

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE EXAMINATION OF PREPAID MOBILE TELEPHONY SERVICES SURCHARGE AND LOCAL CHARGE RECORDS**

**WHEREAS**, pursuant to Utility Users Tax Ordinance No. 7133 of the City of Pasadena and the Local Prepaid Mobile Telephony Services Collection Act, the City of Pasadena, 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 Section 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;

**NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:**

**Section 1.** That the Director of Finance 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 Director of Finance 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 the City's utility user tax ordinance;

and

c) Legal interpretation and enforcement of utility users tax ordinance, including, but not limited to, refunds and defense of claims against Ordinance No.

7133.

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, pursuant to Services Contract no. 20,109, 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 Section 42110(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 Section 42103(g)):

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

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

**BE IT FURTHER RESOLVED** by the City Council of the City of Pasadena 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.

Adopted at the regular meeting of the City Council on the 31<sup>st</sup> day of August, 2015 by the following vote:

AYES:

NOES:


ABSENT:

ABSTAIN:

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Mark Jomsky, CMC  
City Clerk

APPROVED AS TO FORM:



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Javan N. Rad  
Chief Assistant City Attorney