



File #: 15-0490, Version: 1

REPORT TO COUNCIL

SUBJECT

Renewal of Business License Tax Data Exchange Agreement with the California Franchise Tax Board

BACKGROUND

Chapter 5.04 of the Sunnyvale Municipal Code is known as the Business License Tax Ordinance of the City of Sunnyvale. Section 5.04.100 states: "No person shall transact, engage in, or carry on any business within the City without first having procured a license from the City to do so and having paid the tax".

Finance staff regularly conducts audits to locate businesses that are operating in Sunnyvale without a license in violation of Chapter 5.04 of the Municipal Code. In 2009, the Council approved an agreement with the California Franchise Tax Board (FTB) to exchange data related to Business Licensing (RTC 09-232). Staff would like to continue to utilize data received from the FTB as a resource to identify businesses that have not paid the Business License Tax.

This data exchange program began as a result of the enactment of Senate Bill 1146 on September 26, 2008. This act authorizes a city to enter into a reciprocal agreement with the FTB to exchange tax data. The data exchange will enable both parties to identify any non-compliant businesses. The act took effect on January 1, 2009. The City of Sunnyvale initially entered an agreement in September 2009, and Council approved a renewal of the agreement in 2012 (RTC 12-053), which expired on December 31, 2014. The term of the new agreement will begin upon return of the signed agreement and will continue until December 31, 2017.

EXISTING POLICY

Council Policy 7.1B.3.2 states: An aggressive collection system for all accounts receivable will be utilized to assure that monies due to the City are received in a timely fashion.

ENVIRONMENTAL REVIEW

This action is exempt from environmental review under CEQA Guideline 15378(b)(5) (administrative activities that will not result in a direct or indirect physical change to the environment). (CEQA Guideline 15378(b)(5).)

DISCUSSION

The City of Sunnyvale has conducted regular audits of business license data to ensure applicable taxes from businesses operating within city limits are received. Past audits included a comparison to property tax, sales tax, and phone book information to ensure the City collects the revenue it is legally entitled to. Staff also conducts field audits periodically to ensure all storefronts and offices have a business license.

The City's business license software is able to facilitate some of these audit functions through exception reports to identify business records that do not match business license information on file. As a result of the enactment of SB 1146, the software vendor created an exception report for FTB data as well. The software has been set up with the ability to import FTB data and export data files to send to the FTB with minimal staff involvement. Once the FTB data has been imported into the system, exception reports can be run on demand to compare FTB data to our own internal business license data. These exception reports have enabled the City to bring in additional revenue from businesses operating in Sunnyvale that have not paid the Business License Tax.

Under the terms of this agreement, Sunnyvale will be required to send data to the FTB annually each June. The data required includes ownership name, address information, Employer ID number, and business start date. The FTB will send the City similar information from their database each year in December. The FTB will send information on taxpayers who file business related income tax returns. Under the terms of the agreement, this data exchange will continue through December 2017. Neither the FTB nor the City of Sunnyvale would be reimbursed for the cost of providing data and neither party will be charged for receiving data from the other agency. Should the City wish to discontinue participating in the data exchange program, the agreement may be terminated with thirty days written notice to the FTB.

FISCAL IMPACT

The City will receive additional Business License Tax revenue as a result of renewing this agreement. Since the City started participating in the data exchange program, over \$450,000 in additional revenue has been recovered using the data provided by the FTB.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Adopt a resolution to renew the agreement with the California Franchise Tax Board to exchange business information through December 31, 2017.

The City has seen positive financial results from the use of this data. Staff can continue to conduct audits to identify businesses operating without a business license in the City without this data. However, the City's other audit efforts are more labor intensive and therefore collections from audits would likely decrease.

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Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. State of California Franchise Tax Board Standard Agreement
2. Proposed Resolution Authorizing Agreement with the Franchise Tax Board