

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING MUNISERVICES LLC DBA AVENU MUNISERVICES LLC TO EXAMINE ALL SALES AND USE TAX RECORDS OF THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (INCLUDING TRANSACTIONS AND USE TAX RECORDS) FOR TAX COLLECTION PURPOSES AND OTHER GOVERNMENTAL FUNCTIONS OF THE CITY OF SAN JOSE

WHEREAS, pursuant to applicable laws, the City of San José (“City”), has entered into a contract with the California State Board of Equalization, currently referred to as the California Department of Tax and Fee Administration (“CDTFA”) to perform all functions incident to the administration and collection of local sales and use taxes, including transactions and use tax, and collectively referred to herein as “local sales and use taxes,” due City; and

WHEREAS, the City deems it desirable and necessary for authorized representatives of the City to examine confidential sales and use tax records of the CDTFA pertaining to sales and use taxes collected by the CDTFA for the City pursuant to that contract; and

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

WHEREAS, the City Council has authorized the Director of Finance to enter into an agreement for revenue enhancement and compliance services and data analysis with MuniServices LLC, dba Avenu MuniServices LLC, a Delaware limited liability company,

with a term commencing on January 1, 2021 through June 30, 2023, with three two-year options to extend the term, subject to the City Council's annual appropriation of funds;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. MuniServices LLC, dba Avenu MuniServices LLC, a Delaware limited liability company, is hereby designated and authorized to examine all of the sales and use tax records of the CDTFA pertaining to all sales and use taxes collected (or to be collected) for the City by the CDTFA during the term of MuniServices LLC, dba Avenu MuniServices LLC's agreement with the City, provided that the person or entity designated by this section meets all of the following conditions:
 - A. Has an existing contract with the City to examine those sales and use tax records;
 - B. Is required by that contract to disclose information contained in, or derived from, those sales and use tax records only to the officer or employee of City who is authorized by Council resolution or who has been designated in writing by the City Manager to the CDTFA as authorized by Council resolution to examine that 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 and use tax records after that contract has expired.

2. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City's sales and use taxes by the CDTFA pursuant to the contract between the City and the CDTFA, and for purposes relating to the governmental functions of the City set forth below:
 - A. Budgeting and Revenue Projections
 - B. Economic Development and Strategic Planning (Business Attraction, Expansion, and Retention)
 - C. Land Use Planning
 - D. Revenue Productivity Analysis
 - E. Fiscal and Economic Impact Analysis
 - F. Analysis of Revenue Base Strengths, Weaknesses, Opportunities, and Threats.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk