

C-9

April 5, 2022

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager, or designee, to execute an agreement with the California Franchise Tax Board (FTB) for records obtained from the FTB Taxpayer Information System and Business Entity Tax System, at no cost to the City, for the term of June 1, 2022, through December 31, 2024. (Citywide)

DISCUSSION

In 2001, the State of California passed Assembly Bill 63 (AB 63), the Local Government Sharing Program (Program), which permits the State to share certain income tax information with local governments. Under the Program, participating cities are provided a list of businesses within the City of Long Beach (City) that filed California income tax returns. The City can then ensure these businesses have applied for and received City business licenses.

The agreement will authorize the City to continue participating in the Program for the 2022, 2023, and 2024 tax years. The information that will be provided by the FTB is the taxpayer name, address, social security number or taxpayer identification number, and principal business activity code. This information allows the Financial Management Department to identify businesses in the City that are operating without a business license.

The City has been participating in the Program since the 2002 tax year. Since then, the identification of unlicensed businesses from the Program has resulted in additional revenue to the General Fund. The City will continue to devote additional staff time to the Program to ensure the receipt of business license revenue from identified businesses.

Along with other participating cities, this agreement allows FTB and the City to enter into a reciprocal agreement to exchange tax data specific to City business license information for tax administration purposes.

The proposed agreement contains the following major provisions:

- Length of term: June 1, 2022 through December 31, 2024. This agreement is for tax years 2022, 2023, and 2024 only. To participate in future years, a new agreement will be required.

- Confidentiality: Each City employee with access to the FTB records will be required to sign a confidentiality agreement. The City will destroy FTB records within three years of receipt.
- Compensation: The City will pay the State of California \$0.

This matter was reviewed by Deputy City Attorney Arturo D. Sanchez on March 14, 2022 and by Revenue Management Officer Geraldine Alejo on March 15, 2022.

TIMING CONSIDERATIONS

City Council action on this item is requested on April 5, 2022, to ensure the agreement is executed and transmitted to the State by June 1, 2022.

FISCAL IMPACT

Participation in this program will continue to support the City's business license revenue collection efforts and is anticipated to result in a positive impact to General Fund revenue. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. By ensuring that businesses operating in the City are licensed, approval of this recommendation will provide continued support to the local economy.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



KEVIN RIPER

DIRECTOR OF FINANCIAL MANAGEMENT

APPROVED:



THOMAS B. MODICA
CITY MANAGER

SCO ID: 7730-0000000000000000000074444

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

0000000000000000000074444

PURCHASING AUTHORITY NUMBER (if Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Franchise Tax Board

CONTRACTOR NAME

City of Long Beach

2. The term of this Agreement is:

START DATE

April 1, 2022 or date of approval, whichever is later,

THROUGH END DATE

December 31, 2024

3. The maximum amount of this Agreement is:

\$0.00 (NON-FINANCIAL AGREEMENT)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	3
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C *	General Terms and Conditions	GTC417
+ Exhibit D	Special Terms and Conditions	3
+ Exhibit E	City and County Record Format Specifications	2
+ Exhibit F	Franchise Tax Board Record Layout Specifications	1
+ Exhibit G	Confidentiality Statement	1

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Long Beach

CONTRACTOR BUSINESS ADDRESS

411 W Ocean Blvd, Floor 7

CITY

Long Beach

STATE

CA

ZIP

90802

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

SCO ID: 7730-0000000000000000000074444

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 0000000000000000000074444	PURCHASING AUTHORITY NUMBER (If Applicable)
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Franchise Tax Board

CONTRACTING AGENCY ADDRESS

P.O. Box 2086

CITY

Rancho Cordova

STATE

CA

ZIP

95741

PRINTED NAME OF PERSON SIGNING

Michael A. Banuelos

TITLE

Procurement and Contracting Officer or Designee

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

SCM Vol. 1, 4.04.A.2

EXHIBIT A SCOPE OF WORK

This Agreement is entered into by and between the Franchise Tax Board, herein after referred to as (FTB), and the City of Long Beach, herein after referred to as the City.

Purpose:

This Agreement provides for the reciprocal exchange between FTB and the City tax data specific to city business license information for tax administration purposes. By entering into a reciprocal agreement, each party agrees to bear its own costs of providing the data, and the City is precluded from obtaining reimbursement.

Both parties will abide by the legal and confidential provisions of this Agreement. Exhibits A, C, D, E, F, and G, attached hereto and incorporated by reference herein, set forth additional terms to which the parties agree to be bound.

No Federal Tax Information will be exchanged.

Legal Authority:

California Revenue and Taxation Code (R&TC) Section 19551.1 authorizes a reciprocal agreement for the exchange of specified tax information between a City/County and FTB. R&TC Section 19551.5 mandates cities/counties to provide city/county business licensing and tax information to FTB upon request.

City Responsibilities:

1. The City agrees that the information provided by FTB will be used exclusively to administer the City/County Business Tax Program.
2. The City agrees that information obtained under this Agreement will not be reproduced, published, sold, or released in original or in any other form for any purpose; and will only be accessed or used by City employees whose duties are to administer the City/County Business Tax Program.
3. The City agrees to provide FTB with tax information pursuant to Format Specifications, Exhibit E, which shall include, but not be limited to, the following:
 - Business or owner's name
 - Business or residence address
 - Federal Employer Identification Number (FEIN) or Social Security Number (SSN)
 - Ownership type
 - North American Industry Classification Code or Standard Industry Classification Code
 - Business start and cessation dates
 - City Business Tax Number, to be assigned to the City by FTB
4. The City agrees to extract and provide city data to FTB annually in June for each tax year that the Agreement is in place: June 2022, 2023, and 2024. If the Agreement is executed after June 30, 2022, the City will have 30 days after execution to provide FTB with the first year's data.
5. The City agrees to submit the records to FTB electronically using FTB's Secure Web Internet File Transfer (SWIFT) system.

6. The City agrees to submit the records to FTB in ASCII fixed-length format, .txt, per the Format Specifications, Exhibit E.
7. The City agrees to resubmit data in the event data is initially submitted with errors. The resubmission of data must be within 30 days of notification. If data is not submitted accurately and timely, the City will forfeit its rights to FTB data for that year.
8. The City agrees that each City employee having access to FTB data shall sign a City/County Business Tax Program Confidentiality Statement, FTB 712 (Exhibit G). The signed statement is to be retained by the City and produced to FTB upon request.
9. The City agrees to submit to FTB a completed Security Questionnaire prior to receiving any FTB data. The Security Questionnaire is valid for the duration of the Agreement.
10. The City agrees to provide a copy of the current resolution, order, or minutes reflecting passage of a motion, or ordinance of the local governing body authorizing the execution of this specific Agreement.

FTB Responsibilities:

1. FTB agrees that information provided by the City will be used for tax administration and non-tax programs that FTB administers and may be shared with other state or federal agencies as authorized by law.
2. FTB agrees that information obtained under this Agreement will not be reproduced, published, sold, or released in original or in any other form for any purpose, except as provided in paragraph 1 or otherwise authorized by law.
3. FTB agrees to provide the City with data extracted from the Taxpayer Information (TI) system and Business Entities Tax System (BETS). FTB will provide the City with records for taxpayers within the City's jurisdiction who indicate a business on their personal or business entity income tax return. The Record Layout, Exhibit F, FTB 909A shall include:
 - Taxpayer name
 - Taxpayer address
 - Taxpayer SSN or FEIN
 - Principal Business Activity code
4. FTB agrees to match the data provided by the City using the SSN or FEIN against FTB's data with a "Yes" or "No" indicator on the Record Layout, Exhibit F, FTB 909A. The first year's data match is at the discretion of FTB based on when the data is received from the City and processed.
5. FTB agrees to provide the City with an annual data extract in December 2022 for tax year 2021, in December 2023 for tax year 2022, and in December 2024 for tax year 2023 via SWIFT.
6. FTB agrees to register the City for a SWIFT account allowing for the secure electronic transmission of data.
7. FTB agrees to provide the City with a unique City Business Tax Number to be used for reporting purposes only.

8. FTB agrees to allow the City to resubmit data within 30 days of notification, in the event data is initially submitted with errors.

Project Coordinators:

The project coordinators during the term of this Agreement will be:

Franchise Tax Board

Felicia Hicks
City/County Business Tax Program Manager
Safeguards and Data Oversight Program
P.O. Box 1468, Mailstop A181
Sacramento, CA 95812-1468
Phone: (916) 845-6304
Email: FTBCCBT@ftb.ca.gov

City of Long Beach

Tara Mortensen
Business Services Bureau Manager
411 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802
Phone: (562) 570-6340
Email: Tara.Mortensen@longbeach.gov

Return executed agreement to:

Franchise Tax Board

Alyssa Miranda
Business Acquisitions Unit
P.O. Box 2086, Mailstop A-374
Rancho Cordova, CA 95741-2086
Phone: (916) 845-7743
Fax: (916) 845-9087
Email: Alyssa.Miranda@ftb.ca.gov

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

This data exchange is provided at no cost.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1. **DATA OWNERSHIP:** The confidential tax information or sensitive information being provided under this Agreement remains the exclusive property of the providing party. Confidential tax information and other confidential information are not open to the public and require special precautions to protect from loss and unauthorized access, inspection, acquisition, use, disclosure, modification, or destruction. The City (or County) shall have the right to use and process the disclosed information for the purposes stated in the Scope of Work of Exhibit A of this Agreement, which right shall be revoked and terminated immediately upon termination of this Agreement.
2. **STATEMENT OF CONFIDENTIALITY:** The Franchise Tax Board has taxpayer tax returns and other confidential information and data in its custody. Unauthorized inspection or disclosure of state returns or other confidential information or data is a misdemeanor (Revenue and Taxation Code Sections 19542, 19542.1, Unauthorized inspection or disclosure of federal returns and other confidential federal return information or data is a misdemeanor or a felony (Internal Revenue Code Sections 7213A(a)(2) and (b), and 7213(a)(2), respectively).

Upon the approval of this agreement and prior to any access to the confidential or sensitive data of the FTB, each City (or County) employee who may have access to the confidential data of FTB will be required to sign a City/County Business Tax Program Confidentiality Statement, FTB 712 (Exhibit G), attesting to the fact that he/she is aware of the confidentiality of the data and the penalties for unauthorized disclosure thereof under applicable state and federal law. The signed statement(s) shall be retained by the City (or County) and furnished to FTB upon request.

3. **USE OF INFORMATION:** The City (or County) agrees that the information furnished or secured pursuant to this Agreement shall be used solely for the purposes described in the Scope of Work of Exhibit A. The City (or County) further agrees that information obtained under this Agreement will not be reproduced, published, sold or released in original or in any other form for any purpose other than as identified in the Scope of Work of Exhibit A.
4. **EMPLOYEE ACCESS TO INFORMATION:** Both FTB and the City (or County) receiving data agree that the information obtained will be kept in the strictest confidence and shall make information available to its own employees only on a "need to know" basis. The "need to know" standard is met by authorized employees who need the information to perform their official duties in connection with the uses of the information authorized by this Agreement. Each party receiving data recognize(s) its responsibility to protect the confidentiality of the information in its custody as provided by law and ensure that such information is disclosed only to those individuals and for such purposes as authorized by law and this Agreement.
5. **PROTECTING CONFIDENTIAL INFORMATION/ INCIDENT REPORTING:** Both FTB and the City (or County) receiving data, recognize the confidentiality of the information to be exchanged, pursuant to this agreement from unauthorized access, use, or disclosure. Each party receiving data will conduct oversight of its users with access to the confidential information provided under this agreement and will immediately notify the FTB's Information Security Audit Unit (SecurityAuditMail@ftb.ca.gov)

of any unauthorized or suspected unauthorized accesses, uses and/or disclosures (incidents). For purposes of this section, immediately is defined as within 24 hours of the discovery of the breach. The notification must describe the incident in detail and identify responsible personnel (name, title, and contact information). The City (or County) with an

incident will comply with the incident reporting requirements in accordance with R&TC Section 19542.1, Civil Code Section 1798.29, SAM Chapter 5300, and SAM Sections 8643 and 20080, and State Information Management Manual 54340-A and 5340-C to facilitate the required reporting to the taxpayers or state oversight agencies.

6. **INFORMATION SECURITY:** Information security is defined as the preservation of the confidentiality, integrity, and availability of information. A secure environment is required to protect the confidential information obtained from FTB pursuant to this agreement. The City (or County) receiving data will store information so that it is physically secure from unauthorized access. The records received by the City (or County) will be securely maintained and accessible only by employees of the City (or County) business license or tax programs who are committed to protect the data from unauthorized access, use, or disclosure. All FTB electronic data must be encrypted when in transit using FIPS 140-2 approved encryption technology and be password protected and secure at all times when in storage. Confidential information obtained from the FTB must be secured in accordance with the SAM Chapters 5100 and 5300 (Information Security), and National Institute of Standards and Technology (NIST) Special Publication 800-53 (moderate); and additional security requirements provided by FTB.
7. **CLOUD COMPUTING ENVIRONMENT:** A City (or County) receiving FTB's confidential data must submit a completed FTB Cloud Security Questionnaire before using a Cloud Computing Environment. The questionnaire will be reviewed for approval by FTB's Chief Security Officer, or his/her designee. A Cloud Computing Environment cannot be used to receive, transmit, store or process FTB's confidential data without prior written approval from FTB's Chief Security Officer or his/her designee.
8. **DESTRUCTION OF RECORDS:** All records received by the City (or County) from FTB under this Agreement, and any database(s) created, copies made, or files attributed to the records received, will be returned or destroyed within three years of receipt or upon termination of the agreement due to a breach of its terms, whichever occurs earlier. The records shall be destroyed in a manner to be deemed unusable or unreadable, and to the extent that an individual record can no longer be reasonably ascertained. The City (or County) will notify FTB City/County Business Tax program manager annually in writing at FTB_CCBT@FTB.CA.GOV that proper destruction methods have been applied. FTB will destroy city/county data in accordance with the department's data retention policies.
9. **DISPUTE RESOLUTION:** In the event of a dispute, the City (or County) shall file a "Notice of Dispute" with the Chief Financial Officer of the FTB within ten (10) days of discovery of the problem. Within ten (10) days, the Chief Financial Officer or his/her designee shall meet with the City (or County) for purposes of resolving the dispute. The decision of the Chief Financial Officer shall be final.
10. **SURVIVAL OF OBLIGATION TO PROTECT DATA:** Each party's obligation to protect the data and information received from the other party shall survive the expiration or termination of this Agreement. In the event a party continues to provide any data or information to the other party after the expiration or termination of this Agreement, the receiving party agrees to continue to protect all such data and information received in accordance with the provisions of this Exhibit D, and all applicable state and federal laws.
11. **ONSITE SAFEGUARD REVIEW:** FTB retains the right to conduct on-site safeguard reviews of the City (or County) use of FTB information and security controls established. The safeguard reviews may include, but are not limited to an examination of the adequacy of information security controls, "need to know," and use justifications established by the City (or County) to ensure compliance with the terms and conditions of this agreement. FTB will

provide a minimum of seven (7) days' notice of a safeguard review being conducted by FTB staff. The City (or County) will take appropriate disciplinary actions against any user determined to have violated security or confidentiality requirements.

12. LIMITED WARRANTY: Neither party represents or warrants the accuracy or content of the material available through this Agreement, nor each expressly disclaims any express or implied warranty, including any implied warranty of fitness for a specific purpose.
13. CANCELLATION: Either party may terminate this Agreement, in writing for any reason, upon thirty (30) days' prior written notice. This Agreement may be terminated immediately by either party in the event of any breach of the terms of this Agreement.
14. NO THIRD PARTY LIABILITY: Nothing contained in or related to this agreement shall create any contractual relationship between either of the Parties and any other party, except between FTB and the City (or County); and no other party shall relieve the City (or County) or FTB of its responsibilities and obligations hereunder. Each of the parties agrees to be fully responsible for the acts and omissions of its third party contractors and agents, and of persons either directly or indirectly employed by the party. Neither of the parties shall have any obligation to pay, or to see to the payment of, any monies to any party or persons either directly or indirectly employed by the other.

EXHIBIT E
CITY AND COUNTY RECORD FORMAT SPECIFICATIONS (FTB 909)

Data Element Name	Start Pos.	End Pos.	Field Size	Usage	Description
SOCIAL SECURITY NUMBER (SSN)	1	9	9	AN	Must be present unless FEIN is provided. Fill unused field with zeros.
FEDERAL EMPLOYER ID NUMBER (FEIN)	10	18	9	AN	Must be present unless SSN is provided. Fill unused field with zeros.
OWNERSHIP TYPE	19	19	1	AN	Must be present: S = Sole Proprietorship P = Partnership C = Corporation T = Trust L = Limited Liability Company
OWNER'S LAST NAME	20	34	15	AN	Must be present if Ownership Type in position 19 = S.
OWNER'S FIRST NAME	35	45	11	AN	Must be present if Ownership Type in position 19 = S.
OWNER'S MIDDLE INITIAL	46	46	1	AN	May be left blank.
BUSINESS NAME	47	86	40	AN	Enter if business is operating under a fictitious name (Doing Business As (DBA)).
BUSINESS ADDRESS NUMBER AND STREET	87	126	40	AN	Address of the business location or the residence of the owner if sole proprietorship.
CITY	127	166	40	A	Must be present.
STATE	167	168	2	A	Enter standard state abbreviation.
ZIP CODE	169	177	9	AN	Enter the five- or nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five-digits are known, left-justify information and fill the unused fields with zeros.
BUSINESS START DATE	178	185	8	N	Enter the eight-digit date (MMDDYYYY). Zero fill if not known.
BUSINESS CEASE DATE	186	193	8	N	Enter the eight-digit date (MMDDYYYY) if out of business. Zero fill if unknown or still in business.

Data Element Name	Start Pos.	End Pos.	Field Size	Usage	Description
CITY BUSINESS TAX NUMBER	194	196	3	N	Enter three-digit number assigned by FTB.
NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)	197	202	6	N	Enter the two- to six-digit NAICS code. Left justify. (example 99 will be 9900). Fill unused fields with zeros.
STANDARD INDUSTRIAL CLASSIFICATION (SIC)	203	206	4	N	Enter the 2-4 digit SIC code. Left justify (example 99 will be 9900). Fill unused fields with zeros.
TOTAL RECORD LENGTH		206			

EXHIBIT F
FRANCHISE TAX BOARD RECORD LAYOUT SPECIFICATIONS (FTB 909A)

Field Name	Length	Start Pos.	Description
ENTITY TYPE	1	1	“P” – personal income tax record; “B” – business entity tax record.
SSN or FEIN	9	2	For “P” records, primary taxpayer’s social security number; For “B” records, federal employer identification number.
LAST NAME	40	11	For “P” records, the primary taxpayer’s last name; For “B” records, business name.
FIRST NAME	11	51	For “P” records ONLY.
MIDDLE INITIAL	1	62	For “P” records ONLY.
SPOUSE SSN	9	63	For “P” records filed with a joint return.
SPOUSE LAST NAME	17	72	For “P” records filed with a joint return.
SPOUSE FIRST NAME	11	89	For “P” records filed with a joint return.
SPOUSE MIDDLE INITIAL	1	100	For “P” records filed with a joint return.
PBA CODE	6	101	Principal Business Activity code.
ADDRESS NUMBER	10	107	
PRE-DIRECTIONAL DIRECTOR	2	117	Postal Service term (i.e., N, S, E, W, NE, NW, SE, SW).
STREET NAME	28	119	
STREET SUFFIX	4	147	e.g., ST, WAY, HWY, BLVD, etc.
POST-DIRECTIONAL INDICATOR	2	151	Postal Service term (i.e., N, S, E, W, NE, NW, SE, SW).
STREET SUFFIX 2	4	153	
APARTMENT/SUITE NUMBER	10	157	e.g., APT, UNIT, FL, etc.
CITY	13	167	
STATE	2	180	Standard state abbreviation.
ZIP CODE	5	182	The five-digit ZIP Code assigned by the U.S. Postal Service.
ZIP CODE SUFFIX	4	187	Provided if known.
CBT MATCH	1	191	“N” – No match per CBT data. “Y” – Yes: CBT matched to state tax return filed.

EXHIBIT G
CONFIDENTIALITY STATEMENT (FTB 712)

State of California

Franchise Tax Board

City/County Business Tax Program Confidentiality Statement

Confidential tax data is protected from disclosure by law, regulation, and policy. Information security is strictly enforced; violators may be subject to disciplinary, civil, and/or criminal action. Protecting confidential tax data is in the best interest of the city, county, and state.

As a city/county employee, you are required to protect all information received from the Franchise Tax Board (FTB). To protect confidential tax data, you must:

- **Access or modify tax data solely to perform official duties.**
- **Never access or inspect tax data for curiosity or personal reasons.**
- **Never show or discuss confidential tax data with anyone who does not have a need to know.**
- **Never remove confidential tax data from your worksite without authorization.**
- **Place confidential tax data in approved locations only.**

Unauthorized inspection, access, use, or disclosure of confidential tax data is a crime under state laws including, but not limited to, California Revenue and Taxation Code Sections 19542 and 19552 and Penal Code Section 502. Unauthorized access, inspection, use, or disclosure may result in either or both of the following:

- **State criminal action.**
- **Taxpayer civil action.**

I certify that I have read the confidentiality statement printed above. I further certify and understand that unauthorized access, inspection, use, or disclosure of confidential information may be punishable as a crime and may result in disciplinary and/or civil action against me.

Name (print)

Signature

<u>Date</u>

Each city/county employee accessing FTB data must retain a signed copy of this form and provide it to FTB upon request.

FTB 712 (REV 06-2016)