



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: March 2, 2006

Approved

Deanna Sartore

Date

3/2/06

SUBJECT: FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF SAN JOSE AND TAX COMPLIANCE SERVICES COMPANY

RECOMMENDATION

Approval of the first amendment to the utility users tax audit services agreement with Tax Compliance Services (TCS) to extend the term for one year, from April 23, 2006 through April 22, 2007, increasing compensation by \$146,000 for a total contract amount not to exceed \$730,000.

BACKGROUND

On April 23, 2002, the City and Consultant entered into an agreement entitled "Agreement for Consultant Services between the City of San Jose and Tax Compliance Services ("Agreement"). In accordance with Section 2 of the original agreement, the City exercised three one-year options to renew the Agreement, extending the term through April 22, 2006. The City and Consultant desire to amend the Agreement to further extend the term for an additional year.

TCS provides utility users tax (UUT) and franchise fees (FF) consulting services and related informational resources used by the Finance Department. Consulting services include reviews of the electricity, gas, water, and telecommunications service providers UUT and FF remittances. The utility users tax and franchise fees consulting services portion of the contract provides for a flat fee payment of \$146,000 per year.

The City's goal for compliance reviews of Utility Users Tax and Franchise Fee revenues are to:

- Improve the accuracy of taxes and fees remitted to City,
- Ensure remittance compliance with the City of San José Municipal Code,
- Provide education to utility providers on the proper collection and reporting of utility users tax and franchise fees owed the City,
- Increase City's awareness of future trends and legislation that may adversely affect City's Utility Users Tax and Franchise Fee revenues, and
- Aid in the development of preventive measures to protect those revenues.

ANALYSIS

During the term of the original Agreement, Finance staff working with TCS was able to recover \$404,990.00 as a result of the telecommunications audit program. TCS also assisted Finance staff with educating the cellular providers regarding the proper application of the City's Municipal Code and in particular its UUT ordinance which has resulted in new and on-going revenues to the City of approximately \$1 million per year. Furthermore, TCS is in the middle of providing consulting services on the City's cellular provider compliance review, in which estimated tax due assessment letters were sent out to cellular service providers in January 2006. Given the limited staffing resources available in-house and TCS' specialized expertise in this area, extending TCS' contract would ensure continuity for a timely and successful completion of this compliance review process, as well as providing necessary on-going technical support.

TCS has also been instrumental in the compliance review efforts in the electric, gas and water utility arena. TCS continues consulting services regarding the ongoing multi-million PG & E franchise fee surcharge application issue. In addition TCS will be a much needed resource for the current and future application of UUT as it relates to telecommunications. Currently, the telecommunications industry is challenging the municipalities' right to apply the UUT, for San José that could result in a potential loss of \$22 million annually.

OUTCOME

Approval of this amendment would allow the Consultant to continue providing services relating to the Cellular Compliance Audit of utility users tax while allowing staff adequate time to issue a Request for Proposal for future Compliance Services for the City's TOT and UUT Revenue Programs.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office, and the Offices of the City Auditor and the City Attorney.

COST IMPLICATIONS

The City Wide Appropriations in the Finance Department for Revenue Enhancement Services will be sufficient to cover the cost of this contract amendment. The maximum compensation for the one year contract amendment is \$146,000.

HONORABLE MAYOR AND CITY COUNCIL

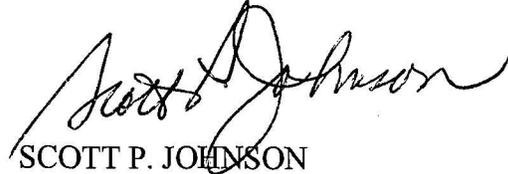
03-2-06

Subject: First Amendment to the Agreement Between the City of San José and Tax Compliance Services.

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CEQA

Not a project.

A handwritten signature in black ink, appearing to read "Scott P. Johnson". The signature is fluid and cursive, with the first name "Scott" and last name "Johnson" clearly legible.

SCOTT P. JOHNSON
Director, Finance