



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

SUBJECT: SEE BELOW

DATE: 08-23-10

Approved

Date

8/30/10

COUNCIL DISTRICT: Citywide

SUBJECT: REPEAL OF RESOLUTION NO. 74985 AND ADOPTION OF PARKING AND LATE PAYMENT PENALTY RESOLUTION

RECOMMENDATION

Subject to City Council approval of the proposed First Amendment to the Agreement between the City of San José and Turbo Data Systems, Inc. for parking citation processing and collection services, adopt a resolution to repeal Resolution No. 74985 and set forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a 35% collection amount on any unpaid parking citations submitted to the California Franchise Tax Board Interagency Offset program, effective September 15, 2010.

OUTCOME

Adding the cost of collection to the fine amount submitted to the California Franchise Tax Board Interagency Offset Program (FTB Program) will enable the City to collect the full amount of the parking citation due to the City, including a 35% collection fee from the City's contractor, Turbo Data Systems, Inc. for processing the unpaid parking citations through the California Franchise Tax Board Interagency Offset program.

BACKGROUND

The Adopted FY 2010-11 Operating Budget includes implementation of a proposal to use the FTB program to assist in the collection of unpaid parking citations. The FTB program is a service provided by the State of California to assist various state and local agencies with a variety of unpaid taxes, fines, and other permitted debts, including parking citations. If a taxpayer is due a California State Tax refund, has unclaimed property or California State Lottery winnings, and they owe an outstanding fine processed through the FTB program, the FTB will withhold any refund due the taxpayer to offset the unpaid debt. The withheld refund is then forwarded by the FTB to the agency holding the debt.

The City currently has an agreement with Turbo Data Systems, Inc. (Turbo Data) for parking citation processing and collections, and operation of a customer service center. Through a proposed amendment to the current agreement, Turbo Data will assist the City with pursuing the collection of unpaid parking citations through the FTB program. As compensation for collection services through the FTB program, Turbo Data will receive 35% of any revenue collected as a result of this program, excluding the 35% collection fee that will be added to each citation to cover the special collection cost of the FTB program.

ANALYSIS

Through the existing agreement, Turbo Data pursues collection of parking citations through a variety of methods, including sending courtesy and past due notices, placing holds on vehicle registration through the Department of Motor Vehicles (DMV). By the time a citation has been sent to DMV for a registration hold, the registered vehicle owner has received a minimum of three (3) notices, including the original citation, regarding their citation outlining the process to either pay or appeal the citation. The Turbo Data agreement also provides for special collection services for citations that remain unpaid. These services include additional notices and follow-up research for which Turbo Data receives 28% of any revenue collected. Citations eligible for special collections are ones that have been released by DMV from the vehicle registration hold process. This occurs when the fines have not been collected after two consecutive vehicle registration cycles, or the hold has been rejected for a variety of reasons, such as undeliverable notices, incorrect registered owner information, and rental vehicles.

Despite these efforts, about 20% of all parking citations issued in San José remain uncollected. Utilizing the FTB program will enable the City to collect a higher percentage of issued parking citations. Citations eligible for the FTB program will be those that have gone through the initial special collections process and remain uncollected. The FTB program will require substantially more work and upfront costs that will be provided by Turbo Data, including obtaining social security numbers, mailing a required pre-intercept notice to individuals with unpaid citations that their account will be submitted to the FTB if the outstanding debt is not paid or cleared within 30 days, manually reconciling payments received via the FTB program, and responding to questions from individuals about the FTB program. For these services Turbo Data will receive 35% of any revenue collected through the FTB program, prior to the addition of the cost recovery fee proposed in this memorandum.

California Government Code Section 12419.10 authorizes the State Controller to offset any amount unpaid for a parking citation and provides for recovering collection charges on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law or from winnings in the California State Lottery. Standards and procedures for local agencies to submit offset requests are prescribed by the State Controller.

There are approximately 59,500 citations eligible for inclusion in the FTB program for the upcoming 2010 tax year. Based on an assumed 7% collection rate for citations submitted to the FTB, the City will incur an estimated \$110,000 in collection costs for the 2010 tax year. Adding

the cost of collection to the fine amount submitted to the FTB will require those responsible for the unpaid citations to cover the increased cost to the City associated with collecting the unpaid debt. The City will also be able to realize the full amount of the parking citation penalties due to the City.

City Council adopted Resolution No. 74985 on June 16, 2009, setting forth the latest Schedule of Parking Penalties and Late Payment Penalty. Staff is recommending that Council adopt a resolution to repeal Resolution No. 74985 and set forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a 35% collection amount on any unpaid parking citations collected through the FTB program, effective September 15, 2010.

EVALUATION AND FOLLOW-UP

The recommendation associated with the FTB collection fee does not require follow-up.

POLICY ALTERNATIVES

City Council could elect not to add the 35% collection fee to unpaid citations submitted to the FTB. This is not recommended as the City would forego the opportunity to collect the full amount of unpaid parking citations due to the City. This would equate to approximately \$110,000 in foregone revenue the first year on outstanding citations and ongoing annual foregone revenue of approximately \$36,000.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although the above criteria do not apply to this item, this memorandum will be posted on the City's website for the Council meeting.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office and the City Attorney's Office.

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FISCAL/POLICY ALIGNMENT

Implementation of the FTB program is part of the Adopted FY2010-11 Operating Budget.

CEQA

Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section No.15273 – Rates, Tolls, Fares and Charges.

/ s /

HANS F. LARSEN
Acting Director of Transportation

For questions please contact Joe Garcia, DOT Parking Division Manager, at 535-3833.