

## RESOLUTION NO. 2015-172

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AUTHORIZING THE EXAMINATION OF PREPAID MOBILE TELEPHONY SERVICES SURCHARGE AND LOCAL CHARGE RECORDS

**WHEREAS**, pursuant to Utility Users Tax Ordinance No. 14-2010 of the City of Elk Grove and the Local Prepaid Mobile Telephony Services Collection Act, the City of Elk Grove (hereinafter CITY) entered into a contract with the State BOARD of Equalization (hereinafter 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 CITY deems it desirable and necessary for authorized representatives of the CITY 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 CITY pursuant to that contract; and

**WHEREAS**, the BOARD will make available to the CITY any information that is reasonably available to the BOARD regarding the proper collection and remittance of a local charge of the CITY 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 set 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, BE IT RESOLVED** by the City Council of the City of Elk Grove:

**Section 1.** That the City Manager or other officer or employee of the CITY designated in writing by the City Manager to the BOARD is hereby appointed to represent the CITY 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 CITY by the BOARD pursuant to the contract between the CITY and the BOARD. The information obtained by examination of BOARD records shall be used only for purposes related to the collection of the CITY'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 CITY designated in writing by the City Manager to the BOARD is hereby appointed to represent the CITY 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 CITY:

- a) compliance and enforcement of the utility users tax of 2.25%;
- b) administrative functions set out in CITY's Utility Users Tax Ordinance No. 14-2010;
- c) legal interpretation and enforcement of Utility Users Tax Ordinance, including but not limited to refunds and defense of claims against Ordinance No. 14-2010.

The information obtained by examination of BOARD records shall be used only for those governmental functions of the CITY 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 CITY 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 CITY that authorizes the person to examine the prepaid mobile telephony services surcharge and local charge records;
- b) is required by that contract with the CITY to disclose information contained in or derived from, those records only to an officer or employee of the CITY 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 CITY and MuniServices, LLC designated by the CITY 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 CITY and MuniServices, LLC shall not provide, in whole or in part, in any manner a contingent fee arrangement as payment for services rendered.

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


**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 26<sup>th</sup> day of August 2015.

  
\_\_\_\_\_  
GARY DAVIS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JONATHAN P. HOBBS,  
CITY ATTORNEY

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL RESOLUTION NO. 2015-172**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )       ss  
CITY OF ELK GROVE         )

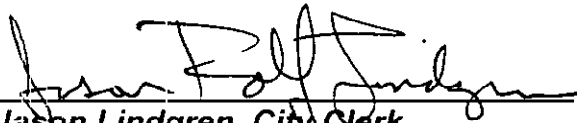
*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 26, 2015 by the following vote:*

**AYES :**       **COUNCILMEMBERS:**       *Davis, Hume, Detrick, Ly, Suen*

**NOES:**       **COUNCILMEMBERS:**       *None*

**ABSTAIN :**   **COUNCILMEMBERS:**       *None*

**ABSENT:**    **COUNCILMEMBERS:**       *None*

  
\_\_\_\_\_  
**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**