

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2023-XXX

RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL TO APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH STRATEGIC ECONOMICS, INC. FOR PRODUCTION OF THE ECONOMIC DEVELOPMENT STRATEGY, AND TO AUTHORIZE EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS

WHEREAS, pursuant to San Leandro Municipal Code Title 2, Chapter 2-1 Sales and Use Tax, the City of San Leandro (City) entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of sales and use taxes; and

WHEREAS, pursuant to Revenue and Taxation Code section 7270, the City entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, the City Council of the City of City of San Leandro deems it desirable and necessary for authorized officers, employees and 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, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records, and Section 7056.5 of the California Revenue and Taxation Code 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; and

WHEREAS, when requested by resolution of the legislative body of any city, the board shall permit any duly authorized officer or employee of the city or other person designated by that resolution, to examine all of the sales or transactions and use tax records of the board pertaining to the ascertainment of those sales or transactions and use taxes to be collected for the city pursuant to a contract entered into between the board and the city under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)); and

WHEREAS, on September 18, 2023, the City Council adopted Resolution No. 2023-134 Authorizing the City Manager to Execute a Consulting Services Agreement with Strategic Economics, Inc. ("Strategic Economics") for Production of the Economic Development Strategy for \$120,000 and to Negotiate and Approve Cumulative Contract Amendments up to 25% of the Contract Amount for a Total Not to Exceed Amount of \$150,000; and

WHEREAS, examination of sales or transactions and use tax records by Strategic Economics is necessary to conduct a proper analysis for the Economic Development Strategy process.

NOW, THEREFORE, the City of San Leandro City Council does **RESOLVE** as follows:

Section 1. That the City Manager, City Attorney, Assistant City Manager, Community Development Director, Economic Development Manager, Finance Director, Assistant Finance Director, Financial Services

Manager, or other officer or employee of the City designated in writing by the City Manager to the California Department of Tax and Fee Administration is 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; and

Section 2. 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, and for purposes related to the following governmental functions of the City:

- a) Budget Planning and Related Functions
- b) Economic Development and Related Functions
- c) Grant and Other Administration

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

Section 3. Resolution No. 2021-117 of the City of San Leandro City Council Authorized the City Manager to Execute an Agreement Amendment and Novation with MuniServices for Examination of Sales or Transactions and Use Tax Records. Such authorization for MuniServices to examine sales or transaction and use tax records shall remain in force; and

Section 4. That the Consulting Services Agreement with Strategic Economics for Production of the Economic Development Strategy shall be amended to require that Strategic Economics meet 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 officer or employee authorized 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;
- 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; and

Section 5. That Strategic Economics is hereby designated 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 by the Department; and

Section 6. That Strategic Economics shall no longer be designated or permitted to examine the sales or transaction and use tax records of the Department pertaining to sales or transactions or use taxes collected for the City by the Department following the completion of the Economic Development Strategy as outlined in the Consulting Service Agreement; and

BE IT FURTHER RESOLVED that 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 and for those purposes relating to the governmental functions of the City listed in section 2 of this resolution; and

Section 7. That the City Council authorizes the City Manager to Execute a First Amendment to the Consulting Services Agreement with Strategic Economics, Inc. for Production of the Economic Development Strategy to Authorize Examination of Sales or Transaction and Use Tax Records, pursuant to the terms above (Attachment A); and

Section 8. That this resolution supersedes all prior resolutions of the City Council of the City of San Leandro adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

Introduced by _____ and passed and adopted this 6th day of November 2023, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Kelly B. Clancy, CMC
City Clerk