



# City of Santa Clara

1500 Warburton Avenue  
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## Agenda Report

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19-1030

Agenda Date: 10/22/2019

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### REPORT TO COUNCIL

#### SUBJECT

Action on Amendment No. 1 to the Agreement with MuniServices, LLC for Sales and Use Tax Auditing Services

#### BACKGROUND

In August 2014, the City Council authorized the City Manager to execute an agreement with MuniServices, LLC to provide sales and use tax auditing services for the City. MuniServices, LLC has been performing these services for nearly 25 years. The current term expired on June 30, 2019. Staff is seeking approval to amend the agreement by extending the term for up to two years ending on June 30, 2021.

#### DISCUSSION

The City engages MuniServices, LLC to audit sales and use tax records of the California State Board of Equalization pertaining to the collection and allocation of those taxes and to provide recovery services for misallocated and underreported tax revenues found during those audits. Staff is requesting approval to extend the term for up to two years to continue the services without disruption, allow for time to conduct a competitive solicitation process, award a new contract and, if necessary, transition services to the selected contractor. Because the existing contractor has been performing these services for almost 25 years, it is anticipated that an extended transition period will be required if a new contractor is selected. Staff plans on conducting a competitive solicitation in fiscal year 2019/20.

MuniServices, LLC has agreed to maintain the current compensation during the two-year Amendment term. The agreement with MuniServices, LLC includes a 15% contingency fee on sales and use tax revenues recovered; an annual fixed fee for the STARS Query System software program allowing City staff to research and analyze tax information; and time and material rates ranging from \$75 to \$300 per hour for additional consulting services as may be required.

The City has paid MuniServices, LLC a total amount of \$1,733,985 under the agreement. The compensation paid to MuniServices, LLC has averaged \$346,797 annually, including the 15% contingency fee and STARS costs. Based on this average, staff estimates that compensation will be approximately \$350,000 annually during the amended term.

#### ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Furthermore, the action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act

("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **FISCAL IMPACT**

The fees for services that MuniServices, LLC will render are available in the Finance Department Operating Budget. The fees will not exceed \$4,449 (adjusted) paid annually for the STARS application. This annual fee will be adjusted at the beginning of each calendar year by the percentage change in the Consumer Price Index for this area.

Additionally, compensation for the Sales and Use Tax Audit Service, conducted on a quarterly basis, will be 15% of recovered revenues. Fees for additional consulting will be on a time and materials basis with hourly rates ranging from \$75 to \$300.

### **COORDINATION**

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

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

1. Authorize the City Manager to execute Amendment No. 1 to the Agreement with MuniServices, LLC for Sales and Use Tax Auditing Services to extend the term of the agreement by two years ending June 30, 2021 and increase compensation by \$700,000 for a total maximum not-to-exceed amount of \$2,433,985; and
2. Authorize the City Manager to execute amendments during the amended term of the contract in the event actual sales and use tax revenues recovered for which the City pays 15% contingency fee exceeds estimated amounts.

Reviewed by: Kenn Lee, Director of Finance

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Amendment No. 1 to the Agreement with MuniServices, LLC