



TOWN OF FAIRFAX

STAFF REPORT

October 4, 2017

TO: Mayor and Town Council

FROM: Michael Vivrette, Finance Director *GV*

SUBJECT: Adoption of Resolution Authorizing the Examination of Transactions and Use Tax Records (Measure C sales tax)

RECOMMENDATION

Adopt the Resolution Authorizing the Examination of Transactions (Sales) and Use Tax Records

DISCUSSION

In November 2016, the residents of Fairfax overwhelmingly supported the passage of Measure C, a general tax measure to continue a local sales tax for an additional period of ten (10) years and to increase the rate of the sales tax from 1/2% to 3/4%. The extended and increased tax took effect April 1, 2017.

Since 1992, the Town has contracted with MuniServices, LLC, to perform its sales/use tax misallocation allocation audit services. MuniServices has requested we adopt a resolution that authorizes the examination of sales tax records, which are confidential, by designated positions to allow access to information relating the collection of the tax. This is basically the continuation of a standard practice.

The ¾% sales tax will generate approximately \$649,000 annually in general fund revenue to the Town. This represents approximately 6.8% of the Town's total General Funds revenue in FY17-18.

FISCAL IMPACT

Not applicable.

ATTACHMENT

Resolution Authorizing the Examination of Transactions (Sales) and Use Tax Records

RESOLUTION 17-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AUTHORIZING THE EXAMINATION OF TRANSACTIONS (SALES)
AND USE TAX RECORDS

WHEREAS, pursuant to Resolutions numbered 17-01 and 17-02, 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 the Transactions and Use Tax Ordinances and the local sales and use taxes; and

WHEREAS, Town deems it necessary for authorized representatives of Town to examine confidential sales and transactions and use tax records of the Board or its successor agency, the California Department of Tax and Fee Administration, (collectively, or in the alternative, the "Agency") pertaining to sales and transactions and use taxes collected for Town by the Agency; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Agency 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 Agency; and

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

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the Town Manager or other officer or employee of Town designated in writing by the Town Manager to the Agency is hereby appointed to represent Town with authority to examine all of the sales and transactions and use tax records of the Agency pertaining to sales and transactions and use taxes collected for Town by the Agency pursuant to the contract between Town and the Agency. The information obtained by examination of Agency records shall be used for purposes related to the collection of Town's sales and transactions and use taxes by the Agency pursuant to the contract.

Section 2. That the Finance Director, or other officer or employee of Town designated in writing by the Finance Director to the Agency, is also hereby appointed to represent Town with the authority to examine those sales and transactions and use tax records of the Agency for purposes related to the following governmental functions of Town:

- a) tracking and economic development
- b) forecasting and budget related functions
- c) detection of misallocations and deficiencies

The information obtained by examination of Agency records shall be used only for those governmental functions of Town listed above.

Section 3. That MuniServices, LLC is hereby designated and authorized to examine all of the sales and transactions and use tax records of the Agency pertaining to all sales and use taxes collected for Town and any transaction and use taxes collected for Town under the following Transactions and Use Tax Ordinances and any future Transactions and Use Tax Ordinances that may be enacted in the Town:

Town of Fairfax Transactions and Use Tax, Measure C (FAXG).

The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with 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 an 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 Agency records shall be used only for purposes related to the collection of Town's sales and transactions and use taxes by the Agency pursuant to the contracts between Town and the Agency and for purposes relating to the governmental functions of Town listed in Section 2 of this resolution.

Section 4. This resolution supersedes all prior sales and transactions and use tax resolutions of Town adopted pursuant to subdivision (b) of Revenue and Taxation Code Section 7056.

The foregoing Resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 4th day of October 2017, by the following vote, to wit:

AYES:
NOES:
ABSENT:

John Reed, Mayor

Attest: _____
Michele Gardner, Town Clerk