



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 5/29/2012

Report Type: Consent

Title: Subpoena to Telecommunications Providers for Business Records

Report ID: 2012-00465

Location: Citywide

Recommendation: Pass a Motion authorizing the City Attorney to issue a subpoena to Granite Telecommunications, Nextel of California, Sprint Spectrum, TelePacific Communications, TW Telecommunications of California, and Vonage America requiring the production of records or witnesses necessary for a City communications user tax compliance audit.

Contact: Brad Wasson, Revenue Manager, (916) 808-5844, Leyne Milstein, (Finance Director (916) 808-8491, Finance Department

Presenter: None

Department: Finance / City Attorney's Office

Division: Revenue Administration

Dept ID: 06001211

Attachments:

1-Description/Analysis

City Attorney Review

Approved as to Form
 Gerald Hicks
 5/15/2012 8:59:43 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
 Russell Fehr
 5/8/2012 6:27:06 PM

Approvals/Acknowledgements

Department Director or Designee: Leyne Milstein - 5/9/2012 10:52:33 AM 1

Description/Analysis

Issue: A comprehensive compliance audit of Granite Telecommunications, Nextel of California, Sprint Spectrum, TelePacific Communications, TW Telecommunications of California, and Vonage America will be conducted to determine whether the City’s utility user tax has been properly assessed and paid to the City by these six providers. The review will also identify any reporting and payment errors to help ensure that the tax is properly reported and paid in the future. In order to conduct a comprehensive and thorough review, it is necessary that specific documents and business records be obtained from each of the six providers. To produce these records, each provider requires the receipt of a subpoena ordering the production of such records. Section 34 of the City Charter authorizes the City Council to “make investigations into the affairs of the city government...and for this purpose may subpoena witnesses...and require the production of evidence.”

Policy Considerations: The collection and recovery of tax revenues due the City is consistent with the City Council’s policy of collecting funds for General Fund operations in order to provide essential City services.

Environmental Considerations: Under the California Environmental Quality Act (CEQA) Guidelines, this action does not constitute a project, as defined in section 15378, and is therefore exempt from review.

Sustainability: None

Commission/Committee Action: None

Rationale for Recommendation: The compliance audit will test internal controls and accounting procedures related to each of the six provider’s classification of products, plans and bundled services, exemptions, and any other such services as they relate to the calculation of the City’s utility user tax. This approach will ascertain that the taxes remitted are accounted for, calculated, and collected on a sound and consistent basis in compliance with the City’s utility user tax ordinance.

Geo-code sampling will also be performed to verify the accuracy of the accounts coded within each provider’s systems by determining that customer accounts within the City boundaries and in the immediate vicinity are properly coded as assessed. Tests on customer addresses in “potentially vulnerable areas” of the City, such as annexed areas, overlapping zip codes, adjacent city boundary areas, etc. will be performed to verify each provider’s use of correct jurisdictional designations for customers within the City and in the immediate surrounding areas.

The compliance audit and testing can only be conducted if each provider provides the City with customer account information in an electronic format for requested customer locations in the City and surrounding areas. The providers have indicated that they cannot release customer personal identifying information without a subpoena.

Financial Considerations: The City will not incur any out-of-pocket costs associated with the audit of the six providers. The City’s contracted audit consultant, MuniServices, LLC, will receive a 25%

contingency fee on new revenue realized as a result of this audit. Based on the City's population and MuniServices' estimates, the City could potentially realize \$175,000 to \$200,000 in net new revenues after consultant costs. Additionally, corrections to any geo-coding or tax matrix errors would result in new ongoing revenues each year.

Emerging Small Business Development (ESBD): Not applicable