



# CITY OF LONG BEACH

# R-27

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard 6<sup>th</sup> Floor • Long Beach, CA 90802 • (562) 570-6465 • Fax (562) 570-5836

August 18, 2015

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Authorize the City Manager to execute an agreement, and any amendments thereto, with the California State Board of Equalization (BOE), to facilitate the collection of revenue from local utility user taxes on prepaid mobile devices and any other local charges imposed on consumers of prepaid mobile devices; and,

Adopt a Resolution authorizing MuniServices, LLC, to examine BOE records relating to such revenue and charges. (Citywide)

## DISCUSSION

Assembly Bill (AB) 1717 establishes a uniform, statewide collection mechanism for prepaid (non-contract) wireless services by requiring California retail stores and online retailers to collect the local Utility Users Tax (UUT) when the sales tax is collected at the time of purchase. Under AB 1717, the UUT collections will be remitted to the BOE in the same manner as sales taxes; then, the BOE will distribute the revenue to cities and counties. Wireless carriers will now collect the UUT on their prepaid sales and remit the revenue directly to the City. For administrative ease, the different UUT rates charged throughout the state have been reduced to eight tiers. The new rate tier for prepaid wireless services in Long Beach will be 4.5 percent, and the City's existing UUT rate of 5 percent will continue to apply to postpaid, contract wireless customers and other utility services. If a local jurisdiction does not enter into a collection agreement with the BOE, any local charges imposed upon prepaid mobile telephone services will not be collected by the sellers and the local jurisdiction will not receive local charge revenue. AB 1717 requires that California retailers make the necessary changes to their sales systems to collect and remit state and local taxes beginning on January 1, 2016.

The California Revenue and Taxation Code sets forth certain requirements for the disclosure of BOE records, and establishes criminal penalties for unlawful disclosure of this information. BOE requires the local legislative body to authorize, by Resolution, the employee or consultant responsible for reviewing BOE records. Authorization is requested for the City's sales tax auditing and revenue recovery consultant, MuniServices, LLC, to be allowed access to the records to verify the collection and remittance of the City's UUT revenue.

HONORABLE MAYOR AND CITY COUNCIL

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This matter was reviewed by Deputy City Attorney Amy R. Webber on August 4, 2015 and by Budget Management Officer Victoria Bell on August 6, 2015.

TIMING CONSIDERATIONS

City Council action is requested on August 18, 2015, to comply with the AB 1717 requirement to enter into a collection agreement with the BOE before September 1, 2015.

FISCAL IMPACT

The net impact of AB 1717 on the City's UUT revenue cannot be estimated at this time. Retail stores and online retailers are entitled to 2 percent of the UUT collected and remitted, but wireless carriers are not entitled to this compensation. The BOE will determine its cost for the implementation and audit procedures necessary to collect the UUT on behalf of local agencies, and will deduct these costs on a pro rata basis from the local revenues collected. The net UUT revenue received by the City will be deposited to the General Fund (GF) in the Citywide Activities Department (XC).

MuniServices, LLC, currently provides sales and use tax audit services to the City, and it is anticipated that additional revenue auditing services related to AB 1717 will commence in FY 16. The net cost of the additional scope of work cannot be determined until AB 1717 has been fully implemented. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS  
DIRECTOR OF FINANCIAL MANAGEMENT

JG:DN  
K:\EXEC\COUNCIL LETTERS\TREASURY\08-18-2015 ccl - AB 1717 BOE UUT CONTRACT .DOCX

ATTACHMENT

APPROVED:



PATRICK H. WEST  
CITY MANAGER

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 RESOLUTION NO.  
2

3 A RESOLUTION OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH AUTHORIZING THE  
5 EXAMINATION OF PREPAID MOBILE TELEPHONY  
6 SERVICES SURCHARGE AND LOCAL CHARGE  
7 RECORDS  
8

9 WHEREAS, pursuant to Long Beach Municipal Code section 3.68.050  
10 and the Local Prepaid Mobile Telephony Services Collection Act, the City of Long Beach,  
11 hereinafter called Local Jurisdiction, desires to enter into a contract with the State Board  
12 of Equalization, hereafter referred to as the Board, to perform all functions incident to  
13 the administration and collection of the prepaid mobile telephony services surcharge and  
14 local charges (Rev. & Tax. Code, § 42101.5); and

15 WHEREAS, the Local Jurisdiction deems it desirable and necessary for  
16 authorized representatives of the Local Jurisdiction to examine confidential prepaid  
17 mobile telephony services surcharge and local charge records pertaining to the prepaid  
18 mobile telephony services surcharge and local charges collected by the Board for the  
19 Local Jurisdiction pursuant to that contract; and

20 WHEREAS, the Board will make available to the Local Jurisdiction any  
21 information that is reasonably available to the Board regarding the proper collection  
22 and remittance of a local charge of the Local Jurisdiction by a seller, including a direct  
23 seller, subject to the confidentiality requirements of Sections 7284.6, 7284.7 and 19542  
24 of the Revenue and Taxation Code; and

25 WHEREAS, Sections 42110 and 42103 of the Revenue and Taxation  
26 Code sets forth certain requirements and conditions for the disclosure of Board of  
27 Equalization records and establishes criminal penalties for the unlawful disclosure of  
28 information contained in or derived from the prepaid mobile telephony services

1 surcharge and local charge records of the Board;

2 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
3 follows:

4 Section 1. That the City Treasurer or other officer or employee of the  
5 Local Jurisdiction designated in writing by the City Manager to the Board is hereby  
6 appointed to represent the Local Jurisdiction with authority to examine prepaid mobile  
7 telephony services surcharge and local charge records of the Board pertaining to  
8 prepaid mobile telephony services surcharge and local charges collected for the  
9 Local Jurisdiction by the Board pursuant to the contract between the Local Jurisdiction  
10 and the Board. The information obtained by examination of Board records shall be  
11 used only for purposes related to the collection of the Local Jurisdiction's prepaid mobile  
12 telephony services surcharge and local charges by the Board pursuant to the contract.

13 Section 2. That MuniServices, LLC, is hereby designated to examine the  
14 prepaid mobile telephony services surcharge and local charges records of the Board of  
15 Equalization pertaining to prepaid mobile telephony services surcharge and local charges  
16 collected for the Local Jurisdiction by the Board. The person or entity designated by this  
17 section meets all of the following conditions (Rev. & Tax. Code, § 42110, subd. (b)(2)):

18 A. Has an existing contract with the Local Jurisdiction that  
19 authorizes the person to examine the prepaid mobile telephony services  
20 surcharge and local charge records;

21 B. Is required by that contract with the Local Jurisdiction to  
22 disclose information contained in or derived from, those records only to an  
23 officer or employee of the Local Jurisdiction authorized by the resolution to  
24 examine the information;

25 C. Is prohibited by that contract from performing consulting  
26 services for a seller during the term of that contract;

27 D. Is prohibited by that contract from retaining information  
28 contained in, or derived from, those prepaid mobile telephony services

1 surcharge and local charge records, after that contract has expired.

2 Section 3. The contract between the Local Jurisdiction and  
3 MuniServices, LLC designated by the Local Jurisdiction to request information from the  
4 Board shall be subject to the following limitations (Rev. & Tax. Code, § 42103, subd. (g));

5 A. MuniServices, LLC shall, to the same extent as the Board, be  
6 subject to Section 55381, relating to unlawful disclosures.

7 B. The contract between the Local Jurisdiction and  
8 MuniServices, LLC shall not provide, in whole or in part, in any manner a  
9 contingent fee arrangement as payment for services rendered.

10 Section 4. The information obtained by examination of the Board records  
11 shall only be used for purposes related to the collection of the Local Jurisdiction's prepaid  
12 mobile telephony services surcharge and local charges by the Board pursuant to the  
13 contract between the Local Jurisdiction and Board, or for purposes related to other  
14 governmental functions of the Local Jurisdiction, as identified above in Section 2.

15 Section 5. This resolution shall take effect immediately upon its adoption  
16 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of August 18, 2015 by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

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Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
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