

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorization for Settlement in New Cingular Wireless v. Shoreline
DEPARTMENT:	City Attorney's Office
PRESENTED BY:	Ian R. Sievers, City Attorney

ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion
	<input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

In November 2010, New Cingular Wireless submitted a refund claim with the City of Shoreline in the amount of \$130,345.60 for overpayment of taxes. Specifically, the claim was for overpayment of New Cingular's taxes related to data services¹, or internet access, for the time period of November 1, 2005 – September 30, 2010. Federal law prohibits taxation of internet access and New Cingular had erroneously paid taxes on the data services to cities nationwide. Cingular agreed, as part of a class action settlement with ratepayers, to pursue collection actions on the ratepayers' behalf. Under terms of that settlement New Cingular Wireless will deposit refunds in a settlement trust for the benefit of the ratepayer class. In April 2012 New Cingular filed suit against over 100 Washington cities, including Shoreline, seeking a refund of these tax payments.

Adjustments to the original claim have been made by New Cingular during the course of discovery and negotiations over defenses, and an additional settlement discount was offered by New Cingular in May to avoid the costs of refiling against each city as required by a trial court ruling that the large group of cities had been improperly joined in a single action. Staff is satisfied that the proposed settlement amount of \$103,008.07 is a fair settlement in the interest of the City and Shoreline's ratepayers to avoid additional legal expense and risks of trial as further detailed in the confidential settlement memorandum distributed to the City Council.

RESOURCE/FINANCIAL IMPACT:

The settlement will be satisfied with a credit on future utility tax due from New Cingular Wireless until the settlement amount is fully discharged.

¹ Data services is transmission of electronic data across the internet (allows a user to "surf" the Internet, send e-mail and otherwise use the Internet).

RECOMMENDATION

Staff recommends that Council approve a credit against future utility tax obligations of New Cingular Wireless PCS LLC in the amount of \$103,008.07 in full settlement of the claims brought against Shoreline for utility tax refunds in King Co. Superior Court No. 12-2-1501-1.

Approved By: City Manager ____ City Attorney ____

SUPPORTING DOCUMENTS

-Confidential Settlement Memorandum dated June 4, 2013, separately distributed.