



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: November 19, 2024

TO: Adam Politzer, Interim City Manager

FROM: Lilybell Nakamura, Human Resources Director / Acting Finance Director

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Three-Year Contract With An Option For Two One-Year Extensions With MuniServices, LLC For Sales And Use Tax Audit (SUTA) And Utilities User Tax (UUT) Franchise Administration And Compliance Consultant Services For A Total Amount Not To Exceed \$160,000 For Five Years Effective January 1, 2025**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled resolution authorizing the City Manager to execute a contract with MuniServices, LLC for Sales and Use Tax report and audit services and Utilities User Tax Franchise Administration and Compliance Consultant Services.

BACKGROUND

SUTA SERVICES CONTRACT

On January 12, 1990, the City of Emeryville entered into a contract with MuniServices, LLC to perform Sales and Use Tax report and audit services. Under that contract, the annual fixed fee for the Sales Tax Analysis and Reporting System (STARS) is \$2,500. That contract does not contain a “not to exceed” amount for Sales and Use Tax audit services. The City and Contractor have been operating under the original contract since that date since the contract has no termination or expiration date.

On January 22, 1996, the City entered into a First Amendment with Municipal Resource Consultants which has enacted business under the name of MuniServices, LLC. The contract amendment added business license, revenue enhancement audit, and geo-based revenue information services.

On April 16, 2020, the City entered into a Second Amendment with MuniServices, LLC and added revenue from a one-quarter-cent sales tax increase from Measure F to the contract. Measure F became effective on July 1, 2020.

On December 19, 2023, the City entered into a Third Amendment with MuniServices to add a termination date of December 31, 2024, increase the annual fixed fee with a total not exceed amount of \$2,625 for sales and use tax report services, and add a total not to exceed amount of \$20,000 for sales and use tax audit services.

UUT Franchise Compliance Services Contract

On October 24, 2001, the City of Emeryville entered into a contract with MuniServices, LLC to perform UUT (Utility User Tax) franchise compliance services. The total annual fixed fee was set at either \$10,000 or 0.5% of the total UUT revenues received from the prior fiscal year, whichever is greater (the "Compliance Services Contract"). Compensation under this agreement had a not to exceed amount of \$50,000 for a 5-year term but the contract has no termination or expiration date.

On January 1, 2015, AB 1717, the Prepaid Mobile Services Telephony Services Surcharge Collection Act was enacted, establishing a statewide method of collecting the UUT on prepaid wireless services and imposing certain restrictions on third party consultants who are designated and authorized by the City to examine certain Board of Equalization (BOE) documents relating to the collection of the City's UUT on prepaid wireless services.

On October 20, 2015, the City entered into a First Amendment to the Compliance Services Contract, and added additional authorizations to the Contractor to examine certain BOE documents relating to the collection of the City's UUT on prepaid wireless services. The City and Contractor have been operating under the original contract and amendment since that date.

On December 19, 2023, the City entered into a Second Amendment to add a termination date of December 31, 2024, and increase the total annual fixed fee by \$28,000 for a total not exceed amount of \$78,000 for UUT Franchise Compliance Services.

UUT Administration Services Contract

On April 3, 2013, the City entered into a contract with MuniServices, LLC for UUT administration services to manage UUT filings, payments, and collection activities (the "Administration Services Contract"). The monthly administration fee was based on \$2.95 per UUT filing transaction. The contract does not provide a total not to exceed amount or termination date. The City and Contractor have been operating under the original contract since that date.

On December 19, 2023, the City entered into a First Amendment to the contract to add a termination date of December 31, 2024, and increase the total compensation amount from the current rate of \$2.95 per transaction to \$3.10 per transaction with a total not to exceed an amount of \$9,500 for UUT Administration Services

DISCUSSION

The sales tax rate and utilities user tax rate for the City of Emeryville is 10.5% and 5.5%. The City anticipates generating approximately \$8.8 million of sales tax revenue and \$3.0 million of utilities user tax revenue in the General Fund for Fiscal Year 2025 per the adopted budget.

The City Council approved a Request for Proposal (RFP) on December 19, 2023, for both SUTA Services and UUT Franchise Administration and Compliance Services. The RFP was issued on September 3, 2024, and the City received two RFP responses, one from MuniServices, LLC and another from HdL Companies. The two RFP proposers provided presentations on October 17, 2024. A team of three City staff evaluated the two proposers' services and pricing and determined that MuniServices, LLC was more suitable to provide these services to the City. MuniServices, LLC has provided Sales and Use Tax report and audit services to the City since 1990 and currently provides these services for over 1,000 government entities nationwide including over 350 jurisdictions in California. MuniServices, LLC has also provided Utilities User Tax compliance services to the City since October 24, 2001, and Administration services since April 3, 2013. The City has been satisfied with the level of service and competitive pricing received in the prior years.

Sales and Use Tax Service Contract Fees

Report Services: The annual fixed fee in the current contract terminating on December 31, 2024 is \$2,625. The annual fixed fee for the contract effective January 1, 2025, will remain unchanged at \$2,625. Thereafter, the annual fee will increase by 5% CPI every year starting January 1, 2026.

Audit Services: The current compensation paid to the Contractor is 25% of new sales tax revenue realized by the City as a result of MuniServices, LLC identifying and correcting related point-of-sale distribution errors. They reduced this charge from 25% to 15% effective January 1, 2025, for audit services.

UUT Contract Fees:

Compliance Services: The City increased the fees paid to the Contractor in December 2023 to \$78,000 for a five-year term which will be terminated on December 31, 2024. The new proposal will be \$19,600 annually along with a 25% contingency rate for any utility special audits effective January 1, 2025.

Administration Services: The current fee for the services is \$3.10 per transaction and they offer to maintain the same fee rate with a not-to-exceed amount of \$9,500 effective January 1, 2025.

FISCAL IMPACT

The total compensation for both SUTA and UUT Franchise Administration and Compliance consultant services are included in the adopted budget of Fiscal Year 2025.

ADVISORY BODY REVIEW

There has been no communication with the budget committees.

CONCLUSION

Staff recommends that the City Council adopt the resolution authorizing the City Manager

to execute a three-year contract with MuniServices, LLC for both Sales and User Tax Audit (SUTA) and Utilities User Tax (UUT) Franchise Administration and Compliance consultant services with an option of two one-year extensions for a total amount not to exceed \$160,000 for five years effective January 1, 2025.

PREPARED BY: Peggy Xu, Accounting Manager

CITY COUNCIL OF THE CITY OF EMERYVILLE:



Adam Politzer, Interim City Manager

ATTACHMENTS

- Draft Resolution
 - Exhibit A – MuniServices, LLC Professional Services Contract