



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 16-1139, Version: 1

REPORT TO COUNCIL

SUBJECT

Adopt Resolutions Authorizing (1) the City Manager to Execute Certain Documents Required by the State Board of Equalization to Collect the City's Utility Users Tax on Prepaid Wireless Service; and (2) Establishing the List of City Staff and Consultants authorized to Examine Prepaid Mobile Telephony Services Surcharge and Local Charge Records of the State Board of Equalization

BACKGROUND

The City of Sunnyvale collects a Utility Users Tax (UUT) at a rate of two percent on telecommunication, gas and electricity from businesses and residents in the City. The UUT assessed on wireless telecommunication charges is collected by service providers. However, prepaid wireless services sold by retailers historically avoided paying any UUT because services are provided without a contract or monthly invoice.

Beginning January 1, 2016, Assembly Bill 1717 enacted a new surcharge and required local jurisdictions to contract with the California State Board of Equalization (BOE) to receive UUT revenue imposed on prepaid wireless consumers. In order to contract with the BOE, a UUT ordinance that includes prepaid wireless services is required.

The telecommunication services defined in the City of Sunnyvale's original UUT ordinance referenced now-outdated federal laws. Due to numerous changes in technologies and changes to state and federal laws, the City Council placed Measure N on the ballot for voter approval to modernize the City's UUT ordinance in order to protect UUT revenue.

At the General Municipal Election held on November 8, 2016, the voters approved Measure N updating the existing UUT ordinance. The telecommunications section was modernized to reflect updated uses of telecommunications technology and to treat wired, wireless (contract or prepaid) and other telecom services equally.

ENVIRONMENTAL REVIEW

The adoption of the resolutions does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378(b)(4) and 15378(b)(5) in that it is a fiscal and governmental organizational or administrative activity that will not result in direct or indirect changes in the environment and does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

DISCUSSION

Under the Local Prepaid Mobile Telephony Services Collection Act (Assembly Bill 1717) all current charges imposed upon prepaid mobile phone services were replaced with a new prepaid surcharge. The law requires California retailers and on-line sellers of prepaid wireless services to collect the

local UUT at the time of purchase. With voter approval of Measure N, Sunnyvale is now eligible to participate in the BOE program for collection of prepaid wireless UUT. However, in order to receive UUT imposed on consumers of prepaid wireless phone service, the City must contract with the BOE. To contract with the BOE, two resolutions are required for the following purposes:

- Authorizing the City Manager to execute an agreement with the State Board of Equalization to collect the City's UUT on prepaid wireless service and related documents, including certification regarding details of the City's UUT ordinance ; and
- Authorizing the examination of prepaid mobile telephony services surcharge and local charge records by the City and its consultant to ensure proper collection and remittance.

California retailers will be required to collect the local UUT and state administrative charges at the same time they collect local sales tax on the retail product. The BOE will collect the UUT and remit it to the City based on point of sale, on a quarterly basis. For ease of administration and to reduce collection costs, the BOE has created "tiers" of rates. Sunnyvale's 2% UUT rate falls within the 1.5%-2% tier and will therefore be levied at a rate of 1.5%. The City must accept that rate as part of the agreement, and staff recommends accepting this tier as there is no other alternative for collecting UUT on prepaid wireless.

FISCAL IMPACT

The City must execute a contract with the BOE in order to receive UUT imposed on consumers of prepaid wireless phone service. This will assure continued receipt of approximately \$1.5 million in ongoing, locally-generated annual revenue used to fund vital City services. After execution of the contract, collections would begin in April of 2017.

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 Resolutions (1) Authorizing the City Manager to execute the Agreement with the State Board of Equalization for State Collection and Administration of the City's Utility Users Tax on prepaid wireless service and related documents; and (2) Establishing the List of City Staff and Consultants authorized to examine the prepaid mobile telephony services surcharge and local charge records of the State Board of Equalization.

Prepared by: Brice McQueen, Senior Management Analyst

Reviewed by: Timothy J. Kirby, Finance Director

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution Authorizing the City Manager to Execute an Agreement with State Board of Equalization for State Collection and Administration of the City's Utility Users Tax on Prepaid Wireless

Service and Related Documents

2. Resolution Establishing the List of City Staff and Consultants Authorized to Examine the Prepaid Mobile Telephony Services Surcharge and Local Charge Records of the State Board of Equalization
3. Agreement for State Collection and Administration of Local Charges
4. Certification to BOE regarding City's Utility User Tax Ordinance