



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2015 MAR 12 PM 10:00

# AGENDA REPORT

**TO:** JOHN A. FLORES  
INTERIM CITY ADMINISTRATOR

**FROM:** David McPherson

**SUBJECT:** Designation and Authorization of  
City Representative to Examine  
Sales and Use Tax Records

**DATE:** February 21, 2015

City Administrator

Date

Approval

3/10/15

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

Staff recommends the City Council adopt: a resolution authorizing the City Administrator to update and expand the List of Designated City Officials to include (1) Assistant City Administrator, Director of Finance, Revenue and Tax Administrator, Budget Director, Director of Economic and Workforce Development, City Administrator Analyst, Assistant to the City Administrator, City Attorney, Deputy City Attorney IV, Deputy City Attorney III, Principal Revenue Analyst, Principal Financial Analyst, Tax Auditor III, Tax Auditor II, Accountant II, Tax Enforcement Officer II, Revenue Assistant, Collections Officer, Tax Representative II, and (2) remove from the existing list the Revenue Collections Supervisor, Revenue Audit Supervisor, and Finance Manager, and (3) add a consultant authority to examine sales and use tax records for the City of Oakland from the Board of Equalization (here after referred to as the "Board") pursuant to California Revenue and Taxation Code Section 7056(b).

## OUTCOME

With the adoption of the resolution, the City will be in compliance with California Revenue and Taxation Code Section 7056(b), which sets forth certain requirements and conditions for the disclosure of information contained in, or derived from, the City's sales and use tax records of the Board. This resolution will be an amendment to Resolution No. 827621<sup>1</sup>, to update and expand the list of authorized City positions and consultants who are authorized to receive and examine sales and use tax records for the City of Oakland (City) from the Board. The requested positions to be added to the list require access to sales and use tax data for review and analysis as

<sup>1</sup>RESO. 82762 C.M.S Resolution authorizing and to update and expand the List of Designated city officials to include the authority to examine sales and use tax records for the City of Oakland from the State of California Board of Equalization pursuant to California Revenue and Taxation Code Section 7056(b).

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part of their job responsibilities. In addition, this resolution also authorized the consulting firm Hinderliter, de Llamas and Associates to receive and review sales and use tax records in behalf of the City.

### **BACKGROUND/LEGISLATIVE HISTORY**

In 2010, Resolution No. 82762 was approved by the City Council, authorizing the update and expansion of the List of Designated City Officials who can receive and examine City of Oakland sales and use tax records from the Board. In addition, the Resolution also authorized the consulting firm Hinderliter, de Llamas and Associates to receive and examine sales and use tax records in behalf of the City.

### **ANALYSIS**

The City entered into a contract with the Board to perform all functions related to the administration and collection of local sales and use taxes. California Revenue and Taxation Code Section 7056(b), sets forth requirements and conditions for the disclosure of Board records and establishes criminal penalties for the unlawful disclosure of information contained in, derived from, the sales and use tax records of the Board. To ensure the continued confidentiality to sales and use tax records, the City will restrict access to collections receipts to those positions requested in this resolution. Therefore, to maintain the highest level of security, staff recommends (1) removing those position titles that no longer exist, and (2) adding those positions stated in this recommendation, and (3) to add a consultant authority to examine sales and use tax records for the City from the Board.

Staff recommends to update and expand the List of Designation of City Officials of those positions who are permitted to receive and examine City sales and use tax records from the Board, as noted in the recommendation section of this report. In addition, staff recommends the City Council include on the list Hinderliter, de Llamas and Associates as this firm is contracted by the City to provide sales and use tax consulting services for economic analysis, web based data, auditing and staff training.

### **PUBLIC OUTREACH/INTEREST**

This item did not require any additional public outreach other than the required posting on the City's website.

### **COORDINATION**

This staff report was prepared by the Revenue Management Bureau in coordination with the City Administrator's Office and the City Attorney's Office.

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**COST SUMMARY/IMPLICATIONS**

There was no cost or fiscal impact associated with the adoption of this report and resolution.

**SUSTAINABLE OPPORTUNITIES**

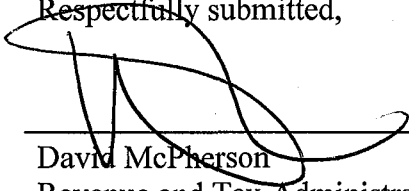
***Economic:*** The designation and authorization of City staff and representatives allows the City to maintain the integrity of the City's tax enforcement and compliance efforts.

***Environmental:*** There are no environmental impacts associated to this report.

***Social Equity:*** The designation and authorization of City staff and representatives allows the City to maintain confidentiality of sales and use tax receipts and promote equitable treatment of all taxpayers.


For questions regarding this report, please contact David McPherson, Revenue and Tax Administrator, at (510) 238-6650.

Respectfully submitted,



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David McPherson  
Revenue and Tax Administrator  
Revenue Management Bureau



Reviewed by:  
Margaret O'Brien - Principle Revenue Analyst  
Revenue Management Bureau

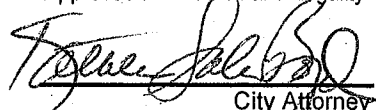
Prepared by:  
Andrew Best – Principal Revenue Analyst  
Revenue Management Bureau

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Approved as to Form and Legality

# OAKLAND CITY COUNCIL

  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**ADOPT A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO UPDATE AND EXPAND THE LIST OF DESIGNATED CITY OFFICIALS WHO ARE PERMITTED TO VIEW AND USE CITY OF OAKLAND SALES AND USE TAX INFORMATION TO (1) INCLUDE ASSISTANT CITY ADMINISTRATOR, DIRECTOR OF FINANCE, REVENUE AND TAX ADMINISTRATOR, BUDGET DIRECTOR, DIRECTOR OF ECONOMIC AND WORKFORCE DEVELOPMENT, CITY ADMINISTRATOR ANALYST, ASSISTANT TO THE CITY ADMINISTRATOR, CITY ATTORNEY, DEPUTY CITY ATTORNEY IV, DEPUTY CITY ATTORNEY III, PRINCIPAL REVENUE ANALYST, PRINCIPAL FINANCIAL ANALYST, TAX AUDITOR III, TAX AUDITOR II, ACCOUNTANT II, TAX ENFORCEMENT OFFICER II, REVENUE ASSISTANT, COLLECTIONS OFFICER, TAX REPRESENTATIVE II, AND (2) REMOVE FROM THE EXISTING LIST REVENUE COLLECTIONS SUPERVISOR, REVENUE AUDIT SUPERVISOR, AND FINANCE MANAGER; AND (3) ADD A CONSULTANT AUTHORITY TO EXAMINE SALES AND USE TAX RECORDS FOR THE CITY OF OAKLAND FROM THE BOARD OF EQUALIZATION PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 7056(B).**

**WHEREAS**, pursuant to Oakland Municipal Code Title 5; Chapter 5.04, Section 5.04.140 "Disclosure of Business Taxpayers, etc. Limitation on Rule," the City of Oakland entered into a contract with the State Board of Equalization (hereafter referred to as Board) to perform all functions related to the administration and collection of local sales and use taxes; and

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

**WHEREAS**, California Revenue and Taxation Code Section 7056(b) sets forth requirements and conditions for the disclosure of Board records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales and use tax records of the Board; now, therefore, be it

**RESOLVED**, that the City Council of the City of Oakland hereby appoints the Assistant City Administrator, Director of Finance, Revenue and Tax Administrator, Budget Director, Director of Economic and Workforce Development, City Administrator Analyst, Assistant to the City Administrator, City Attorney, Deputy City Attorney IV, Deputy City Attorney III, Principal Revenue Analyst, Principal Financial Analyst, Tax Auditor III, Tax Auditor II, Accountant II,

Tax Enforcement Officer II, Revenue Assistant, Collections Officer, Tax Representative II, of the City and designated in writing by the Revenue and Tax Administrator (position title allowed to designate) as designated City Representatives with authority to examine sales and use taxes collected by the Board on behalf of the City; and be it

**FURTHER RESOLVED**, that the information obtained by the designated representatives of the City through the examination of Board records shall be used only for purposes related to the collection of City sales and use taxes by the Board and governmental functions such as:

- a) Revenue Audits and Compliance Review;
- b) Economic Development Programs;
- c) Budget Forecasting; and,
- d) And other sales and use tax related issues as authorized by the Revenue and Tax Administrator; and be it

**FURTHER RESOLVED**, that pursuant to California Revenue and Taxation Section 7056(b), the City Council of the City of Oakland designates Hinderliter, de Llamas and Associates, (hereinafter referred to as "Consultant") as a representative of the City of Oakland to examine all of the sales and use tax records of the Board pertaining to sales and use taxes collected by the Board on behalf of the City of Oakland and certifies that the Contractor meets all of the following conditions:

- a. Consultant has an existing contract with the City to represent the City in a matter requiring examination of sales tax records;
- b. Consultant is required by that contract to disclose information contained in, or derived from, those sales tax records only to an officer or employee of the City who is authorized by resolution to examine the information;
- c. Consultant is prohibited by the contract from performing consulting services for a retailer during the term of the contract; and

Consultant is prohibited from retaining the information contained in, or derived from, those sales tax records, after the contract has expired.

The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales and use taxes by the Board pursuant to the contract between the City and the Board and for purposes relating to the governmental functions of the City listed in Section 2 of this resolution; and be it

**FURTHER RESOLVED**, that this resolution supersedes all prior resolutions of the Oakland City Council adopted pursuant to subdivision (b) of California Revenue and Taxation Code Section 7056, except Council Resolution No. 84663 designating and authorizing Christopher Kee as a City representative authorized to examine sales and use tax records shall remain in effect; and be it

**FURTHER RESOLVED**, that this Resolution shall take effect immediately upon passage.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GUILLEN, KALB, KAPLAN, REID, WASHINGTON, and PRESIDENT GIBSON  
MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California