

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE
AUTHORIZING THE DIRECTOR OF FINANCE TO
ADMINISTER AN ACCOUNTS RECEIVABLE AMNESTY
PROGRAM WHICH FORGIVES UNPAID PENALTIES,
INTEREST, AND COLLECTION EXPENSES ACCRUING
TO THE CITY OF SAN JOSE GENERAL FUND AND
OTHER FUNDS FOR CERTAIN ACCOUNTS BILLED
FROM APRIL 1, 2020 THROUGH AUGUST 31, 2021**

WHEREAS, challenging economic, financial and health circumstances caused by the COVID-19 pandemic continue to disrupt the well-being and welfare of many San José residents and businesses; and

WHEREAS, since the first case of COVID-19 was reported in the County of Santa Clara on January 31, 2020, the City of San José (“City”) has provided support for San José residents and businesses through various moratorium policies and amnesty, forgiveness, and assistance programs; and

WHEREAS, the City Finance Department Revenue Management Division, in collaboration with the respective City Departments providing the services, is responsible for the majority of City-wide invoicing of City services, as well as the collection of taxes, fees, charges and fines, through its Utilities Billing Unit, Business Tax Unit and Accounts Receivable Unit; and

WHEREAS, on June 14, 2022, the City Council approved the Mayor’s June Budget Message for Fiscal Year 2022-2023, including Manager’s Budget Addendum #38, entitled “Accounts Receivable Amnesty Program Pilot (Equity Lens)”, directing the City Administration to pilot an Accounts Receivable Amnesty Program (“Amnesty Program”) for unpaid penalties and interest accruing to the City General Fund and select fees

within other funds for certain accounts billed from April 1, 2020 through August 31, 2021; and

WHEREAS, the Amnesty Program is intended to increase statutory compliance while providing needed financial relief for City residents and businesses, by authorizing the Director of Finance to waive the respective late interest, penalties, and collection expenses on fees, fines, and charges billed for certain past-due accounts; and

WHEREAS, it is the intent of Council to exempt debtors who fully pay certain past due accounts from liability for any remaining past due interest, penalties and collection expenses; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE that:

SECTION 1. The definitions set forth in this Section shall govern the application and interpretation of this Ordinance.

- A. “Amnesty Period” means the period from April 1, 2020 through August 31, 2021, inclusive.
- B. “Amnesty Program” means the Accounts Receivable Amnesty Program described in this Ordinance.
- C. “Collection Expense(s)” means (1) any amounts due to collection agencies in connection with the City’s assignment of Eligible Delinquent Accounts to collection agencies during the Amnesty Period, and (2) the City’s Collection Fee and Collection Agency Recovery Fee, as set forth in the schedule of fees established by resolution of the City Council.
- D. “Debtor” means a person who owes the City money because of an Eligible Delinquent Account.
- E. “Director” means the Director of the Department of Finance, including the Director’s authorized designees.
- F. “Eligible Delinquent Account” means an active account receivable that meets all of the following requirements:
 - 1. The Debtor’s account was billed during the Amnesty Period, April 1, 2020 – August 31, 2021.

2. The Department of Finance has neither filed a lien to collect Debtor's account nor referred the account to the County of Santa Clara to be billed on the tax roll.
3. The Department of Finance has neither filed a small claims action to collect the account nor referred the account to the Office of the City Attorney for action.
4. The Debtor's account does not include outstanding amounts owed for unpaid taxes or permits.

SECTION 2. The Director shall administer the Amnesty Program for Eligible Delinquent Accounts. The Director is authorized to adopt reasonable rules and regulations as needed to implement the Amnesty Program consistent with the provisions set forth herein.

SECTION 3. The Amnesty Program shall be conducted during the period of November 1, 2022 through June 30, 2023, inclusive.

SECTION 4. The Accounts Receivable Amnesty Program shall be administered as follows:

A. Request for Accounts Receivable Amnesty

In order to participate in the Program, the Debtor shall make a Request for Accounts Receivable Amnesty to the Director of Finance in person, by mail, by telephone, or on-line, if practicable, on any business day from November 1, 2022 through June 30, 2023, inclusive.

1. If the Request for Accounts Receivable Amnesty is submitted to the City by mail:
 - a. The Request must be postmarked by the United States Postal Service no later than June 30, 2023, to be accepted.
 - b. The Request shall include information necessary to enable the calculation of the amount due for the portion of the Amnesty Period for which the Debtor failed to fully pay.
 - c. The required payment, or the initial installment as set forth below, shall be included with the Request for Accounts Receivable Amnesty.
 - d. Payment shall be made by check or money order.
2. If a Request for Accounts Receivable Amnesty is submitted to the City in person:
 - a. The Request must be made at the Customer Service Center, located on the First Floor of City Hall, 200 East Santa Clara Street, San José, or as otherwise directed by the Director of Finance, no later than the close of business on June 30, 2023, to be accepted.
 - b. The Request shall include information necessary to enable the calculation of the payment due for the portion of the Amnesty Period for which the Debtor failed to fully pay.

- c. The required Accounts Receivable Amnesty Payment, or the initial installment as set forth below, shall be included with the Request for Accounts Receivable Amnesty.
 - d. Payment shall be made by cash, check, credit card, or money order. When submitting a card payment, an additional service fee of 2.4% will be collected by a third party (Wells Fargo Merchant Services) to cover transaction processing fees.
- 3. If a Request for Accounts Receivable Amnesty is submitted to the City by phone:
 - a. A Debtor may request Amnesty by telephone by calling the number designated by the Revenue Management Division during normal business hours while the Amnesty Program is in effect, but no later than the close of business on June 30, 2023. The Debtor must speak to an Amnesty Program employee to request the Accounts Receivable Amnesty and provide payment information.
 - b. At the time the Request is made, the Debtor shall provide information necessary to enable the calculation of the payment due for the portion of the Amnesty Period for which the Debtor failed to fully pay.
 - c. A credit card authorization for the full payment of the requested Accounts Receivable Amnesty Payment shall be given together with the Request.

- d. Payment by phone shall be by debit/credit card or ACH/eCheck. When submitting a card payment, an additional service fee of 2.4% will be collected by a third party (Wells Fargo Merchant Services) to cover transaction processing fees.
4. If practicable, the City may provide the Debtor with additional options for requesting Accounts Receivable Amnesty and making the Accounts Receivable Amnesty Payment including, but not limited to, registering and making payments on-line (collectively referred to herein as "alternative payment options"). The request for an alternative payment option may be made while the Amnesty Program is in effect. The Debtor shall provide whatever information the Director of Finance deems necessary to enable the calculation of the payment due for the portion of the Amnesty Period for which the Debtor failed to fully pay and whatever additional information may be necessary for the City to process payment. The Director of Finance is authorized to issue instructions regarding means and method of payment.

B. Accounts Receivable Amnesty Payment

1. The required Accounts Receivable Amnesty Payment is the total unpaid amount for an Eligible Delinquent Account which first became due during the Amnesty Period, not including any penalties, interest, or Collection Expenses.
2. If the required Accounts Receivable Amnesty Payment is for Eligible Delinquent Accounts greater than \$250, the Debtor may pay on the installment basis set forth below. Otherwise, the sum due under the

Amnesty Program shall be paid in full at the time the Request for Accounts Receivable Amnesty is made.

3. The Installment Payment Plan requires the initial payment, at the time Accounts Receivable Amnesty is requested, of the amount equal to one-third (1/3) of the required Accounts Receivable Amnesty Payment. The remainder of the required Accounts Receivable Amnesty Payment shall be paid in one or more installments as determined by the Department of Finance.

C. Failure to Pay Installments

Failure of the Debtor to fully pay any installment when due shall disqualify the Debtor from receiving forgiveness of any remaining past due amount, interest, civil penalty, or criminal action, applicable under this Ordinance and the total unpaid amount, including penalties, interest and Collection Expenses, shall become immediately due and payable. "Failure of the Debtor to fully pay any installment when due" means a failure of the Debtor to tender payment for the entire amount owing by the applicable due date, or, if tender has been made, a failure of the City to receive full value for the tender by the due date because of a dishonored check, rejected credit card submittal or other reason.

SECTION 5. Any Debtor who pays in full all sums due in accordance with the Amnesty Program shall be entitled to the following benefits:

- A. The City shall waive and forever give up any right or claim to any and all interest, penalties, and Collection Expenses that would otherwise accrue as a result of the Debtor's failure to pay the Eligible Delinquent Account during the Amnesty Period.

- B. The City shall close the Debtor's Eligible Delinquent Account as if paid in full.

SECTION 6. Any Debtor who has previously paid in full the unpaid amount for an Eligible Delinquent Account which first became due during the Amnesty Period, not including any penalties, interest, or Collection Expenses owed, shall be entitled to the following benefits even though the Debtor has not filed a Request for Accounts Receivable Amnesty with the Director of Finance:

- A. The City shall waive all remaining past due interest, penalties and Collection Expenses for Eligible Delinquent Accounts which first became due during the Amnesty Period.
- B. The City shall close the Debtor's Eligible Delinquent Account as if paid in full.

SECTION 7. MISCELLANEOUS PROVISIONS.

- A. No refund or credit shall be granted for any amount of interest or penalty or Collection Expense paid prior to the time the Debtor makes a Request for Accounts Receivable Amnesty pursuant to this Ordinance.
- B. The Director of Finance shall publicize the Amnesty Program, be authorized to issue forms and instructions, and take other actions necessary to implement this Ordinance.

SECTION 8. The provisions of this Ordinance shall take effect retroactive to November 1, 2022.

PASSED FOR PUBLICATION of title this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk