

DATE: July 28, 2009

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Authorization for Utility Users Tax Implementation and Administration Services Contract with MuniServices, LLC, and General Fund Budget Appropriation

RECOMMENDATION

That Council approves the attached resolution authorizing the City Manager to execute a professional services contract for Utility Users Tax Implementation and Administration Services for a two-year term; and authorizes a General Fund budget appropriation in the amount of \$50,000 for FY 2010.

BACKGROUND

On March 3, 2009, the City Council declared a Fiscal Emergency due to the effects of the economic recession on the City of Hayward general revenues, and concerns related to maintaining delivery of City services. To address this fiscal crisis, the City presented the Hayward voters with a utility users tax ballot initiative. On May 19, 2009, the majority of the voters approved the 5.5% utility users tax and the Council implemented the new tax by ordinance.

DISCUSSION

The utility users tax (UUT) ordinance allows the City to levy a 5.5% tax on the consumption of utility services: electric, gas, telephone, cellular phone, long distance, and cable television. The UUT will not be levied on water, sewer, or solid waste/garbage services. The utility service providers (PGE, ATT, etc.) are required to add the UUT to the utility bills, collect the revenue, and pass the revenue on to the City monthly. The utility providers will start billing the UUT by October 1, 2009.

Implementation – Due to the complexity of implementing such a tax, and the number of utility service providers that are involved, the City has requested MuniServices, LLC to provide the City with assistance to implement the tax. MuniServices is a professional services firm specializing in the implementation, administration, and auditing of UUT's. They provide UUT administration services to over 150 California cities.

The MuniServices contract provides the City with a comprehensive UUT compliance and revenue protection program designed to preserve, protect, and enhance the UUT revenue. The contract with MuniServices also includes the legal services of Donald H. Maynor, who will provide the City with assistance related to revenue protection services, legal interpretation of our City ordinance, and Federal and State laws that currently exist or will be proposed.

Administration – MuniServices will provide assistance to City staff related to responding to tax inquiries, enforcing the collection of the tax, and identifying, and correcting errors causing revenue deficiencies. The administrative services also provide the City with assistance with meeting legal reporting requirements, such as publication of our ordinance, and administrative rulings on a general website; complying with Public Utilities Code Section 495.6; providing exemption forms; and tax compliance documents. MuniServices will provide staff with legal bulletins and legislative tracking related to UUT. They will also provide the City with revenue estimates.

Compliance Review Audit Services – MuniServices will perform compliance reviews to assure the UUT is being properly applied to taxable services by the utility companies. MuniServices will utilize certain detection tools to verify whether companies doing business within the City are being taxed properly. They will identify possible gaps in payments, review calculations or other payment errors made by the utilities. They will maintain a database of Hayward addresses to assure the accuracy of the City boundaries.

Managing Exemptions - The City ordinance provides for certain exemptions to utility users. These exemptions could be: statutory exemptions, including Federal or State agencies, public schools, state universities, etc; or low income exemptions, in which utility users must be eligible for a PUC Lifeline Telephone Program (ULTS) exemption or meet the low income criteria established by HUD for the County of Alameda. MuniServices will assist the City with creating procedures to work with the utilities to manage the exempt accounts.

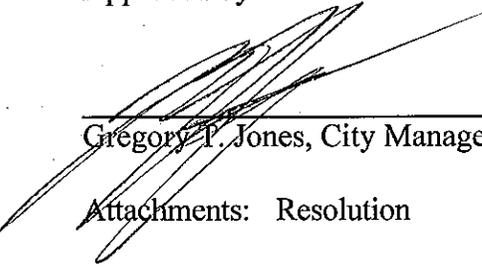
FISCAL IMPACT

The MuniServices proposal includes the services discussed above for a minimum two-year term, with the option to extend to future years. The fee for Year 1 of the contract (FY2010) is for a flat rate of \$50,000. The fee beginning in Year 2 of the contract (FY2011 and beyond) is 0.5% of the UUT revenue for the previous fiscal year. The funding source for these fees would be the general fund UUT revenues. A budget appropriation of \$50,000 will be required to fund these services in the Finance Department general fund budget.

Recommended by:


Debra C. Auker, Director of Finance

Approved by:



Gregory P. Jones, City Manager

Attachments: Resolution

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

Introduced by Council Member _____

Mal
7/23/09

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF HAYWARD AND MUNISERVICES, LLC., FOR UTILITY USER TAX IMPLEMENTATION AND ADMINISTRATION SERVICES FOR THE CITY OF HAYWARD AND APPROPRIATE FUNDS

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute on behalf of the City of Hayward a two-year agreement with MuniServices, LLC., for utility users tax (UUT) implementation and administration services for an amount not to exceed \$50,000 for July 2009 to June 2010 (FY2010) and 0.5% of FY2010 UUT revenue for July 2010 to June 2011.

BE IT ALSO RESOLVED that the City Council appropriate \$50,000 in the general fund Finance Department budget for FY2010 for these services.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

City of Hayward Utility Users Tax Frequently Asked Questions

1. What is a Utility Users tax (UUT)?

In a Special Election on May 19, 2009, the voters in the City of Hayward approved Ballot Measure A, which imposes a 5.5% tax on certain utility services. The utility services subject to the City of Hayward's UUT includes natural gas, electricity, telecommunications (traditional telephone service, long distance service, cellular phone service, and data services), and video/cable television services.

2. How much is Hayward's UUT?

The UUT is a 5.5% tax on natural gas, electricity, telecommunications (including traditional telephone service, long distance service, cellular phone service, and data services), and video/cable television utility charges.

3. When will the tax take effect?

The UUT became effective after the Council certified the election results on June 16, 2009. The utility companies must start collecting the tax no later than October 1, 2009.

4. Who must pay the UUT?

The UUT will be paid by Hayward residents and businesses that are utility users. The tax will be collected by the utility service providers, and remitted to the City monthly.

5. Which other cities in our area have a UUT? How do their rates compare to Hayward's?

Over 150 cities in California have implemented a utility users tax, as a local revenue source. The cities in Alameda County with a UUT include:

Alameda	6.5%	Albany	7.0%
Berkeley	7.5%	Emeryville	5.5%
Hayward	5.5%	Oakland	7.5%
Piedmont	7.5%	San Leandro	5.7-6.0%

6. How much does the UUT generate annually for the City of Hayward?

The City is uncertain of the annual revenue expected; however, we have estimated collecting \$10 to \$13 million, which will contribute to the funding of general city services.

7. Who is exempt from the UUT?

There are statutory exemptions and low-income exemptions available. Federal and State governments, including public schools and State universities are not required to pay the tax. State law exempts insurance companies and insurance brokers (but not agents) and federal credit unions from the tax. In addition, individuals that qualify and are enrolled in the Lifeline telephone program (ULTS) are exempt from the tax. Lifeline users are defined by the California PUC and customers must be enrolled in the lifeline telephone services program or the universal lifeline telephone services program. The lifeline exemption does not apply to nonresidential service locations. There is also an exemption refund program

for qualified low-income households. A qualified low income household is defined as a household in which the annual income is less than 50% of the median family income for the County of Alameda, as established by HUD. Contact the City Finance Department for more details.

8. How do I apply for a low-income exemption?

Annually, the City will accept low-income exemption applications. The income verification process will be consistent with the process now in place for water customers, and will be administered by the City Finance Department. If a household qualifies for the low-income exemption they will receive a refund for the amount of UUT they paid during the previous year. Verification of the payment of the tax is required. In order to apply for the exemption, you must provide a copy of all utility bills to support the refund request, complete the exemption application, and provide documentation to support the household income information.

9. How will residents and businesses get information on Hayward's UUT?

The City will be working with the utility companies to send out information in the utility bills as soon as possible. Information will be on the City's WEB site: www.hayward-ca.gov. If you have questions you may also contact Debra Aufer, Director of Finance at debra.aufer@hayward-ca.gov or at 510-583-4010.

10. Does the tax apply to satellite television services?

No, the UUT does not apply to satellite television services. Current Federal law prevents local and state governments from taxing satellite video services.

11. Does the tax apply to internet access?

No, the UUT does not apply to internet services. Current Federal law prohibits local and state governments from taxing access to the Internet.