

Memorandum

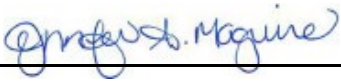
TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: October 11, 2022

Approved



Date

10/20/22

**SUBJECT: APPROVAL OF AN ORDINANCE AUTHORIZING THE DIRECTOR OF
FINANCE TO ADMINISTER AN ACCOUNTS RECEIVABLE AMNESTY
PROGRAM**

RECOMMENDATION

Approve an ordinance 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 José General Fund and other funds for certain accounts billed from April 1, 2020 through August 31, 2021.

OUTCOME

Implementation of an amnesty program will encourage debtors to pay past due delinquent debts, decrease the City's outstanding receivables, and relieve debt incurred by San José residents and business during the COVID-19 pandemic.

BACKGROUND

At its June 11, 2021 City of San José Council meeting, along with their approval of the 2021-2022 Operating and Capital Budgets for the City of San José (City) and Schedule of Fees and Charges¹, the City Council also approved a memorandum from Councilmember Esparza with the following recommendation²:

¹ June 11, 2021: Item 3.8, *Approval of the 2021-2022 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges*

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=4970404&GUID=6B2DD118-1D0C-4E05-9258-8F66033763BD&Options=&Search=>

² June 11, 2021: Item 3.8, *Approval of the 2021-2022 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges* <https://sanjose.legistar.com/View.ashx?M=F&ID=9476577&GUID=A8EF8E46-F489-4D45-B20F-7BBCEF9A60F3>

Direct Staff to explore options to relieve debt incurred by residents during the pandemic through fees and fines issued by the City of San José, utilizing a portion of the remaining \$50.1M of American Rescue Plan funds, focusing on fees and fines that disproportionately impact low-income communities and return to Council with recommendations.

Since January 31, 2020, when the first case of COVID-19 was reported in the County of Santa Clara, the Administration has provided support for City residents and businesses through various moratorium policies and amnesty/forgiveness/assistance programs. The Local Assistance Framework was updated through City Council action on March 17, 2020³, which provided a preliminary assessment of the potential longer-term impacts of the COVID-19 pandemic on San José residents, businesses, and nonprofits. Since March 2020, City Council actions have enacted moratoria on evictions and library fines, and funded amnesty/forgiveness/assistance programs to address food insecurity, digital equity, emergency housing and housing stabilization, energy and potable water debt relief, business tax relief, re-employment and workforce development, small business recovery, and other related items on the adopted City Roadmaps for fiscal years (FY) 2021-22 and 2022-23. In total, the City has appropriated or planned the spending of over \$810 million of federal, state, and local dollars granted and/or received through June 2022 since the inception of the COVID-19 pandemic emergency.

The Finance Department Revenue Management Division, in collaboration with the respective City Departments, is responsible for the majority of City-wide invoicing of City services, as well as collecting taxes, fees, charges, and fines through its Utilities Billing Unit, Business Tax Unit, and Accounts Receivable Unit, and has delivered, in coordination with City Departments, a number of amnesty/forgiveness/assistance programs to relieve debt incurred by residents and businesses during the COVID-19 pandemic. These programs included:

- (a) The California Arrearage Payment Program⁴, providing \$4,348,501 to offset unpaid electric bills, including forgiving late, interest, and other fees, with an estimated \$2.2 million from the State program becoming available for eligible energy debt relief in FY 2022-23;
- (b) An estimated \$663,000 in monies through the California Water and Wastewater Arrearage Payment Program⁵, providing customer relief for unpaid potable water bills and waiving late, interest, and other fees; and

³ March 17, 2020: Item 3.8, *Local Assistance Framework*
<https://sanjose.legistar.com/LegislationDetail.aspx?ID=4396367&GUID=E98ED404-DFC1-4C70-B321-F744626A471D&Options=&Search=>

⁴ January 11, 2022: Item 3.6, *Actions Related to the California Arrearage Payment Program*
<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5361876&GUID=2F46D585-4356-4FE4-A518-565D42E52C2D&Options=&Search=>

⁵ January 11, 2022: Item 3.5, *Actions Related to the California Water and Wastewater Arrearage Payment Program*
<https://sanjose.legistarWelome123!.com/LegislationDetail.aspx?ID=5361875&GUID=CFB67DAF-ABAC-4294-98D3-E53FECD66114&Options=&Search=>

- (c) The Business Tax Amnesty Program^{6, 7, 8} through December 31, 2021, has assisted 3,211 businesses, out of 4,060 reviewed applications, for an estimated foregone revenue of \$654,562.

The Accounts Receivable Amnesty Program Pilot (Program) was approved with the incorporation of Manager's Budget Addendum (MBA) #38 into City Council's approval of the Mayor's June Budget Message for Fiscal Year 2022-2023⁹. The Program is a pilot to address unpaid penalties and interest for certain delinquent accounts billed from April 1, 2020 through August 31, 2021, with updated estimated gross accounts receivable of \$2.9 million, up to an estimated \$1.0 million in waived unpaid penalties and interest, and an estimated Program implementation expense of \$192,000. The amnesty period will run from November 1, 2022 to June 30, 2023 for certain accounts billed from April 2020 through August 2021. An evaluation of the pilot plus any consequent recommendations on further policy and/or actions will be advanced to City Council.

ANALYSIS

Challenging economic, financial and health circumstances, caused by the unexpectedly tenacious COVID-19 pandemic, continue to disrupt the well-being and welfare of many City residents and businesses. This recommended ordinance continues to respond to the June 11, 2021 City Council direction and proposes to pilot a Program for unpaid penalties and interest accruing to the City General Fund and select fees within other funds for certain accounts billed from April 2020 through August 2021, and is consistent with MBA #38. The April 2020 through August 2021 eligibility timeframe closely mirrors the eligibility periods of comparable forgiveness programs, such as the California Arrearage Payment Program and the California Water and Wastewater Arrearage Payment Program noted above.

Similar in structure to the successful Business Tax Amnesty Program, the 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, and other collection levies on any base fees, and charges collected. The Program will also prioritize outreach to those accounts in low-income communities and with a higher equity index per the

⁶ August 13, 2019: Item 3.4, *Amnesty Program for Business Tax and BID Assessment and Ordinance Amending Chapter 4.76 of the San Jose Municipal Code to Expand the Eligibility Requirements for the Business Tax Financial Hardship Exemptions Under Certain Circumstances*

<https://sanjose.legistar.com/View.ashx?M=F&ID=7570829&GUID=29D162EE-8731-4047-8B9A-BE045FED1FE9>

⁷ March 24, 2020: Item 2.21, *Extension of Business Tax Amnesty Program*

<https://sanjose.legistar.com/View.ashx?M=F&ID=8205849&GUID=263BB4CE-9C8D-41DE-8C13-36041485C35D>

⁸ September 28, 2021: Item 3.7, *Temporary Expansion of Business Tax Financial Hardship Exemptions*
<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5136640&GUID=B26DDC4D-3C90-4C50-9106-8782674A214F&Options=&Search=>

⁹ June 6, 2022: Manager's Budget Addendum #38 - *Accounts Receivable Amnesty Program Pilot (Equity Lens)*
<https://www.sanjoseca.gov/home/showpublisheddocument/86803/637901371454200000>

San José Equity Atlas Black, Indigenous, and People Of Color and Income combined score map, with the goal of increasing both relief and compliance in those census tracts.

Accounts eligible for this Program must meet the following requirements:

1. The Debtor's account was billed during the Amnesty Period, April 1, 2020 – August 31, 2021.
2. The Finance Department 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 Finance Department 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.

The Finance Department Revenue Management Division focuses on City-wide invoicing and collections of the majority of fees and charges, including the collection of any late fees and interest levied as allowed by the San José Municipal Code. The Finance Department will develop and manage the Program, in coordination and collaboration with the City Department(s) responsible for the respective service, fee, or charge (Program Team).

The Program Team will analyze each fee and charge category to identify whether the specific category is eligible for the Program, as some categories may be precluded from Program participation due to existing governing legislation and/or San José Municipal Code restrictions. As part of this analysis, the Program Team will identify areas with higher equity indices, and in partnership with the City Manager's Office of Communications, develop outreach and collateral materials specific to the area(s) and category(ies) that provide information on the Program. Follow-up outreach efforts will be made and payment options, including payment plans, will be offered, as appropriate. Program success will factor in metrics such as number of accounts paid, balances paid, amount of waivers, and qualified census tracts and/or equity index affected, and will be subsequently reported to the City Council.

Program Data Population and Methodology

The table below presents outstanding fees and charges billed from April 2020 through August 2021, for a total of 3,655 Accounts Receivable Unit accounts:

TABLE 1

Outstanding Fees and Charges Billed April 2020 thru August 2021					
	Base Fees/Fines	Interest	Penalties	Collection Expense	Total
Total Outstanding Fees & Charges	\$ 1,864,805	\$ 375,688	\$ 475,526	\$ 172,477	\$ 2,888,496
Total Interest, Penalties and Collection Expense		\$ 375,688	\$ 475,526	\$ 172,477	\$ 1,023,691

The Finance Department updated the population of accounts with outstanding fees and charges since MBA #38 approval in June 2022, and identified 3,655 Accounts Receivable Unit accounts, from April 2020 to August 2021, that have an outstanding total of an estimated \$2.9 million, consisting of 1.9 million in base fee/fines balance and \$1.0 million in owed interest, penalties, and collection expenses. Under the recommended pilot Program, participants who pay their base fees will have their interest, penalties and collection expenses waived. It is important to note that waiving the estimated \$1.0 million in interest, penalties and collection expense for these accounts is not a significant revenue loss for the City, as historically the City has received a relatively small amount of these additional monies and these monies have not been budgeted. Table 2 below details the projections.

To the extent temporary staffing and costs associated with outreach and distribution of materials are not absorbed within the existing Finance Department budget, a future budget action may be brought forward to provide sufficient capacity that could be partially offset by revenues from the base fees and fines received from the Program.

TABLE 2

Accounts Receivable Amnesty Program Pilot		
Total Outstanding Fees & Charges April 2020 to August 2021		\$2,888,496
<i>Less Estimated Waivers</i>		
Interest	(\$375,688)	
Penalties	(\$475,526)	
Collection Expense	(\$172,477)	
<i>Subtotal Estimated Waivers</i>	<i>(\$1,023,691)</i>	
<i>Less Program Expense</i>		
Personnel Expense (Temporary Staffing - Analyst I/II)	(\$142,000)	
Outreach & Collateral Materials (Mailings, Translation)	(\$50,000)	
<i>Subtotal Program Expense</i>	<i>(\$192,000)</i>	
<i>Subtotal Estimated Waivers & Program Expense</i>	<i>(\$1,215,691)</i>	
	Net	\$1,672,805

CONCLUSION

The Finance Department, in collaboration with City Departments who provide the respective services, will implement an Accounts Receivable Amnesty Program Pilot that will encourage debtors to pay past due delinquent debts, which will decrease the City's outstanding receivables and relieve debt incurred by San José residents and business during the COVID-19 pandemic.

EVALUATION AND FOLLOW-UP

Program success will factor in metrics such as number of accounts paid, balances paid, amount of waivers, and qualified census tracts and/or equity index affected, and will be subsequently reported to City Council after the Program has concluded and staff has had sufficient time to analyze the results.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the November 1, 2022 City Council meeting.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The recommended Program total of \$2.9 million will facilitate the collection of \$1.7 million of outstanding fees and charges, after waiving penalties, interest and collection costs and incurring Program expenses of \$1.2 million, spread among various City funds. As the base fees and charges were previously captured as revenue on an accounting basis, the Program will help ensure these charges will not be written off as a loss. Further, as penalties and interest are not budgeted revenue, the waiving of these collections will not have a negative budgetary impact.

To the extent the temporary staffing and mailing costs of approximately \$192,000 are not absorbed within the existing Finance Department budget, a future budget action may be brought forward to provide sufficient capacity, offset by vacancy savings elsewhere within the City.

CEQA

Not a Project, 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.

/s/
JULIA H. COOPER
Director of Finance

For questions, please contact Luz Cofresí-Howe, Assistant Director of Finance, at luz.cofresi-howe@sanjoseca.gov or (408) 535-7041.