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OAKLAND

13 OCT -3 PM 3:42

# AGENDA REPORT

**TO: CITY COUNCIL**

**FROM: Barbara J. Parker**  
City Attorney

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

**DATE: October 15, 2013**

**COUNCIL DISTRICT: City Wide**

## **RECOMMENDATION**

Adopt the Resolution of the City Council of the City of Oakland Designating and Authorizing Christopher Kee of the Law Office of Christopher Kee, as a City Representative To Examine Sales And Use Tax Records.

## **EXECUTIVE SUMMARY**

The City Attorney's Office engaged the Law Offices of Christopher Kee to represent the City in proceedings before the Board of Equalization, which requires review of confidential statewide sales and use tax records. Pursuant to California Revenue and Taxation Code Section 7056, the City of Oakland may designate by resolution any officer, employee or any other person to examine all of the sales and use tax records of the Board pertaining to sales and use taxes collected for the City. Adoption of the resolution will allow the City's legal counsel to access records necessary to represent the City's interest in the pending Board of Equalization proceedings.

## **DISCUSSION**

Pursuant to California Revenue and Taxation Code Section 7200, et seq., the City of Oakland has adopted a sales and use tax ordinance, which imposes a tax and provides to be administered and collected by the State Board of Equalization along the same and existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes. Section 7056 of the California Revenue and Taxation Code sets forth certain 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 of Equalization. In accordance with Section 7056, the City Council is required to designate by resolution officers, employees, consultants or other agents to examine confidential state sales and use tax records. In addition, the City Council must certify that the designated consultant will maintain the confidentiality of these records.

Item: \_\_\_\_\_  
City Council  
October 15, 2013

Christopher Kee has been engaged by the City as legal counsel in pending proceedings before the Board of Equalization relating to the sales and use taxes collected by the state and distributed to the City and other taxing jurisdictions throughout the state. Access to the state's tax records is necessary to allow legal counsel to analyze the facts, prepare briefing and prepare the case for the City of Oakland in upcoming proceedings before the Board of Equalization.

Due to the state statutory constraints regarding confidentiality of the pending proceedings, details regarding the underlying action cannot be discussed in open session.

**FISCAL IMPACTS**


This resolution will not have any fiscal impacts.

**PROPOSED OUTCOME**

Passage of the resolution will allow the City's legal counsel to access confidential statewide sales and use tax records maintained by the Board of Equalization.

For questions regarding this report, please contact Kathleen Salem-Boyd, Deputy City Attorney at (510) 238-3034.

Respectfully submitted,

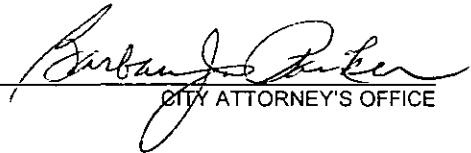
  
BARBARA J. PARKER  
City Attorney

**Attachments**

Resolution of the City Council of the City of Oakland Designating and Authorizing Christopher Kee of the Law Office of Christopher Kee, as a City Representative To Examine Sales And Use Tax Records.

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CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C. M. S.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND  
DESIGNATING AND AUTHORIZING CHRISTOPHER KEE, ATTORNEY  
AT LAW, AS A CITY REPRESENTATIVE AUTHORIZED TO EXAMINE  
SALES AND USE TAX RECORDS**

**WHEREAS**, pursuant to California Revenue and Taxation Code Section 7200, et seq., the City of Oakland has adopted a sales and use tax ordinance which imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization along the same and existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes; and

**WHEREAS**, a pursuant to California Revenue and Taxation Code Section 7056, the City of Oakland, by resolution, may designate any officer, employee or any other person to examine all of the sales and use tax records of the Board pertaining to sales and use taxes collected for the City; and

**WHEREAS**, the City of Oakland has retained as consultant Christopher Kee, Attorney at Law, as the authorized legal representative of the City to examine such sales and use tax records maintained by the Board on behalf of the City of Oakland; and now, therefore, be it

**RESOLVED**, that the City Council of the City of Oakland hereby certifies to the State Board of Equalization that the Christopher Kee, Attorney at Law, is a designated 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 be it

**FURTHER RESOLVED**, that pursuant to California Revenue and Taxation Section 7056(b), the City Council of the City of Oakland certifies that the Christopher Kee, Attorney at Law, (hereinafter referred to as "Consultant") 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

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

**FURTHER RESOLVED**, the officers and employees authorized to examine information contained in or derived from sales and use tax records accessed by Christopher Kee, Attorney at Law: Christopher Kee.

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

IN OAKLAND, COUNCIL, CALIFORNIA, \_\_\_\_\_, 2013

PASSED BY THE FOLLOWING VOTE:

AYES: - BROOKS, GALLO, GIBSON MCELHANEY, KAPLAN, REID, SCHAAF, AND  
PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California