



CITY OF

NEWPORT BEACH

City Council Staff Report

August 13, 2019
Agenda Item No. 3

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Dan Matusiewicz, Finance Director - 949-644-3123,
dmatusiewicz@newportbeachca.gov

PREPARED BY: Theresa Schweitzer, Senior Accountant,
tschweitzer@newportbeachca.gov

PHONE: 949-644-3140

TITLE: Resolution No. 2019-72: Approval and Award of Professional Services Agreement with Avenu Insights and Analytics, LLC ("Avenu/MuniServices") for Sales and Use Tax Auditing and Analysis

ABSTRACT:

In order to ensure the correct allocation of sales and use taxes to the City, continued access to historical and current data and analytics, and insight into revenue trends and projections, staff requests City Council's approval to enter into a one-year agreement with Avenu/MuniServices, with the option to extend for an additional four years, in one year increments.

RECOMMENDATION:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Authorize the Mayor and City Clerk to execute a one-year Professional Services Agreement with the option to extend for an additional four years, in one-year increments, with Avenu Insights and Analytics, LLC, for sales and use tax auditing and analysis, for a total not-to-exceed amount of \$531,000 over five years;
- c) Authorize the Mayor and City Clerk to execute a Contract Governing Access to Confidential Taxpayer Data with Avenu/MuniServices describing the legal requirements within California Revenue & Taxation Code ("RTC") 7056; and
- d) Adopt Resolution No. 2019-72, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Access to Sales or Transaction and Use Tax Records and Documents Pursuant to California Revenue & Taxation Code Section 7056(b).*

FUNDING REQUIREMENTS:

If approved, the current adopted budget includes sufficient funding for the Agreement. Access to the online sales and use tax web portal (known as Clearview) will be expensed to the Professional Services account in the Finance Department, Revenue Division (Account No. 0103031-811008). Contingency Fee payments made pursuant to the audit recovery portion of the Agreement will be paid from Sales Tax Recovery (Account No. 01003-412010).

DISCUSSION:

Background

Over the last few fiscal years, the City’s sales and use tax revenues were between \$33 million and \$37 million. In FY 2017-18, sales and use tax receipts made up approximately 16% of the General Fund. In order to forecast revenues for financial planning, for budget purposes and to ensure that sales and use taxes have been accurately remitted, the City works with expert sales and use tax consultants. The consultant provides updates of trends and legislation that would impact the City’s sales tax base, analyzes economic data, and identifies errors and/or omissions which may have resulted in deficient sales and use tax payments to the City.

Procurement Process

A Request for Qualifications (“RFQ”) solicitation was developed and publicly posted on the City’s online bidding platform, PlanetBids. The RFQ was also distributed directly to providers of consulting services related to Sales and Use Tax. The RFQ yielded three submittals to the City.

The evaluation panel for this RFQ evaluated all submittals and ranked them based on technical factors such as experience, qualifications, demonstrated project history in dealing with sales and use tax, references, proposed personnel and project approach. One submittal did not earn a minimum of 70% of the available score and was subsequently disqualified from award consideration. As part of its due diligence review and in addition to the evaluation of written submittals, staff contacted references for Avenu/Muniservices and HdL Companies and compared each proposer’s reporting capabilities and system user interface. The following table provides the results of the evaluation panel’s selection process:

Proposer	Avenu/MuniServices	HdL Companies
Qualifications of Proposer	28.00	27.00
References & Experience	28.00	27.00
Proposed Personnel	19.33	19.33
Project Approach	20.67	18.33
Evaluation Total:	96.00	91.66

In accordance with procedures for the procurement of professional services, staff unsealed the fee proposals from both proposers. While both sets of fee proposals were deemed reasonable, Avenu/MuniServices provided a lower contingency fee, coinciding with the evaluation panel’s assessment of Avenu/MuniServices as the highest-rated proposer for sales and use tax consulting services to the City.

Avenu Insights and Analytics, LLC (Avenu/MuniServices)

Avenu/MuniServices was established in 1978, and cited extensive project history and references in providing sales and use tax appeals and analysis services to various public agency clients, including the City of San Diego, the City of Sacramento and the City of Palm Springs.

Avenu/MuniServices shall provide City with economic analysis through consolidated reports, geographic area reports that review trends and key economic drivers, and analysis and benchmarking of the City’s sales and use tax base in comparison to other jurisdictions. In addition, Avenu/MuniServices will meet with staff on a quarterly basis to provide sales and use tax projections based on the City’s mix of businesses, an update of sales and use tax trends on a national level, and legislative analysis and recommendations.

Avenu/MuniServices shall also identify any errors and omissions which may have resulted in deficient payments to the City, detect misallocations and prepare documentation to the California Department of Tax and Fee Administration (“CDTFA”) to recover revenue. To accurately perform these services, Avenu/MuniServices must have access to available sales tax data which is considered confidential information by the Revenue and Taxation Code (“RTC”). RTC Section 7056 authorizes the CDTFA to provide access to confidential records under specific conditions, provided the City Council has entered into a contract, meeting the requirements of RTC Section 7056(b) (Attachment B) and adopts a resolution authorizing a person designated by the resolution to access such records (Attachment C).

This is a contingency agreement in which Avenu/MuniServices receives an 8% contingency fee for the first \$2 million in sales and use tax recovered throughout the term of the Agreement, including any extensions or options to renew, and 5% on recoveries in excess of the first \$2 million. The City will also pay an annual fee starting at \$6,000 for use of Clearview, Avenu/MuniServices’ online sales tax analysis tool. The annual fee will be adjusted by the percentage change in the Consumer Price Index beginning the Calendar year following the first full calendar year of service.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA

Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Professional Services Agreement with Avenu Insights and Analytics, LLC
Attachment B – Contract Governing Access to Confidential Taxpayer Data with Avenu
Insights and Analytics, LLC
Attachment C – Resolution No. 2019-72