



Memorandum

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 1, 2008

Approved

Date

4/4/08

Council District: Citywide
SNI: All

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING APPLIED
DEVELOPMENT ECONOMICS TO HAVE ACCESS TO CALIFORNIA
STATE BOARD OF EQUALIZATION SALES AND USE TAX RECORDS.**

RECOMMENDATION

Adoption of a resolution designating Applied Development Economics as an authorized representative of the City, for the limited purpose of examination of all sales and use tax records of the California State Board of Equalization, subject to the execution by April 22, 2008 of a consultant agreement requiring compliance by the consultant with the requirements of Revenue and Taxation Code Section 7056 between the City, through its City Manager, and Applied Development Economics.

OUTCOME

Approval of this recommendation will allow Applied Development Economics to access confidential sales tax records on behalf of the City in order to conduct the fiscal impact analysis for the Envision San Jose 2040 General Plan Update.

BACKGROUND

Analysis of sales tax data is a critical component of the fiscal impact analysis to be prepared for the Envision San Jose 2040 General Plan Update. The City is finalizing the contract with the firm of Applied Development Economics to perform the fiscal impact analysis. The work to be performed requires Applied Development Economics to have access to confidential sales and use tax information from the California State Board of Equalization ("SBOE").

California Revenue and Tax Code Section 7056 requires that before consultants, like Applied Development Economics, are permitted to review any confidential sales and use tax records in the possession of the SBOE, they must enter into agreements directly with the City, agreeing not

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to disclose confidential information contained in or derived from sales and use tax records to anyone other than an officer or employee of the City who is authorized by Council resolution or designated in writing by the City Manager to have access to such information. In addition, Section 7056 prohibits any consultant from performing services for any retailer doing business in the City during the term of its agreement with the City, as well as from retaining the information contained in, or derived from, those sales and use tax records reviewed after the agreement with the City has expired. In order for Applied Development Economics to conduct business with the City, it must agree that the information obtained by examination of SBOE records shall be used only for purposes related to collection of local sales and use taxes or for other governmental functions of the City as set forth by resolution. Applied Development Economics agrees to comply with the strict requirements of Revenue and Taxation Code Section 7056 as described above. Accordingly, staff recommends Applied Development Economics be designated as representatives of the City, authorized to examine all sales and use tax records of the SBOE, subject to execution of the related consultant agreement prior to April 22, 2008.

The consultant agreement between the City of San Jose and Applied Development Economics, which includes the provisions required by law for the inspection of SBOE records, is currently being finalized and will be executed by the City Manager and the consultant prior to consideration of this action by the City Council. The consultant agreement does not require Council approval as the total compensation amount (less than \$250,000) is within the authority of the City Manager to negotiate and execute.

ANALYSIS

It is critical for the City's consultant to have access to SBOE information in order to construct an understanding of the current retail market and develop projections regarding future needs. Retail market analysis will be an important component of both the fiscal impact analysis and the discussions by the Envision San Jose 2040 Task Force regarding how to create more complete, walkable communities with retail services close to neighborhoods. Sales and Use Tax information will enable the City to address the overall mix of retail businesses and their geographic locations, allowing San José to retain sales tax dollars that are currently being spent outside the City limits.

EVALUATION AND FOLLOW-UP

The Sales and Use Tax information obtained by the consultant will be utilized in the preparation of the fiscal impact analysis in support of the Envision San Jose 2040 General Plan Update process. The results of the study will be presented to the Envision San Jose 2040 Task Force and the City Council. Subsequent feedback and direction from the Council will guide the General Plan Update process.

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PUBLIC OUTREACH

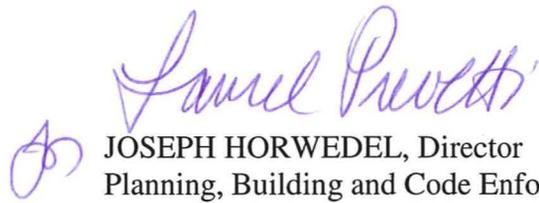
While there is no specific public outreach for this item, the Envision San Jose 2040 General Plan Update process incorporates extensive public outreach and involvement.

COORDINATION

This report has been coordinated with the Office of Economic Development and the City Attorney's Office.

CEQA

Not a Project


JOSEPH HORWEDEL, Director
Planning, Building and Code Enforcement

For questions, please contact Laurel Prevetti, Assistant Director at (408) 535-7901.