

## ATTACHMENT C

### RESOLUTION NO. 2019- 72

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING ACCESS TO SALES OR TRANSACTION AND USE TAX RECORDS AND DOCUMENTS PURSUANT TO CALIFORNIA REVENUE & TAXATION CODE SECTION 7056(b)**

**WHEREAS**, the City has retained the firm of Avenu Insights and Analytics, LLC ("Avenu/MuniServices") to provide sales and use tax analysis, identify errors and omissions which may have resulted in deficient payments to the City, detect misallocations and prepare documentation to the California Department of Tax and Fee Administration ("CDTFA") to recover revenue;

**WHEREAS**, Avenu/MuniServices requires access to the City's sales tax data in order to provide such analysis;

**WHEREAS**, Section 7056(b) of the Revenue and Taxation Code ("RTC") provides, in pertinent part, that "When requested by resolution of the legislative body of any ... city ... the board [CDTFA] shall permit any duly authorized ... 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 ..."; and

**WHEREAS**, City wishes to provide access to all such tax records otherwise confidential under RTC Section 7056 to certain staff at Avenu/MuniServices.

**NOW, THEREFORE**, the City Council of the City of Newport Beach resolves as follows:

**Section 1:** Pursuant to RTC Section 7056(b), the City hereby provides and requests the CDTFA to provide access to the staff working with Avenu/MuniServices on the sales and use tax analysis to examine and use all confidential records and data of the CDTFA pertaining to the ascertainment of the sales and use taxes collected or to be collected by the CDTFA that are the subject of the sales and use tax analysis.

**Section 2:** To identify each person to whom access to records is to be provided pursuant to RTC Section 7056(b), the Finance Director shall designate and maintain a list of all staff members of Avenu/MuniServices who will be given such access pursuant to this Resolution.

**Section 3:** Pursuant to RTC Section 7056(b)(1), the City hereby certifies that:

- A. The City has an existing contract with Avenu/MuniServices to examine the aforementioned sales and use tax records to effectively advise the City;
- B. The City's contract with Avenu/MuniServices requires that Avenu/MuniServices shall disclose confidential taxpayer information contained in, or derived from, the aforementioned sales or transaction and use tax records only to officers or employees of the City who are authorized by resolution to examine the information;
- C. Under the City's contract with Avenu/MuniServices, all staff members of Avenu/MuniServices are prohibited from providing consulting services to any retailer during the term of the City's contract with Avenu/MuniServices; and
- D. Under the City's contract with Avenu/MuniServices, Avenu/MuniServices is prohibited from retaining the confidential taxpayer information contained in or derived from the aforementioned sales and use tax records after that contract has terminated.

**Section 4:** The records and information to be provided to Avenu/MuniServices shall be used solely for the purpose of providing sales and use tax analysis, identifying errors and omissions which may have resulted in deficient payments to the City, detecting misallocations and preparing documentation to the CDTF, and for no other purpose, and shall be returned to the City after the contract has terminated.

**Section 5:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 6:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 7:** The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**Section 8:** This Resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 13th day of August, 2019

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Diane B. Dixon  
Mayor

**ATTEST:**

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Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
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Aaron C. Harp  
City Attorney