



**DATE:** June 22, 2021

**TO:** Mayor and Council Members

**FROM:** Director of Finance

**SUBJECT:** Adopt Resolutions Authorizing the City Manager to Execute Amendment #2 with MuniServices, LLC to Extend Sales Tax Analysis and Information Services and Execute a Novation Agreement Required by Sales and Use Tax Law

### **RECOMMENDATION**

That Council adopts the attached resolutions (Attachments II and III) authorizing the City Manager to execute a contract amendment with MuniServices, LLC for sales tax analysis and information services and execute a novation agreement required by the California Department Tax and Fee Administration, validating the consultant's name of MuniServices, LLC, and California's Sales and Use Tax Law, Section 7056.

### **SUMMARY**

The City engages with MuniServices, LLC to provide Sales and Use Tax Allocation Audits and Information Services (STARS), Utility Users' Tax/Franchise Compliance and Revenue Protection (also known as UUT), Transient Occupancy Tax (TOT) Audits and Compliance, and Local Tax Compliance (LTC). Quarterly sales and use tax analysis reports are reviewed by the City and the Consultant to inform and provide analysis to the City of its top revenue producers, as well as shifts in the local, state, and national economy and legislation related to sales and use tax.

### **BACKGROUND**

The City contracts with MuniServices to provide sales and use tax analysis and information services, which includes identifying and ensuring receipt of misallocated or underreported tax revenues. Revenue reporting services includes quarterly written reports and briefings concerning revenue performance, trend analysis, gains and declines, revenue projections, enhanced recovery options, and an analysis of present and future issues related to revenue recovery.

### **DISCUSSION**

Quarterly sales and use tax reports from MuniServices provide the foundation for the City's sales and use tax revenue projections. Analysis includes information from the California Department of Tax and Fee Administration (CDTFA), the state agency that administers sales

and use tax, of the City's top revenue producers, indication of revenue changes by business and economic category, identification of major businesses that influence change in the City's tax revenue, analysis of key businesses that grew or declined during the reporting period, identification of the top revenue generators in the City, and an analysis of their potential growth or decline.

#### Sales, Transaction and Use Tax Allocation Audits and Information Services

MuniServices assists the City in realizing Sales, Transactions and Use Tax revenue that the City is entitled to. MuniServices' allocation audit service is to detect and correct taxpayer reporting errors and thereby generate new sales, transactions and use tax revenue, which would not otherwise have been realized by the City. They identify new revenue without causing any additional tax liability for businesses. Compensation for these services is 15% of the new sales, transactions and use tax revenue received by the City as a result of MuniServices detecting and correcting the related point-of-sale/use distribution error. STARS reports are billed at \$1,750.00 quarterly.

#### Utility Users' Tax/Franchise Compliance and Revenue Protection

MuniServices provides the City with certain professional services in furtherance of a comprehensive Utility Users' Tax/Franchise Compliance and Revenue Protection program, with broad participation by California public agencies that are designed to preserve, protect, and enhance its UUT and Utility Franchise Revenues.

The contract with MuniServices also includes the legal services of Donald H. Maynor, who provides the City with assistance related to UUT revenue protection services, legal interpretation of the City's ordinance, and Federal and State laws that currently exists or will be proposed impacting these issues. The City's annual fixed fee for participating in the program is 0.5% of the total UUT revenues received based on the prior fiscal year, with a minimum of \$15,000 and maximum of \$106,400.

#### Transient Occupancy Tax and Compliance Program

MuniServices assists the City to realize TOT revenue to which it is entitled and educate collectors and remitters of TOT to assist in future compliance with the City's ordinances. MuniServices requires prior approval from the City should the cost of these services exceed \$1,500 per lodging property review.

#### Local Tax Compliance (LTC) Program

MuniServices' LTC assists the City in locating tax revenue that the City may not be receiving from its local tax registry by detecting, documenting, and assisting with the correction of errors and omissions made by taxpayers who are subject to the local business tax. The LTC service also aims to reduce future errors by informing the businesses that are identified as having errors and omissions about the proper methods for compliance. Informing business owners of the requirements of the ordinance helps to prevent future mistakes by businesses, making future enforcement efforts by the City less burdensome for the City. Compensation for these services is at 35% of additional revenue received.

The existing contract with MuniServices expires June 30, 2021. Staff requests Council authorization to extend the term of the contract to June 30, 2022. This will also allow the City to prepare a request for proposals (RFP) and formally bid the services upon the next expiration.

In addition, staff is requesting adoption of a resolution authorizing the City Manager to execute a novation agreement regarding MuniServices, LLC and authorizing MuniServices, LLC pursuant to California Sales and Use Tax Law, Section 7056 to examine ascertainment of the sales or transactions and use tax records of the board pertaining to those sales or transactions and use taxes (Attachment III) as required by the CDTFA. The CDTFA only contracts with MuniServices, LLC and all contracts, past and present, must reference the language of California Sales and Use Tax Law, Section 7056. This section specifies the requirements and conditions under which a city or county may authorize persons other than officers and employees to examine State Sales and Use Tax records.

Although this language was included in the City's original 1995 sales and use tax agreement with MuniServices, formally Municipal Resource Consultants (MRC), it was later omitted after the name change from MRC to MuniServices, LLC. By executing the novation agreement, the City will comply with the CDTFA requirement by correcting all past and present agreements with MRC/MuniServices to MuniServices, LLC and acknowledging the disclosure language of the Sales and Use Tax Law, Section 7056.

## **ECONOMIC IMPACT**

The FY 2022 Operating Budget allocates funding for sales and tax analysis and information services.

## **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not relate to any of the six priorities outlined in the Council's Strategic Roadmap.

## **SUSTAINABILITY FEATURES**

There are no sustainability features associated with this report.

## **FISCAL IMPACT**

There are sufficient funds budgeted in the FY 2022 operating budget to cover the cost associated with the amended professional services agreement for sales tax analysis and information services.

## **PUBLIC CONTACT**

The agenda for this item was posted in compliance with the California Brown Act.

## NEXT STEPS

Upon approval of this agreement, staff will continue to work with MuniServices, on sales tax analysis and information services for the next twelve months, allowing the City time to prepare a request for proposals (RFP) and formally bid the services.

*Prepared and Recommended by:*

Dustin Claussen, Director of Finance

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written over a horizontal line.

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Kelly McAdoo, City Manager