



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: SEE BELOW

DATE: June 3, 2011

Approved

Date

6/6/11

CITY DISTRICT: City-wide

SUBJECT: APPROVAL OF AGREEMENTS FOR REVENUE ENHANCEMENT SERVICES RELATING TO SALES AND USE TAX, UTILITY USERS TAX AND FRANCHISE FEES, AND LODGING TAXES AND FEES.

RECOMMENDATION

Adopt resolutions:

- a) Authorizing the Director of Finance to negotiate and execute the following agreements with:
 - (1) MuniServices to provide Sales and Use Tax revenue enhancement services and data analysis for the term of July 1, 2011 through June 30, 2014 at a maximum annual compensation not to exceed \$415,000, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds;
 - (2) Tax Compliance Services to provide Utility Users Tax and Franchise Fee compliance services for the term of July 1, 2011 through June 30, 2014 at a maximum annual compensation not to exceed \$127,800, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds; and
 - (3) Tax Compliance Services to provide Lodging Taxes and Fees compliance services for the term of July 1, 2011 through June 30, 2014 at a maximum annual compensation not to exceed \$46,125, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds.
- b) Authorizing MuniServices to examine all Sales and Use Tax records of the California State Board of Equalization for tax collection purposes and other governmental functions of the City.

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OUTCOME

Approval of this recommendation will allow the consultants to assist staff with Sales and Use Tax revenue enhancement services and data analysis, Utility Users Tax and Franchise Fee compliance services and Lodging Taxes and Fees compliance services to recover monies due the City.

BACKGROUND

Annually, the City receives approximately \$274 million in taxes and fees relating to Sales and Use Tax (\$137 million), Utility Users Tax and Franchise Fees (\$112 million), and Lodging Taxes and Fees (\$25 million). In this challenging budget environment, it is critical that the City performs audits and compliance reviews to ensure that it is receiving all revenues due.

To facilitate compliance, the Finance Department issued a Request for Proposal ("RFP") to solicit proposals for three specific areas of revenue enhancement and compliance services: Sales and Use Tax, Utility Users Tax and Franchise Fees, and Lodging Taxes and Fees. Proposers had the option to submit a response for one or any multiple combination of services.

ANALYSIS

On April 13, 2011, the Finance Department issued the RFP on the City's Purchasing website ("BidLine") for maximum exposure. There were 27 vendors that downloaded the document for review but due to the specialized nature of work requested, only five consultants submitted proposals.

The five firms that submitted proposals were: Bhuiyan and Associates, Crowe Horwath, Jung and Associates, MuniServices, and Tax Compliance Services. Each area of compliance service received a total of four proposals (two proposers submitted a proposal for all three services, two proposers submitted a proposal for two services, and one proposer submitted a proposal for one service). Proposals for each service request were evaluated separately using the following criteria and weighting:

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Evaluation Criteria:

<u>Description</u>	<u>Weight</u>
Proposal Responsiveness	Pass/Fail
Experience of Proposer	25%
Technical Capability	25%
Reference/Firm Reputation	20%
Fee Structure	20%
Local Business Enterprise	5%
Small Business Enterprise	5%
	<u>100%</u>

Sales and Use Tax

Rank	Firm	Experience	Technical	Reference	Cost	Local	Small	Total
1	MuniServices	24.67	24.17	20.00	5.98	0.00	0.00	74.81
2	Crowe Horwath	18.50	15.83	10.22	6.38	0.00	0.00	50.93
3	Bhuiyan and Assoc.	7.50	7.22	0.00	20.00	0.00	0.00	34.72
4	Jung and Assoc.	6.67	8.33	0.00	11.77	0.00	0.00	26.77

The table above summarizes the scoring results for the Sales and Use Tax revenue enhancement services portion of the RFP. MuniServices received the highest total points of 74.81 out of 100 points; Crowe Horwath, Bhuiyan and Associates, and Jung and Associates received 50.93, 34.72 and 26.77 points, respectively. Based on the results of the evaluation process, staff recommends MuniServices to provide Sales and Use Tax revenue enhancement services and data analysis for the City.

MuniServices will be paid on a contingency basis for reallocation of Sales and Use Tax to the City at a maximum annual compensation of \$400,000 for the Sales and Use Tax audits and a fixed annual compensation of \$15,000 for data analysis for an aggregate annual total of \$415,000. The agreement will be for three years with two one-year options to extend, subject to the City Council's annual appropriation of funds. The term of the agreement may be extended by the Director of Finance upon written notice to MuniServices. MuniServices fees are based on a percentage of new Sales and Use Tax revenues received by the City resulting from MuniServices' reallocation of Sales and Use Tax to the City and, therefore, are contingent upon MuniServices' performance under the terms and conditions of the agreement. MuniServices currently provides the City with Sales and Use Tax audit services. MuniServices' annual rate of compensation has historically averaged approximately \$225,000. Accordingly, staff is appropriating less than the maximum annual compensation permitted under the agreement, a total of \$281,075 for combined fixed (\$15,000) and contingent fee (\$266,075) services. To the extent MuniServices audit activities produce reallocation of Sales and Use Tax revenue in excess of \$266,075, staff will return to Council with a recommendation to recognize the additional revenue and appropriate the associated contingent fee expenditures.

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The total maximum compensation for the Initial Term of the Agreement from July 1, 2011 through June 30, 2014 shall not exceed \$1,245,000, subject to annual appropriation of funds. In addition, the City has two one-year options to extend the MuniServices contract at a maximum annual compensation not to exceed \$415,000 for a total maximum option period compensation of \$830,000, subject to annual appropriation of funds. MuniServices will provide the following services:

- Sales and Use Tax audits;
- Facilitate correction of tax filings with the State Board of Equalization;
- Provide technical and analytical support to City in regards to Sales and Use Tax related legislation and administrative rulings;
- Provide the City with Sales and Use Tax quarterly trend reports and budget analysis; and
- Provide the City with a sales tax data base with quarterly updates of sales tax permit records and distribution reports.

The Sales and Use Tax compliance services portion of the agreement provides that MuniServices will receive 15% of new revenues received by the City resulting from MuniServices' reallocation of Sales and Use Tax to the City, subject to an annual cap of \$400,000. The agreement itself is divided into two phases – the primary services phase and completion services phase. The primary services phase is the first three years of the agreement and any option years exercised by the Director of Finance. The completion services phase begins at the expiration or termination of the primary services phase, whichever is sooner. It is during the completion services phase of the agreement that the consultant resolves any unresolved claims with the Board of Equalization identified during the primary services phase. For each option year, there is a three year completion phase as described above. In this agreement, the completion phase will extend no later than June 30, 2019, and each year of the completion phase is subject to the cap of \$400,000.

In addition to providing services related to the collection of local Sales and Use Taxes, MuniServices will also provide City Departments with services related to other governmental functions, such as budgeting and financial projections. These revenue compliance and data analysis services individually and collectively add value to various City Departments and are essential for additional protection of the City's sales and use tax revenues. Accordingly, to ensure that MuniServices has access to the Sales and Use Tax records of the Board of Equalization, MuniServices must be authorized, by resolution of the City Council, to examine all Sales and Use Tax records of the California State Board of Equalization, consistent with Section 7056 of the California Revenue and Taxation Code.

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Utility Users Tax and Franchise Fees

Rank	Firm	Experience	Technical	Reference	Cost	Local	Small	Total
1	Tax Compliance Services	24.00	24.17	20.00	19.01	0.00	0.00	87.18
2	MuniServices	24.50	23.33	20.00	13.50	0.00	0.00	81.33
3	Crowe Horwath	16.33	14.17	10.22	20.00	0.00	0.00	60.72
4	Jung and Assoc	6.67	8.33	0.00	19.57	0.00	0.00	34.57

The table above summarizes the scoring results for Utility Users Tax and Franchise Fee revenue compliance services portion of the RFP. Tax Compliance Services received the highest total points of 87.18 out of 100; MuniServices, Crowe Horwath, and Jung and Associates received 81.33, 60.72 and 34.57 points, respectively. Based on the results of the evaluation process, staff recommends Tax Compliance Services (“TCS”) to provide Utility Users Tax and Franchise Fee revenue enhancement services for the City. TCS will be paid on a fixed rate basis at a maximum annual compensation of \$127,800 for the Utility Users Tax and Franchise Fee audits. The agreement will be for three years with two one-year options to extend, subject to the City Council’s annual appropriation of funds. The term of the agreement may be extended by the Director of Finance upon written notice to TCS.

The total maximum compensation for the Initial Term of the Agreement from July 1, 2011 through June 30, 2014 shall not exceed \$383,400, subject to annual appropriation of funds. In addition, the City has two one-year options to extend the TCS contract at a maximum annual compensation of \$127,800 for a total maximum option period compensation of \$255,600, subject to annual appropriation of funds. TCS will provide the following services:

- Energy transporters Utility Users Tax audits;
- Electric and Gas Franchise Fee audits;
- Water Franchise Fee audits;
- Telecommunication Users Tax audits;
- Revenue trend reports and revenue budget analysis to the City;
- Analysis of state and federal legislation that may threaten utility tax revenues; and
- Utility Users Tax training seminars for City staff.

Lodging Taxes and Fees

Rank	Firm	Experience	Technical	Reference	Cost	Local	Small	Total
1	Tax Compliance Services	23.83	24.17	20.00	18.82	0.00	0.00	86.82
2	MuniServices	24.33	23.33	20.00	14.87	0.00	0.00	82.54
3	Crowe Horwath	15.67	14.44	10.22	20.00	0.00	0.00	60.33
4	Jung and Assoc.	6.67	8.33	0.00	9.37	0.00	0.00	24.37

The table above summarizes the scoring results for the Lodging Taxing and Fees revenue enhancement services portion of the RFP. Tax Compliance Services received the highest total

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points of 86.82 points out of 100; MuniServices, Crowe Horwath, and Jung and Associates received 82.54, 60.33 and 24.37 points, respectively. Based on the results of the evaluation process, staff recommends Tax Compliance Services ("TCS") to provide Lodging Taxes and Fees revenue enhancement services for the City. TCS will be paid on a fixed rate basis at a maximum annual compensation of \$46,125. The agreement will be for three years with two one-year options to extend, subject to the City Council's annual appropriation of funds. The term of the agreement may be extended by the Director of Finance upon written notice to TCS.

The total maximum compensation for the Initial Term of the Agreement from July 1, 2011 through June 30, 2014 shall not exceed \$138,375, subject to annual appropriation of funds. In addition, the City has two one-year options to extend the TCS contract at a maximum annual compensation of \$46,125 for a total maximum option period compensation of \$92,250, subject to annual appropriation of funds. TCS will provide the following services:

- Transient Occupancy Tax ("TOT") audits;
- On Line Travel Company TOT compliance assistance to the City;
- Convention Center Facilities District ("CCFD") Tax audits;
- Hotel Business Improvement District ("HBID") Fee audits;
- Technical and analytical support to the City in regards to legislation that threatens the revenue source;
- Revenue trend reports and revenue budget analysis to the City; and
- Lodging Taxes and Fees training seminars for City staff.

PUBLIC OUTREACH/INTEREST

The RFP was posted on the City's BidLine and was downloaded by 27 parties potentially interested in providing auditing and compliance services.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

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COORDINATION

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

FISCAL/POLICY ALIGNMENT

The revenue enhancement and compliance program agreements with MuniServices to provide Sales and Use Tax revenue enhancement services and with Tax Compliance Services for Utility Users Tax and Franchise Fees and Lodging Taxes and Fees compliance services is consistent with the Council approved *2010-2011 Budget Balancing Strategy Principles* which directed the creation of a balanced budget which mitigated direct service reductions by utilizing a combination of ongoing expenditure reductions or retention of ongoing revenue sources.

COST SUMMARY/IMPLICATIONS

1. **AMOUNT OF RECOMMENDATION/COST OF PROJECT:** For the initial term of July 1, 2011 through June 30, 2014 the total maximum compensation for the contracts will not exceed \$1,766,775, with annual compensation not to exceed \$588,925, with two one-year options to extend through June 30, 2016, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds.

MuniServices fees are based on a percentage of new Sales and Use Tax revenues received by the City resulting from MuniServices' reallocation of Sales and Use Tax to the City and, therefore, are contingent upon MuniServices' performance under the terms and conditions of the agreement. MuniServices currently provides the City with Sales and Use Tax audit services. MuniServices' annual rate of compensation has historically averaged approximately \$225,000. Accordingly, staff is appropriating less than the maximum annual compensation permitted under the agreement, a total of \$281,075 for a combined fixed (\$15,000) and contingent fee (\$266,075) services. To the extent MuniServices audit activities produce reallocation of Sales and Use Tax revenue in excess of \$266,075, staff will return to Council with a recommendation to recognize the additional revenue and appropriate the associated contingent fee expenditures.

2. **SOURCE OF FUNDING:** City-Wide Appropriations in the Finance Department for Revenue Enhancement Consulting Services.
3. **FISCAL IMPACT:** N/A-One time cost.

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BUDGET REFERENCE

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Contract	2011-2012 Proposed Budget Page	Last Budget Action (Date, Ord. No.)
001	2060	Revenue Enhancement Consulting Services	\$455,000	\$588,925*	IX-24	NA

* The Sales and Use Tax portion of the contract is paid on a contingency basis. In the event that the actual contingent fees exceed the appropriation amount, staff will return to Council to request an increase in the appropriation amount which would be offset by recognizing increased Sales and Use Tax revenues.

CEQA

Not a project, File No. PP10-066 (e) Services that involve no physical changes to the environment.

/s/

SCOTT P. JOHNSON
Director, Finance Department

For questions, please contact Wendy J. Sollazzi, Revenue Management Division Manager at (408) 535-7005.

