

RESOLUTION NUMBER R- 313431

DATE OF FINAL PASSAGE FEB 12 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AN AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND MUNISERVICES, LLC, TO PROVIDE SALES, TRANSACTION AND USE TAX AUDIT AND RECOVERY AND INFORMATION SERVICES, AND AUTHORIZING THE EXAMINATION OF SALES, TRANSACTION, AND USE TAX RECORDS.

WHEREAS, pursuant to Resolution No. R-193047, the City of San Diego (City) entered into a contract with the California Department of Tax and Fee Administration (formerly known as the State Board of Equalization, the Department) to perform all functions incident to the administration and collection of local sales or transactions and use taxes; and

WHEREAS, the City Council of the City of San Diego (City Council) deems it desirable and necessary for authorized representatives of the City to examine confidential sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected by the Department for the City pursuant to that contract; and

WHEREAS, the City has traditionally used the services of an outside consultant to provide sales or transactions and use tax audit and information services (Tax Services) on a contingency fee basis; and

WHEREAS, the City's current contract for Tax Services is with MuniServices, LLC (Consultant); and

WHEREAS, the City has determined through a competitive process that it is advantageous to the City to enter into a new contract with Consultant for Tax Services; and

WHEREAS, on January 20, 2021, the Budget and Government Efficiency Committee voted to forward the staff recommendation to the City Council for consideration; and

WHEREAS, in order to provide the Tax Services, the Consultant must be authorized by the City to examine the sales or transactions and use tax records of the Department pertaining to the sales or transactions and use taxes collected by the Department on behalf of the City; and

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

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor, Chief Operating Officer, Chief Financial Officer or other officer or employee of the City designated in writing by the Chief Financial Officer (Authorized Representatives) to the Department, are hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the City by the Department pursuant to the contract between the City and the Department. The information obtained by examination of Department records shall be used only for purposes related to the collection of City sales or transactions and use taxes by the Department pursuant to that contract.

Section 2. That the Mayor, Chief Operating Officer, Chief Financial Officer or other officer or employee of the City designated in writing by the Chief Financial Officer to the Department, are hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the Department for purposes related to the following governmental functions of the City:

- a. Detect, document and assist in correcting sales or transactions and use tax reporting errors of businesses that, based on the location of their activities, are not properly registered with the City;
- b. Detect, document and assist in correcting the reporting of businesses that are improperly reporting sales tax, transaction tax or use tax, resulting in a reduction in tax revenue to the City;
- c. Detect, document and assist in correcting sales or transactions and use tax reporting errors or omissions and thereby generate previously unrealized revenue for the City;
- d. Provide the City with business-to-business use tax monitoring;
- e. Provide geo-coding in order to allow City staff to complete analyses of specific geographic areas by type and economic activity; and
- f. Functions related to budgeting and forecasting of revenue.

The information obtained by examination of Department records shall be used only for those governmental functions of the City listed above.

Section 3. That MuniServices, LLC is hereby designated and authorized to examine the sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the City and any sales or transactions and use taxes collected for the City under this Resolution and any future resolutions that may be enacted in the City. The consultant designated by this section meets all of the following conditions:

- a) has an existing contract with the City to examine those sales or transactions and use tax records;

- b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the Authorized Representatives under Section 1 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; and
- d) is prohibited by that contract from retaining the information contained in, or derived from, those sales or transactions and use tax records, after that contract has expired.

The information obtained by examination of Department records shall be used only for purposes related to the collection of City sales or transactions and use taxes by the Department pursuant to the contract between the City and the Department.

Section 4. That the Mayor or his designee is hereby authorized and directed to enter into an agreement with MuniServices, LLC to provide sales or transactions and use tax audit and information services on a contingency fee basis substantially under the terms and conditions in the agreement on file with the Office of the City Clerk as Document No. R- 313431, and with any recommended changes deemed to be necessary or appropriate by the City Attorney.

Section 5. That this Resolution supersedes all prior resolutions of the City Council adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

APPROVED: MARA W. ELLIOTT, City Attorney

By  /s/ Bret A. Bartolotta  
Bret A. Bartolotta  
Deputy City Attorney

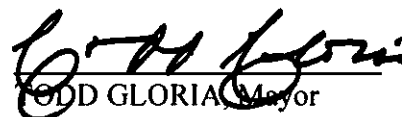
BAB:jdf  
1/4/21  
Or.Dept:DoF  
Doc. No. 2535420

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 02/09/2021.

ELIZABETH S. MALAND  
City Clerk

By  /s/ Connie Patterson  
Deputy City Clerk

Approved: 2/12/21  
(date)

  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on FEB 09 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 12 2021.

**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 313431