

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Michael Vivrette, Finance Director

Date: July 11, 2012

Subject: Adoption of Resolution No. 12-47, a Resolution of the Town Council of the Town of Fairfax authorizing an amendment to the contract with MuniServices to track & report the new sales tax

RECOMMENDATION

Adopt Resolution 12-47 amending the contract with Muni Services to track and report the new sales tax.

DISCUSSION

MuniServices handles the sales tax tracking and reporting for the Town of Fairfax. In order to comply with confidentiality requirements imposed by the State Board of Equalization, the Town needs to authorize Muni Services through resolution to track and report the additional sales tax approved by voters in November 2011 which went into effect on April 1, 2012.

The amendment to services makes three clarifications to the original contract with the Town adopted in 1992:

- (1) Changes in existing language required by the State:
 - a. *MuniServices is authorized by this Agreement to examine transaction tax, sales tax and use tax records of the State Board of Equalization (SBE) pertaining to the ascertainment of those sales or transactions and use taxes to be collected for the City.*
 - b. *MuniServices is required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.*
 - c. *MuniServices is prohibited from performing consulting services for a retailer during the term of this Agreement.*
 - d. *MuniServices is prohibited from retaining the information contained in, or derived from, those sales and use tax records, after this Agreement has expired."*
- (2) The Town of Fairfax and MuniServices agree that although the scope of work generically refers to "sales and use tax" those references are meant to include "sales, transaction, and use tax" as part of the scope of work.
- (3) The Town of Fairfax and MuniServices agree that the Town will update its resolution to the Board in a form substantially similar to the sample resolution attached hereto.
- (4) Except as herein modified, all other provisions of the Agreement, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

AGENDA ITEM # 10



MuniServices, LLC.
7335 North Palm Bluffs Avenue Fresno, California 93711
Phone: 800.800.8181 Fax: 559.275.0171
www.MuniServices.com

June 4, 2012

VIA EMAIL: mrock@townoffairfax.org
Town of Fairfax
Attn: Michael Rock, Town Manager
142 Bolinas Road
Fairfax, CA 94930

Re: Confidentiality Requirements of Section 7056

Dear Mr. Rock:

The purpose of the letter is to clarify two provisions in our contract with the Town of Fairfax for furnishing you with Sales and Use Tax Audit and Recovery services entered into on July 13, 1992 (the "Agreement")

The State Board of Equalization has changed its long-standing practices and has begun requesting that contracts expressly incorporate the confidentiality requirements of section 7056 and has also insisted that contracts where the scope of work includes district tax specifically include the words "transaction and use tax". These were not their practices when we entered the contract with you in 1992. To avoid any interruption of the services, we are requesting that you sign this letter agreement, which makes three clarifications to the contract to address the Board's practice.

1. The following language is incorporated into Exhibit A of the Agreement as if set forth therein.

Transaction and Use Tax

"MuniServices is authorized by this Agreement to examine transaction tax, sales tax and use tax records of the State Board of Equalization (SBE) pertaining to the ascertainment of those sales or transactions and use taxes to be collected for the City.

MuniServices is required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.

MuniServices is prohibited from performing consulting services for a retailer during the term of this Agreement.

MuniServices is prohibited from retaining the information contained in, or derived from, those sales and use tax records, after this Agreement has expired."

2. The Town of Fairfax and MuniServices agree that although the scope of work generically refers to "sales and use tax" those references are meant to include "sales, transaction, and use tax" as part of the scope of work.
3. The Town of Fairfax and MuniServices agree that the Town will update its resolution to the Board in a form substantially similar to the sample resolution attached hereto.

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Town of Fairfax
Attn: Michael Rock, Town Manager
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4. Except as herein modified, all other provisions of the Agreement, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

If this letter agreement correctly reflects the terms agreed by MuniServices and the Town of Fairfax, please sign this letter agreement in the space provided below and return by facsimile to (559) 312-2852, or by email to patricia.dunn@muniservices.com. By signing in the space below, you represent that you have authority to bind the Town of Fairfax to this agreement.

Sincerely yours,



Doug Jensen
Sr. Vice President Client Services
MuniServices, LLC

TOWN OF FAIRFAX

By: _____

Name: _____

Title: _____



RESOLUTION NO. 12-47

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AUTHORIZING THE EXAMINATION OF SALES OR TRANSACTIONS
AND USE TAX RECORDS BY MUNI SERVICES, LLC**

WHEREAS, pursuant to Resolution 12-06, the Town of Fairfax entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local transactions and use taxes; and

WHEREAS, the Town Council of the Town of Fairfax deems it necessary for an authorized representative of the Town to examine confidential sales and transactions and use tax records of the Board pertaining to sales and transactions and use taxes collected by the Board for the Town; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board records and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from sales or transactions and use tax records of the Board; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code requires that any person designated by the Town shall have an existing contract to examine the Town's sales and transactions and use tax records.

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the Finance Director or Town Manager or other officer or employee of the Town designated in writing by the Town Manager to the State Board of Equalization (hereafter referred to as (Board) is hereby appointed to represent the Town with authority to examine all of the sales or transactions and use tax records of the Board pertaining to sales or transactions and use taxes collected for the Town by the Board of Equalization pursuant to the contract between the Town and the Board under the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law. The information obtained by examination of Board records shall be used only for purposes related to the collection of Town sales or transactions and use taxes by the Board pursuant to the contract.

Section 2. That MuniServices LLC is hereby designated to examine the sales and transactions and use tax records of the Board pertaining to sales and transactions and use taxes collected for the Town by the Board. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the Town to examine sales and transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from those sales and transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;

d) is prohibited by that contract from retaining the information contained in, or derived from those sales and transactions and use tax records after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of Board records shall be used only for purposes related to the collection of Town's sales and transactions and use taxes by the Board pursuant to the contracts between the Town and the Board of Equalization.

Section 3. That this resolution supersedes all prior sales and transactions and use tax resolutions of the Town of Fairfax adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

The foregoing resolution was adopted at a regular meeting of the Fairfax Town Council of the Town of Fairfax held on the 11th day of July, 2012, by the following vote:

AYES:

NOES:

ABSENT:

PAM HARTWELL-HERRERO, MAYOR

Attest:

Town Clerk