

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE
EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS**

WHEREAS, pursuant to Ordinance No. 55 of the City of Milpitas (hereinafter referred to as “City”), and to Section 7270 of the Revenue and Taxation Code, the City entered into a contract with the California Department of Tax and Fee Administration (hereinafter referred to as “CDTFA”) to perform all functions incident to the administration and collection of sales and use taxes; and

WHEREAS, the City Council of the City of Milpitas 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;

NOW, THEREFORE the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

Section 1. The Finance Director or other officer or employee of the City designated in writing by the Finance Director to the CDTFA is hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the CDTFA pertaining to sales or transactions and use taxes collected for the City by the CDTFA pursuant to the contract between the City and the CDTFA. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of the City’s sales or transactions and use taxes by the CDTFA pursuant to the contract.

Section 2. The Finance Director or other officer or employee of the City designated in writing by the Finance Director to the CDTFA is hereby appointed to represent the City with authority to examine those sales or transactions and use tax records of the City for purposes related to the following governmental functions of the City:

- a) functions related to sales, transaction, and/or use tax collection or administration; and
- b) functions related to budgeting and forecasting of revenue; and
- c) functions related to the detection of misallocations and deficiencies

The information obtained by examination of CDTFA records shall be used only for those governmental functions of the City listed above.

Section 3. Hinderliter de Llamas and Associates is hereby designated to examine the sales or transactions and use tax records of the CDTFA pertaining to sales or transactions and use taxes collected for the City by the CDTFA. The person or entity designated by this section meets all of 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 (or Section 2) 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.

The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City's sales or transactions and use taxes by the City pursuant to the contracts between the City and CDTFA.

Section 4. This resolution supersedes all prior sales or transactions and use tax resolutions of the City of Milpitas adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

PASSED AND ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney