



**DATE:** December 8, 2015

**CATEGORY:** Consent

**DEPT.:** Finance and Administrative Services

**TITLE:** **Collection of Utility Users Tax on Prepaid Mobile Telephony Services**

### **RECOMMENDATION**

1. Adopt a Resolution of the City of Mountain View Authorizing City Manager to Execute Agreement with the State Board of Equalization for Implementation of the Local Prepaid Mobile Telephony Services Collection Act, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Adopt a Resolution Authorizing the Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records, to be read in title only, further reading waived (Attachment 2 to the Council report).
3. Authorize the City Manager or designee to execute documents necessary to participate in the new program and collect such tax.

### **BACKGROUND**

Currently, in accordance with the City's ordinance, the City's 3.0 percent Utility Users Tax (UUT) is collected by telephony service providers who include the tax on their customers' monthly invoices. The City does not currently collect UUT on purchases of prepaid mobile telephony services (MTS). Assembly Bill (AB) 1717, signed by the Governor in September 2014 and effective January 1, 2016, requires California retailers and online sellers to impose a surcharge on purchases of MTS. The surcharge will be a percentage of the sales price of each in-State transaction and will include a local UUT component. California retailers will be required to collect the local UUT and the State administrative charges at the same time they collect sales tax on the retail product and remit these funds to the State Board of Equalization (SBOE). The SBOE will remit quarterly UUT payments to jurisdictions, less administrative expenses, based on the point of sale. For administrative ease, the different UUT rates charged throughout the State have been reduced to nine tiers (see Attachment 3). As the City's 3.0 percent UUT rate falls within the "2.5% - 3.4%" tier, prepaid telephony services will be taxed at the

rate of 2.5 percent. The City must accept this rate as part of the agreement with the SBOE in order to receive the tax. AB 1717 has a sunset provision in 2020 that will require State legislative action to continue. Prior to AB 1717 there was no process for collecting and remitting UUT for transactions involving the sale of prepaid telephony services at retail outlets to local jurisdictions.

### **ANALYSIS**

In order to participate in the new SBOE program, jurisdictions must have a voter-approved updated UUT ordinance. The voters of the City of Mountain View passed an ordinance amendment in November 2010 which meets this requirement. In addition, the City Council must:

- Adopt a resolution authorizing the City Manager to enter into an agreement with the SBOE (Attachment 4) for collection of the tax;
- Adopt a resolution establishing specific City positions with authority to examine SBOE prepaid telephony records; and
- Authorize the City Manager to sign a Certification (Attachment 5).

If the City Council takes the actions set forth in the recommendations, the program will start April 1, 2016 and the first payment will be funded towards the end of 2016.

### **FISCAL IMPACT**

Staff does not have sufficient data to estimate annual revenue from prepaid telephone activity. It is not expected, however, to represent as significant a source of funds for the City compared to currently taxed plans which are budgeted to generate approximately \$3.1 million for Fiscal Year 2015-16. When the City has received sufficient data to calculate an annual projection, this revenue will be included in the General Operating Fund budget.

### **ALTERNATIVE**

Do not approve the recommended actions and forfeit the UUT from prepaid MTS.

**PUBLIC NOTICING** – Agenda posting.

Prepared by:

Helen Ansted  
Principal Financial Analyst

Suzanne Niederhofer  
Assistant Finance and Administrative  
Services Director

Approved by:

Patty J. Kong  
Finance and Administrative  
Services Director

Daniel H. Rich  
City Manager

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- Attachments:
1. A Resolution of the City of Mountain View Authorizing City Manager to Execute Agreement with the State Board of Equalization for Implementation of the Local Prepaid Mobile Telephony Services Collection Act
  2. Resolution Authorizing the Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records
  3. Mobile Telephony Service Rates
  4. Agreement for State Collection and Administration of Local Charges
  5. Certification