



City Council Staff Report

DATE: January 18, 2017 CONSENT CALENDAR

SUBJECT: AMEND EXISTING UTILITY USERS TAX AUDIT CONTRACT THAT THE CITY HAS WITH MUNISERVICES, LLC.

FROM: David H. Ready, City Manager

BY: Geoffrey S. Kiehl, Director of Finance and Treasurer

SUMMARY

Since 2009 MuniServices, LLC has been our current provider of auditing services for our Utility Users Tax (UUT) including Telecommunications. This resolution will amend the existing Utility Users Tax audit agreement to include the new category of prepaid wireless revenue.

Assembly Bill (AB) 1717, enacted on January 1, 2015 with collection commencing January 1, 2016 established the Prepaid Mobile Telephony Services Surcharge Collection Act, which created a statewide standard of collection on prepaid wireless services. The attached resolution contains amending language to maintain the City and MuniServices compliance with the provisions of AB 1717.

Per the requirements of AB 1717 pertaining to third part consultants, MuniServices is designated by the City and authorized by the Board of Equalization to examine documents related to City of Palm Springs collection of UUT on prepaid wireless services.

RECOMMENDATION:

The authorization granted to MuniServices in the following resolution includes the following points:

1. Examine the collection of prepaid wireless surcharge by the BOE, using confidential information gained from the process only for the purpose related to collection, only disclosing information to an employee authorized by the resolution to examine the confidential information.
2. MuniServices will not consult nor conduct business on behalf of a prepaid wireless "seller."
3. MuniServices will not contain any records or information related to the collection

ITEM NO. 1.0.

of the prepaid wireless surcharge after the contract has expired.

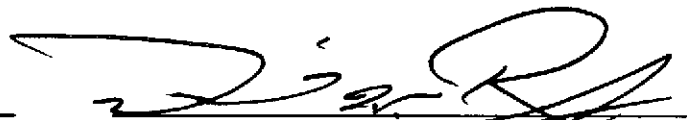
4. All services performed by MuniServices relating to prepaid mobile telephony services surcharge.

FISCAL IMPACT:

MuniServices original fee schedule and the original scope of work with the City as provided in Agreement 05768 is not altered by this resolution which specifies that the annual fee will be 0.6% of revenues. MuniServices will continue to adhere to all City vendor and purchasing requirements and related ordinances/resolutions for the life of the contract. Based upon 2015-2016 fiscal year revenues, the fee for auditing all cellular telephone revenue was approximately \$4,200. The increase in the fee associated with the addition of the auditing of prepaid wireless revenue is unknown but is expected to be negligible.



Geoffrey S. Kiehl, Finance Director



David H. Ready, City Manager

Attachments:

Resolution authorizing access to BOE information by MuniServices, LLC.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING THE EXAMINATION OF PREPAID MOBILE TELEPHONY SERVICES SURCHARGE AND LOCAL CHARGE RECORDS.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY FIND AS FOLLOWS:

WHEREAS, pursuant to Utility Users Tax Ordinance No. 1765 of the City of Palm Springs and the Local Prepaid Mobile Telephony Services Collection Act, the City of Palm Springs, hereinafter called Local Jurisdiction, entered into a contract with the State Board of Equalization, hereafter referred to as the Board, to perform all functions incident to the administration and collection of the prepaid mobile telephony services surcharge and local charges (Rev. & Tax. Code, § 42101.5); and

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

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

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

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the City Manager or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby appointed to represent the Local Jurisdiction with authority to examine prepaid mobile telephony services surcharge and local charge records of the Board pertaining to prepaid mobile telephony services surcharge and local charges collected for the Local Jurisdiction by the Board pursuant to the contract between the Local Jurisdiction and the Board. The

information obtained by examination of Board records shall be used only for purposes related to the collection of the Local Jurisdiction's prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract.

SECTION 2. That the City Manager and the UUT Tax Administrator (Finance Director) or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby appointed to represent the Local Jurisdiction with authority to examine those prepaid mobile telephony services surcharge and local charge records of the Board for purposes related to the following governmental functions of the Local Jurisdiction:

- a) compliance and enforcement of the utility users tax (local charge)
- b) administrative functions set out in City's utility users tax ordinance
- c) legal interpretation and enforcement of utility users tax ordinance, including but not limited to refunds and defense of claims against ordinance

The information obtained by examination of Board records shall be used only for those governmental functions of the Local Jurisdiction listed above.

SECTION 3. That MuniServices, LLC is hereby designated to examine the prepaid mobile telephony services surcharge and local charges records of the Board of Equalization pertaining to prepaid mobile telephony services surcharge and local charges collected for the Local Jurisdiction by the Board. The person or entity designated by this section meets all of the following conditions (Rev. & Tax. Code, § 42110, subd. (b)(2)):

- a) has an existing contract with the Local Jurisdiction that authorizes the person to examine the prepaid mobile telephony services surcharge and local charge records;
- b) is required by that contract with the Local Jurisdiction to disclose information contained in or derived from, those records only to an officer or employee of the Local Jurisdiction authorized by the resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a seller during the term of that contract;
- d) is prohibited by that contract from retaining information contained in, or derived from, those prepaid mobile telephony services surcharge and local charge records, after that contract has expired.

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

a) MuniServices, LLC shall, to the same extent as the Board, be subject to Section 55381, relating to unlawful disclosures.

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

BE IT FURTHER RESOLVED THAT the information obtained by examination of the Board records shall only be used for purposes related to the collection of the Local Jurisdiction's prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract between the Local Jurisdiction and Board, or for purposes related to other governmental functions of the Local Jurisdiction, as identified above in section 2.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 18TH DAY OF JANUARY, 2017.

DAVID H. READY, CITY MANAGER

ATTEST:

KATHLEEN D. HART, MMC, INTERIM CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, MMC, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the 18th day of January, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

KATHLEEN D. HART, MMC, INTERIM CITY CLERK
City of Palm Springs, California