

**City of Culver City, California
Agenda Item Report**

Meeting Date: 08/09/2010		Item Number: <u>C-6</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Amending Exhibit C of Resolution No. 2010-R016 Relating to Credit and Debit Card Convenience Fees.			
Contact Person/Dept.: Jeff S. Muir/Finance		Phone Number: 310/253-5865	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☐	Attachments: ☒
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Meetings and Agendas – City Council (08/05/10)			
Department Approval: Jeff Muir (08/02/10)		City Attorney Approval: Carol Schwab (by H. Baker) (08/04/10)	
Chief Financial Officer Approval: Jeff Muir (08/02/10)		City Manager Approval: Martin R. Cole (08/05/10)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution amending the Credit and Debit Card convenience fees established in Exhibit C of Resolution No. 2010-R016.

BACKGROUND:

The City currently accepts credit and debit cards at various locations, such as the Finance Department, the Veteran's Memorial Building, and the Police Department. On December 17, 2007, the City Council adopted Resolution 2007-R-073 which established a 3% convenience fee for all credit card payment transactions, and a \$0.50 convenience fee for all debit card transactions. Just like any other retailer, the City incurs bank and/or merchant fees each time a customer pays with a credit or debit card. These fees would not otherwise be incurred if a traditional payment mechanism was used (check or cash).

The idea behind the current fees was to recapture the cost of providing the convenience of being able to use a credit or debit card, particularly in the instance of a substantial payment amount. The City only accepts Visa or MasterCard, both with approximate merchant and bank fees equal to 3% of the transaction. The cost of using a debit card with a PIN code is substantially less than a credit card (or a debit card with a Visa/MasterCard logo used as a credit card), and therefore the \$0.50 fee was established to recover costs.

There are competing views on whether government agencies should add a fee for the ability to pay with a credit or debit card. Processing checks over the counter or through the mail utilizes staff time not only to accept and apply the payment, but also

City of Culver City, California
Agenda Item Report

to process the check through the City's bank. Credit or debit card payments reduce that effort. On the other hand, the merchant or bank fees with credit cards can be fairly significant and it can be argued that the individual using the credit card, potentially receiving rewards points for doing so, should pay the cost. In the retail industry, the cost of credit card payment fees is factored into the pricing.

DISCUSSION:

Recently, the Finance Department has been researching options to allow for online payments of commercial refuse bills, monthly parking permits, and other miscellaneous items. During the presentations with various vendors and our follow-up discussions, it appears our current practice of charging convenience fees is out of line with the Visa Operating Regulations. First, Visa only allows convenience fees for items through an alternate payment channel, outside of the normal payment channel (mail or face-to-face). Second, Visa requires that convenience fees be consistent for all payment types, whether credit card, debit card, electronic check, etc. Finally, Visa requires the convenience fee to be a fixed amount, and not a percentage. MasterCard does not have these same requirements.

California Government Code Section 6159(g) states:

*(g) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, **city** and county, or any other public agency **may impose a fee for the use of a credit or debit card or electronic funds transfer, not to exceed the costs incurred by the agency in providing for payment by credit or debit card or electronic funds transfer.** These costs may include, but shall not be limited to, the payment of fees or discounts as specified in paragraph (3) of subdivision (d). Any fee imposed by a court pursuant to this subdivision shall be approved by the Judicial Council. Any fee imposed by any other public agency pursuant to this subdivision for the use of a credit or debit card or electronic funds transfer shall be approved by the governing body responsible for the fiscal decisions of the public agency.*

Pursuant to this section, staff believes that there is a legitimate argument to be made that Visa's Operating Regulations are in conflict with what the Government Code permits. However, given the desire to move forward as quickly as possible with additional online payment opportunities staff is recommending changes to the Fiscal Year 2010/2011 User Fees and Charges that will bring us into compliance with the Visa rules.

Specifically, staff recommends the current convenience fees of 3% for all credit card transactions and \$0.50 for all debit card transactions be eliminated, and a new convenience fee applicable only to online or telephone payments be established in the amount of \$2.00 per transaction. Staff estimates that setting the fee at this

City of Culver City, California
Agenda Item Report

amount should allow the City to recover the cost of providing these alternative payment channels. If necessary, this fee will be adjusted for Fiscal Year 2011/2012 based on actual experience.

FISCAL ANALYSIS:

It is anticipated the new convenience fees will recover the cost of offering online and telephone payment options. However, the City will cease charging any convenience fees for face-to-face or mail credit card or debit card transactions. The City will still incur the merchant and bank fees for these transactions. During Fiscal Year 2009/2010, approximately \$1.15 million in payments were made via credit card, resulting in approximately \$30,000 in bank and merchant fees. During the analysis completed for the Fiscal Year 2011/2012 and future year User Fees and Charges, staff will factor the actual costs incurred from credit or debit card payments into the specific fee categories, so that they will be recovered in arrears.

ATTACHMENTS:

1. Proposed Resolution

MOTION:

That the City Council:

Adopt a Resolution amending the Credit and Debit Card convenience fees established in Exhibit C of Resolution No. 2010-R016.