

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

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

WHEREAS, pursuant to Ordinance Number Sales and Use Tax Ordinance 73-035 C.S. and pursuant to Revenue and Taxation Code section 7270, the City of Hayward (City) entered into a contract with the California Department of Tax and Fee Administration (Department) regarding Municipal Resource Consultants (MRC) to perform functions incident to the administration and collection of sales or transactions and use taxes; and

WHEREAS, Municipal Resource Consultants (MRC) subsequently became MuniServices, LLC; and

WHEREAS, the City Council of the City of Hayward deems it desirable and necessary for authorized officers, employees and representatives of the City to examine confidential sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected by the Department for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward authorizes the City Manager to execute a novation agreement regarding MuniServices, LLC.

BE IT FURTHER RESOLVED as follows:

Section 1. That the City Manager, Assistant City Manager, Director of Finance, Deputy Director of Finance, Accounting Manager, or other officer or employee of the City designated in writing by the City Manager or Director of Finance to the California Department of Tax and Fee Administration is hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the City by the Department pursuant to the contract between the City and the Department.

Section 2. The information obtained by examination of Department records shall be used only for purposes related to the collection of City sales and use taxes by the Department pursuant to that contract.

Section 3. That MuniServices, LLC. is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the City by the Department. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the City and MuniServices, LLC:

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

BE IT FURTHER RESOLVED that the information obtained by examination of Department records shall be used only for purposes related to the collection of City sales or transactions and use taxes by the Department pursuant to the contract between the City and the Department.

Section 4. That MuniServices, LLC. is hereby designated to examine the sales or transactions and use taxes records of the Department pertaining to any petition or appeal for the reallocation/redistribution of sales or transactions and use taxes that was filed by MuniServices, LLC. on behalf of the City pursuant to the contract between the MuniServices, LLC. and City. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the City and the MuniServices, LLC.:

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

d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

Section 5. That this resolution supersedes all prior resolutions of the City Council of the City of Hayward adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward