. Responses to each section and subsection should be labeled so as to indicate which item is being addressed. For ease of evaluation, proposals should be presented in the format described within this RFP.
- 4.7 Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
- 4.8 Descriptions on how any and all equipment and/or services will be used to meet the requirements of this RFP shall be given, in detail, along with any additional information documents that are appropriately marked.
- 4.9 The proposal must be signed by the individual(s) legally authorized to bind the vendor.
- 4.9.10 If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the proposal and specific references made to the tab, page, section and/or paragraph where the supplemental information can be found.

## **5. PREPARATION AND FORMAT OF PROPOSAL**

**Proposals should include the following sections:**

### **5.1 COVER LETTER**

The cover letter shall include a summary of the Proposal, including a brief description of the proposer and key staff. It shall make a commitment to accept the terms and conditions in the RFP and Pro Forma contract, including acknowledgement of receipt of all amendments and/or addenda to the RFP. Any requests for exceptions should be noted in the cover letter and include alternatives where applicable. Exceptions will be submitted to the City Attorney for review. Should the City Attorney determine that the exception is unacceptable, the selection committee will not consider the Proposal.

## 5.2 PRIMARY VENDOR INFORMATION

Vendors must provide a company profile. Information provided shall include:

- Company ownership. If incorporated, the state in which the company is incorporated and the date of incorporation. An out-of-state vendor must register with the State of California Secretary of State before a contract can be executed (<http://www.sos.ca.gov/business/>).
- Location of the company offices.
- Location of the office servicing any California account(s).
- Number of employees both locally and nationally.
- Location(s) from which employees will be assigned.
- Name, address and telephone number of the vendor's point of contact for a contract resulting from this RFP.
- Company background/history and why vendor is qualified to provide the services described in this RFP.
- Length of time vendor has been providing services described in this RFP to the **public and/or private sector**. Please provide a brief description.
- Resumes for key staff to be responsible for performance of any contract resulting from this RFP.

## 5.3 PROJECT APPROACH

This section must demonstrate an understanding of the scope of services. It should describe your general approach, organization, and staffing. Additionally, if applicable, all subconsultants and their roles should be identified. The vendor shall describe their intended methodology and provide a detailed work plan for successfully completing the audits identified in the Scope and Description of Work above.

## 5.4 PROJECTED TIMELINE AND COST

The vendor shall provide an estimated completion date and audit milestones for this project. Additionally, the vendor shall provide detailed cost information, as discussed further below.

Vendors must provide detailed price information, including out-of-pocket expenses, for all costs associated with this proposed project. Clearly specify the nature of expenses anticipated, if any, and the amount of each category for out-of-pocket expenses.

- 5.5 This project is anticipated to be a contingency project, in which the awarded vendor keeps a percentage of the amount of money actually recovered by the City as a result of the services performed by the awarded vendor. Under such an arrangement, if the City does not recover any funds as a result of the work done by the awarded vendor under this proposal, the payment to the awarded vendor would be zero. Clearly state what percentage of revenues you propose your firm would

retain as payment for services rendered. In the event that you propose an alternate billing structure, please provide a complete description of such structure.

Furthermore, the awarded contract will include a "not to exceed" amount that will cap the maximum possible payment to the awarded vendor, including all possible fees and expenses. In addition to your proposed contingent fee (or other billing arrangement), provide a "not to exceed" number for your proposal.

## 5.6 EXPERIENCE OF VENDOR

Relevant experience of the vendor shall be identified. Include project descriptions, year completed and client companies. Provide current client references for projects of similar size. Include the corporate history, years in business, size of corporation, and other documentation as deemed relevant. Provide resume summaries of all proposed key staff as well as the manager who would be in charge of this project.

## 5.7 SUBCONTRACTOR INFORMATION

5.7.1 Does this proposal include the use of subcontractors?

Yes \_\_\_\_\_ No \_\_\_\_\_ Initials \_\_\_\_\_

If "Yes", vendor must:

- 5.7.1.1 Identify specific subcontractors and the specific requirements of his RFP for which each proposed subcontractor will perform services.
- 5.7.1.2 Provide the same information for any subcontractors as is requested above from vendors under "Primary Vendor Information."
- 5.7.1.3 References as specified above must also be provided for any proposed subcontractors.
- 5.7.1.4 The City requires that the awarded vendor provide proof of payment of any subcontractors used for this project. Proposals shall include a plan by which the City will be notified of such payments.

Primary contractor shall not allow any subcontractor to commence work until all insurance required of subcontractor is obtained.

## 6. PROPOSAL EVALUATION AND AWARD PROCESS

6.1 Proposals shall be consistently evaluated [and scored] based upon the following criteria:

- Demonstrated competence;
- Experience in performance of comparable engagements;
- Reasonableness of cost;
- Expertise and availability of key personnel;

- Financial stability; and
  - Conformance with the terms of this RFP.
- 6.2 Proposals shall be kept confidential until a contract is awarded.
- 6.3 The City may also contact the references provided in response to this RFP; contact any vendor to clarify any response; contact any current users of a vendor's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The City shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of the City of Long Beach.
- 6.4 The City reserves the right to request clarification of any proposal term from prospective vendors. The City also reserves the right to interview any vendor, either in person or over the phone, to further discuss the submitted proposal.
- 6.5 Selected vendor(s) will be notified in writing. Any award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing vendors unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the City reserves the right to negotiate a contract with another vendor or withdraw the RFP.
- 6.6 Any contract resulting from this RFP shall not be effective unless and until approved by the City Council.



## **7. TERMS, CONDITIONS AND EXCEPTIONS**

- 7.1 The City reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.
- 7.2 The City reserves the right to waive informalities and minor irregularities in proposals received.
- 7.3 The City reserves the right to reject any or all proposals received prior to contract award.
- 7.4 The City shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the City of Long Beach after all factors have been evaluated.
- 7.5 Any irregularities or lack of clarity in the RFP should be brought to our attention as soon as possible so that corrective addenda may be furnished to prospective vendors.
- 7.6 Proposals must include any and all proposed terms and conditions, including, without limitation, written warranties, maintenance/service agreements, license agreements, lease purchase agreements and the vendor's standard contract language. The omission of these documents may render a proposal non-responsive.
- 7.7 Alterations, modifications or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.
- 7.8 Proposals that appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.
- 7.9 Proposals may be withdrawn by written or facsimile notice received prior to the proposal opening time.
- 7.10 The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other contractor, vendor or prospective vendor.
- 7.11 No attempt may be made at any time to induce any firm or person to refrain from submitting a proposal or to submit any intentionally high or noncompetitive proposal. All proposals must be made in good faith and without collusion.
- 7.12 Prices offered by vendors in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded vendor agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in

response to this RFP. No other costs, rates or fees shall be payable to the awarded vendor for implementation of their proposal.

- 7.13 The City is not liable for any costs incurred by vendors prior to entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the vendor in responding to the RFP, are entirely the responsibility of the vendor, and shall not be reimbursed in any manner by the City.
- 7.14 The proposal will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each vendor may clearly label all or part of a proposal as "CONFIDENTIAL" provided that the vendor thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the information.
- 7.15 A proposal submitted in response to this RFP must identify any subcontractors, and outline the contractual relationship between the awarded vendor and each subcontractor. An official of each proposed subcontractor must sign, and include as part of the proposal submitted in response to this RFP, a statement to the effect that the subcontractor has read and will agree to abide by the awarded vendor's obligations.
- 7.16 The awarded vendor will be the sole point of contract responsibility. The City will look solely to the awarded vendor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded vendor shall not be relieved for the non-performance of any or all subcontractors.
- 7.17 The awarded vendor must maintain, for the duration of its contract, insurance coverages as required by the City. Work on the contract shall not begin until after the awarded vendor has submitted acceptable evidence of the required insurance coverages.
- 7.18 Each vendor must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be disclosed. The City reserves the right to disqualify any vendor on the grounds of actual or apparent conflict of interest.
- 7.19 Each vendor must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the vendor or in which the vendor has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the vendor's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

- 7.20 The City will not be liable for Federal, State, or Local excise taxes.
- 7.21 Execution of Attachment A of this RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, the Attachment B contract form and all terms and conditions therein, except such terms and conditions that the vendor expressly excludes.
- 7.22 The City reserves the right to negotiate final contract terms with any vendor selected. The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded vendor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded vendor's proposal, and the awarded vendor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.
- 7.23 Vendor understands and acknowledges that the representations above are material and important, and will be relied on by the City in evaluation of the proposal. Any vendor misrepresentation shall be treated as fraudulent concealment from the City of the true facts relating to the proposal.
- 7.24 No announcement concerning the award of a contract as a result of this RFP may be made without the prior written approval of the City.
- 7.25 Proposals shall remain open, valid and subject to acceptance any time within sixty (60) days after the proposal submission deadline.
- 7.26 The Long Beach Municipal Code (LBMC) requires all businesses operating in the City of Long Beach to pay a business license tax. In some cases the City may require a regulatory permit and/or evidence of a State or Federal license. Prior to issuing a business license, certain business types will require the business license application and/or business location to be reviewed by the Development Services, Fire, Health, and/or Police Departments. For more information, go to [www.longbeach.gov/finance/business\\_license](http://www.longbeach.gov/finance/business_license).
- 7.27 The City shall have the right to terminate the services of the awarded vendor at any time for any or no reason by giving thirty (30) days prior notice at such termination to the awarded Vendor.

# EXHIBIT “A-2”

## Scope of Work

---

# *Timeline, Work Plan Summary & Sample Detailed Work Plan*

*Having a map or work plan is a key factor to a successful refund study. DSF, over the years, has refined our approach based on our experience of performing hundreds of refund studies. We also understand the need to be flexible to allow for changes based on your operation and other factors, as every client is unique.*

---

*“Flexible to allow for changes”*

*Audit Milestones and Estimated Timing*

*Work Plan (Highlights)*

*Sample Detailed Work Plan*

---

## **Audit Milestones and Estimated Timing**

### April - May 2009

*Step 1 - Initial Planning and Evaluation*

### June - August 2009

*Step 2 - Documentation and Recovery*

Support of Findings, Generation of Claim for Refund report and supporting documentation

### August - December 2009

*Step 3 - Refund Tracking, Verification and Process Improvements*

Refund Receipt, Management Reports and Formal Training (The exact date of final completion of all refunds will vary based on factors that are often out of the control of DSF and City. Auditors often are burdened with other tasks, and certain decisions will need legal, hearing officer or Board approval. The City will be updated monthly on the status/ progress of all refunds)

*“Our proven  
multi-step  
process  
efficiently  
maximizes  
refunds”*

---

## **Work Plan (Highlights)**

The following Work Plan summarizes the major tasks and milestones involved in obtaining sales and use tax refunds for the City. This Work Plan outlines our proven multi-step process to efficiently maximize refunds. Also, the attached Sample Detailed Work Plan assumes starting the project in early April (actual dates may differ depending on the City's timeline for this project)

### **Step I – Initial Planning and Evaluation**

- Initial Meeting with City - Understand departments, activities etc.
- Review tax returns and record retention
- Cursory review of documentation to quantify range of refund opportunities
- Investigate high risk areas and payments
- Provide Management with an overview to determine whether to proceed
- Establish detailed final Work Plan

### **Step II – Documentation and Recovery**

- Establish quantification process and testing methodology for each area reviewed
- Use sampling, statistical or non-statistical, methods to efficiently recover substantial overpayments
  - Obtain Board of Equalization approval for all sampling procedures prior to implementation. This step is required, otherwise the agency could disallow findings and require new or additional testing.
- Retrieve source documents and accounting information to quantify overpayments
- Prepare detailed report documenting all refunds (Note: vendor claims will be documented on an actual basis, if possible)
- Communicate findings to the City

---

Step III – Representation and Process Improvements

- Monitor refund status and furnish monthly updates to the City
- Support all questions and request for additional documentation from Board of Equalization
- Support City implementation of corrective procedures



# Sample Detailed Work Plan

## Step I - Initial Planning and Evaluation

	Task	Resource	2009												
			Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec			
Step I	<b>Initial Planning and Evaluation</b>		➔												
	Initial project planning, establish key contacts, detailed information/document requests.	DSF, City of Long Beach	—												
	Interviews tax and accounting personnel to understand business transactions and sales and use tax reporting procedures.	DSF, City of Long Beach	—	—											
	Identify changes in reporting procedures during the review period. Understand any changes in financial systems or tax compliance software.	DSF, City of Long Beach	—	—											
	Review sales tax returns, chart of accounts, general ledger, financial information to identify areas with high refund potential and audit history with State Board of Equalization. Trend historical information and investigate any unusual periods.	DSF	—	—											
	Establish a list of potential overpayment areas and possible exemptions based on City's business activities. Obtain electronic procurement data, if necessary during Step I.	DSF	—	—											
	Perform cursory testing and technical research to document and validate overpayment area's identified by DSF during initial discussions.	DSF	—	—											
	Prepare summary of Step I findings, communicate to client and obtain approval to commence step II. File protective claims for refund, as necessary.	DSF, City of Long Beach	—	—											◆

# Sample Detailed Work Plan

## Step II - Documentation and Recovery

Task	Resource	2009											
		Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec		
<b>Step II</b>													
<b>Documentation and Recovery</b>													
Develop detailed testing procedures for each recovery area, update and finalize work plan for Step II, review work plan with client prior to commencing Step II.	DSF, City of Long Beach												
Obtain electronic data or accounting transaction detail for refund areas, reconcile such information to the population, if not provided during Step I.	DSF, City of Long Beach												
Perform initial review of detail transactions to understand population characteristics that may impact sampling results, document retrieval, review, etc.	DSF												
Finalize testing methodology. Develop formal sampling plan including statistics for population, stratification (high and low), sample sizes, sample selection methodology, treatment of unusual or missing transactions, projection methodology, and minimum evaluation criteria.	DSF												
Obtain State Board of Equalization's approval for all proposed statistical sampling (agreement under DSF/SBE approved process).	DSF												
Perform detail testing, technical research, prepare refund reports documenting overpayments. Report includes all source documents, schedules, summary of methodology.	DSF												
Technical quality review	DSF												
Review findings with client and obtain client approval prior to issuing the claim for refund report(s) to SBE and/or vendors.	DSF												

# Sample Detailed Work Plan

## Step III - Representation and Process Improvement

	Task	Resource	2009													
			Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec				
Step III	<b>Refund Tracking, Verification and Process Improvements</b>		➔													
	Prepare transmittal letters and correspondence to the SBE and client. Issue formal reports to SBE and/or vendors.	DSF														
	Work with the SBE and/ or vendor to process the refunds. DSF will respond to all questions and requests for additional information. (Exact amount of time for this step will vary depending on the auditor experience, complexity of issues, etc.)	DSF														
	Issue detailed Management Reports to provide feed back on recovery areas so to implement and correct the errors prospectively (exemption certificates, accrual procedures, etc.); provide training.	DSF, City of Long Beach														
	Monitor refund processing until client receives refund check (larger claims >\$50K require additional SBE approval that can extend issuance of a refund check an additional 120 days).	DSF														◆

---

## *Fees*

*DSF is committed to providing a fee option that matches the value provided with the fee earned. We understand this proposal requires a contingent or success-based fee with a not to exceed amount.*

---

*“We offer three fee options to best meet the City of Long Beach’s requirements”*

The following factors were considered in determining our contingent fee rate: risk overpayments are not identified, work required to recover overpayments and carrying costs while refunds are processed. As this is a proposal rather than an engagement letter, to the extent the above factors change, DSF is open to discussing our proposed contingent rates.

We offer three fee options to best meet the City of Long Beach’s requirements. In addition, we provide a cap for each fee option that helps protect the City from a windfall for the consultant while incentivizing the consultant to maximize refunds for the City.

### **OPTION 1 – Decreasing Tiered Contingent Rate**

This decreasing rate structure provides a reduced rate for economies of scale as the recovery areas and total overpayments increase.

### **OPTION 2 – Increasing Tiered Contingent Rate**

This increasing rate structure provides a lower rate for initial recovery amounts when known overpayments exist (“low hanging fruit”). In addition, this structure incentivizes the consultant to capture all overpayments.

### **OPTION 3 – Fixed Contingent Rate**

Fixed rate structure is simple and straight-forward. This structure simplifies allocating fees where multiple departments or divisions are involved.

---

**Summary of Fee Options:**

**OPTION 1 - Decreasing tiered contingent rate.**

Under Option 1, DSF's fees for this engagement will be as follows:

The contingent fee will equal 25% of the VALUE for the first \$400,000;

Thereafter, the contingent fee will be 20% of the VALUE over \$400,000.

The total combined fee under this option shall not exceed \$300,000.

**OPTION 2 - Increasing tiered contingent rate.**

Under Option 2, DSF's fees for this engagement will be as follows:

The contingent fee will equal 15% of the VALUE for the first \$400,000;

The contingent fee of 20% will apply for VALUE over \$400,000 but less than \$800,000; and

Thereafter, the contingent fee will be 25% of the VALUE over \$800,000.

The total combined fee under this engagement shall not exceed \$400,000.

**OPTION 3 - Fixed contingent rate.**

Under Option 3, DSF's fees for this engagement will be as follows:

The contingent fee will equal 20% of the VALUE not to exceed \$350,000.

---

Regardless of which fee option you choose, DSF will be focused on adding value, maximizing your refunds, and providing the highest level of service. Our contingent fee includes all expenses and costs associated with this project; no additional "out of pocket" expenses will be billed.

VALUE includes tax refunds, credits, and/or audit assessment reductions, including credit interest. VALUE will not be reduced by any unrelated deficiencies identified by the State Board of Equalization during their review of our claims or through any other audits. All fees are due and payable upon the receipt of VALUE.



# EXHIBIT “B”

City’s Representative:

James Johnson, Assistant City Auditor

# EXHIBIT “C”

Materials/Information Furnished: None



## CITY OF LONG BEACH POLICY FOR DISADVANTAGED, MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES

It is the policy of the City of Long Beach to utilize Disadvantaged, Minority-Owned and Women-Owned Business Enterprises in all aspects of contracting, including construction, the purchase of materials and services, including professional services, leases and the granting of concessions.

**EXHIBIT "D"**