

RESOLUTION NO. 74330

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DESIGNATING APPLIED DEVELOPMENT ECONOMICS AS A REPRESENTATIVE OF THE CITY, AUTHORIZED TO EXAMINE ALL SALES AND USE TAX RECORDS OF THE CALIFORNIA STATE BOARD OF EQUALIZATION IN ORDER TO CONDUCT THE FISCAL IMPACT AND RETAIL MARKET ANALYSES FOR THE ENVISION SAN JOSE 2040 GENERAL PLAN UPDATE

WHEREAS, sales tax is the single largest source of General Fund revenue for the City of San José (“City”); and

WHEREAS, analysis of sales tax data is a critical component of the fiscal impact and retail market analyses to be prepared for the Envision San Jose 2040 General Plan Update; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code specifies requirements and conditions for the disclosure of State Board of Equalization records to a City consultant, which include, among other requirements, formal City authorization of the Consultant to examine the State Board of Equalization confidential sales and use tax records, and also establishes criminal penalties for the unlawful disclosure of information contained in or derived from the sales and use tax records of the Board; and

WHEREAS, on April 18, 2008, the Consultant entered into an agreement with the City to prepare fiscal impact and retail market analyses for the Envision San Jose 2040 General Plan Update in which agreement Consultant has agreed to comply with the strict requirements of Revenue and Taxation Code section 7056, and the City desires to designate Consultant to examine all sales and use tax records of the Board of Equalization for the preparation of the fiscal impact and retail market analyses for the Envision San Jose 2040 General Plan Update.

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

1. The City hereby designates Applied Development Economics, a California corporation (“Consultant”), as a representative of the City, authorized to examine all sales and use tax records of the California State Board of Equalization (“Board”) for the preparation of the fiscal impact and retail market analyses for the Envision San Jose 2040 General Plan Update, and certifies that Consultant meets all of the following conditions:

- A. Has an existing contract with the City to examine those sales and use tax records; and
- B. Is required by that contract to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of City who is authorized by Council resolution or who has been designated in writing by the City Manager to the Board as authorized by Council resolution to examine that information; and
- 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 the Consultant through an examination of Board records shall be used only for purposes related to the collection of City sales and use taxes or for purposes relating to other governmental functions of the City.

ADOPTED this 22nd day of April, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDO, OLIVERIO, PYLE, WILLIAMS, REED

NOES: NONE.

ABSENT: NGUYEN.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk