



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

**SUBJECT: APPROVAL TO AMEND REVENUE
ENHANCEMENT SERVICE
AGREEMENTS**

DATE: June 8, 2020

Approved

Date

6/11/2020

RECOMMENDATION

Adopt a resolution authorizing the Director of Finance to negotiate and execute amendments to the agreements with MuniServices LLC, dba Avenu MuniServices, LLC, a Delaware Limited Liability Company ("MuniServices") to extend:

- (a) Sales and Use Tax revenue enhancement services and data analysis and reporting services for one additional term of six months, for the period of July 1, 2020 through December 31, 2020, at a maximum compensation for the extended term not to exceed \$206,000, and a total maximum compensation not to exceed \$2,163,000 for the primary services phase and data analysis and reporting phase of the agreement (October 1, 2015 – December 31, 2020), subject to the appropriation of funds, and to extend the completion services phase of the agreement an additional six months through December 31, 2023 at no additional compensation; and
- (b) Telephone Line Tax, Utility Users Tax and Franchise Fee compliance services for one additional term of six months, for the period of July 1, 2020 through December 31, 2020, at a maximum compensation not to exceed \$35,000 for the extended term, and a total maximum compensation not to exceed \$367,500 for the term of the agreement (October 1, 2015 – December 31, 2020), subject to the appropriation of funds.

OUTCOME

Approval of the recommendations will allow MuniServices to assist staff with Sales and Use Tax revenue enhancement services and data analysis; and Telephone Line Tax, Utility Users Tax and Franchise Fees compliance services to recover monies due to the City.

BACKGROUND

On September 24, 2015, the City and MuniServices entered into three agreements for revenue enhancement services related to Sales and Use Tax audit services and Sales and Use Tax Analysis Reporting Service (STARS) sales tax data analysis and reporting; Telephone Line Tax, Utility Users Tax, and Franchise Fees audit services; and Lodging Taxes and Fees audit services. Each of the agreements commenced on October 1, 2015 with an initial term through June 30, 2018, and two one-year options to extend. Accordingly, the existing terms of the agreements are set to expire on June 30, 2020.

Annually, the City receives taxes and fees totaling approximately \$429 million relating to Sales and Use Tax (\$263 million); Telephone Line Tax, Utility Users Tax, and Franchise Fees (\$115 million); and Lodging Taxes and Fees (\$51 million). Given the dollar amounts and the volume of remittances associated with these revenue programs, it is critical that the City performs regular audits and compliance reviews to maximize the collection of revenues due.

The Finance Department recommends amending the agreements to extend the terms by an additional six months and increase the maximum amount of compensation to provide more time to finalize the open Request for Proposal (“RFP”), soliciting these same revenue enhancement services. The RFP review process has been delayed due to the COVID-19 pandemic.

ANALYSIS

On February 7, 2020, the Finance Department issued an RFP entitled “Revenue Enhancement Consulting Services” on the City’s procurement platform (“Bidding”) soliciting services to replace the existing agreements with the intended effective date to be July 1, 2020. The RFP requested proposals for Sales and Use Tax audit services and data analysis; Telephone Line Tax, Utility Users Tax, and Franchise Fee compliance services; and Lodging Taxes and Fees compliance services to replace the existing revenue enhancement contracts. The RFP also solicited proposals for Cannabis Business Tax (CBT) compliance services, although, the City does not currently have contracts in place for consulting services related to CBT.

Sales and Use Tax Audit Services

The Sales and Use Tax compliance services agreement is divided into two phases — the primary services phase and completion services phase, capped at \$400,000 for each year of services. Under the agreement, MuniServices receives a percentage of new revenues received by the City that would have otherwise not been received. The primary services phase is the period under which MuniServices is the contracted agent to perform audits, which includes the initial three-year term, two one-year options, and as recommended, an additional six-month extension. The completion services phase begins at the expiration or termination of the primary services phase, whichever occurs first. It is during the completion services phase of the agreement that MuniServices resolves any unresolved claims with the California Department of Tax and Fee Administration (CDTFA), formerly the State Board of Equalization (SBOE),

identified during the primary services phase. For each option year, there is a three-year completion phase. If the recommendation is approved for this agreement, the primary services phase of this agreement will be extended through December 31, 2020, and the completion phase will be extended likewise through December 31, 2023. The cost to the City of extending the primary services phase of the agreement an additional six months shall not exceed \$200,000, increasing the total maximum compensation for the primary services phase of the agreement to \$2,100,000. No additional compensation is being recommended for the extension of the term of the completion services phase from June 30, 2023 to December 31, 2023.

In addition to providing services related to the collection of local Sales and Use Taxes (including the City's Transactions and Use Tax), MuniServices will also provide the City with revenue analysis and projection services for purposes of budget development at a cost to the City not to exceed \$6,000 for the additional six months term, increasing the total maximum compensation for the sales and use tax data analysis and report services to an amount not to exceed \$63,000.

Telephone Line Tax, Utility Users Tax, and Franchise Fees Audit Services

The agreement for Telephone Line Tax, Utility Users Tax and Franchise Fees revenue enhancement services is paid on a fixed rate basis at a maximum annual compensation of \$70,000.

The total maximum compensation for the initial term of the agreement from October 1, 2015 through June 30, 2018 was \$192,500. In addition, the City exercised two one-year options to extend the agreement at a maximum annual compensation of \$70,000, bringing the total maximum compensation for the initial term and the option periods to \$332,500. If the recommendation is approved, the agreement will be extended through December 31, 2020 at an additional cost to the City not to exceed \$35,000 and the total maximum compensation for the term of the agreement (October 1, 2015 – December 31, 2020) will be increased to an amount not exceed \$367,500.

Lodging Taxes and Fees Audit Services

For Lodging Taxes and Fees enhancement services, MuniServices is paid on a fixed rate basis at a maximum annual compensation of \$49,000.

The total maximum compensation for the initial term of the agreement from October 1, 2015 through June 30, 2018 was \$147,000. In addition, the City exercised two one-year options to extend at a maximum annual compensation of \$49,000, bringing the total maximum compensation for the initial term and the option periods to \$245,000. If the recommendation is approved, the agreement will be extended through December 31, 2020, at an additional cost to the City not to exceed \$24,500 and the total maximum compensation for the term of the agreement (October 1, 2015 – December 31, 2020) will be increased to an amount not to exceed \$269,500. The total maximum compensation is within the City Manager's contract authority and therefore not included in the recommendations in this memorandum.

CONCLUSION

Approval of the recommendation to extend the terms of the agreements by an additional six months and to increase the maximum amount of compensation accordingly, will facilitate continued revenue enhancement services for the various revenue programs. Furthermore, the additional six months will afford the RFP evaluation team more time to thoroughly evaluate the revenue enhancement service proposals with no lapse in audit and revenue compliance services.

EVALUATION AND FOLLOW-UP

Revenues collected through the revenue enhancement agreements are reported quarterly through the Public Safety, Finance and Strategic Support Committee.

CLIMATE SMART SAN JOSÉ

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This report will be posted on the City's Council Agenda website for the June 23, 2020 Council Meeting.

COORDINATION

This report has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

Sales and Use Tax

The total maximum compensation for all services or work performed under the proposed six-month extension to the existing agreement for Sales and Use Tax claims during the Final Term

(July 1, 2020 through December 31, 2020) shall not exceed \$200,000; for STARS sales tax data analysis and reporting services shall not exceed \$6,000.

Telephone Line Tax, Utility Users Tax, and Franchise Fees

The total maximum compensation for all services and work performed under the proposed six-month extension to the existing agreement for Telephone Line Tax, Utility Users Tax, and Franchise Fees audit services during the Final Term (July 1, 2020 through December 31, 2020) shall not exceed \$35,000.

Lodging Taxes and Fees

The total maximum compensation for all services and work performed under the proposed six-month extension to the existing agreement for Lodging Taxes and Fees for the Final Term (July 1, 2020 through December 31, 2020) shall not exceed \$24,500. Total compensation for this contract will not exceed the City Manager's contract authority.

BUDGET REFERENCE

| Fund # | Appn # | Appn. Name | Total Appn | Amt. for Contract | 2020-2021 Proposed Budget Page | Last Budget Action (Date, Ord. No.) |
|--------|--------|---|------------|-------------------|--------------------------------|-------------------------------------|
| 001 | 2060 | Revenue Enhancement Consulting Services | \$455,000 | \$265,500* | VIII-23 | 6/18/2019, Ord. No. 30286 |

* Maximum compensation for six-month Final Term

CEQA

Not a Project, Public Project Number PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/
JULIA H. COOPER
Director of Finance

For questions, please contact Rick Bruneau, Deputy Director of Finance, at (408) 535-8310.