



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 1, 2014

ITEM NUMBER:

SUBJECT: FRANCHISE TAX BOARD CITY BUSINESS TAX PROGRAM

DATE: MARCH 11, 2014

FROM: FINANCE DEPARTMENT

PRESENTATION BY: STEPHEN DUNIVENT, INTERIM FINANCE DIRECTOR

**FOR FURTHER INFORMATION CONTACT: STEPHEN DUNIVENT, INTERIM FINANCE DIRECTOR,
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RECOMMENDED ACTION

Adopt Resolution 14-____ authorizing the Chief Executive Officer to execute the State of California Standard Agreement C1300129 with the State of California Franchise Tax Board to participate in the City Business Tax program.

BACKGROUND

Since January 2009, the California Franchise Tax Board (FTB) has maintained the City Business Tax Program, a program to exchange tax data with cities pursuant to the passage of Senate Bill 1146. Information obtained through this program can assist cities in identifying businesses that have not applied for and received business licenses and assist the FTB in identifying individuals who have not filed individual and business tax returns. The intent of this program is for both the State and cities to benefit based on the mutual exchange and analysis of data. As of June 2013, 106 California cities participated in this program including ten Orange County cities: Newport Beach, Huntington Beach, Irvine, Santa Ana, Brea, Orange, Garden Grove, Tustin, Laguna Beach, and San Juan Capistrano.

Under this reciprocal program, cities agree to provide the FTB with tax information annually in June and the FTB agrees to provide cities with tax information annually in December for the previous tax year. Due to the confidential nature of information exchanged in this program, all transmissions are sent via FTB maintained Secure Web Internet File Transfer accounts. Participating cities are required to complete City Business Tax Safeguard Review Questionnaires and only City employees who fill out confidentiality statements are given access to the data. The FTB is authorized to send information only for taxpayers reporting income from a trade or business with an address within City boundaries. In addition, data received from the FTB is required to be destroyed after three years.

California Revenue and Taxation Code Section 19551.5 currently mandates that cities provide business tax data to the FTB upon request with cost reimbursement requirements for cities to make payments to the FTB. Cities in the Business Tax Program do not have to reimburse the FTB since these requirements are waived for all participants. Each party is required to agree to bear its own costs of providing the data and cities are precluded from obtaining reimbursements from the FTB.

ANALYSIS

The receipt of data from the FTB will allow the City to compare business information reported to the State via tax returns to information maintained in the City's business license system. This comparison could help to ensure compliance with the business license ordinance and to identify noncompliant businesses. General Fund business license revenues are expected to increase if adequate resources are allocated to the program. Another benefit to the City is that work related to this program can be done at City Hall, reducing time spent in the field for visual inspections.

Initial setup of the data exchange and subsequent comparison and analysis of data received from the FTB could involve significant staff time by Finance and Information Technology staff, especially in the first year of the program. In addition, data received from and sent to the FTB may require "scrubbing" to provide comparable and complete data sets. In subsequent years, the process of creating data files required by the FTB can be done in an efficient manner with competent assistance from Information Technology staff or consultants.

Analyzing and comparing data received from the FTB will require staff efforts above and beyond regular business license operations. Time required can be impacted by the quality of the business license system, well thought out forms, review processes, standard language in the data, and how well the data is "scrubbed". Sources from other cities state that if more resources are allocated to the program, the results are better. Some of the work involves thoroughly checking the data, sending out letters and following up, and answering phone calls. Should the City decide to participate in this program, additional part-time staff may be necessary to ensure the program's ongoing success.

In order to enroll in the City Business Tax Program, the City will be required to mail two sets of agreements with original signatures to the FTB by April 30, 2014 (see Attachment 1) and obtain a resolution (see Attachment 2), order, motion, or ordinance stating that it is authorized to enter into the agreement.

If approved, the agreement will be in effect from June 1, 2014 through December 31, 2016 with the City being required to transmit data to the FTB within 30 days of executing the agreement and subsequently in June 2015 and 2016. In return, the FTB will provide data to the City in December 2014, 2015, and 2016 for previous tax years (i.e. the December 2014 transmission will consist of data from the 2013 tax year).

FISCAL REVIEW

There is no cost to the City for participating in this program. Staff expects a positive, yet unquantifiable, impact on business license revenues in the General Fund due to enhanced compliance with business tax laws resulting from additional enforcement efforts. Additional staffing may be required to provide adequate resources to the program.

LEGAL REVIEW

The City Attorney reviewed and approved the attached resolution and agreement as to content and form.

STEPHEN DUNIVENT
Interim Finance Director

STEVEN ELY
Interim I.T. Director

Attachments: 1. [State of California Standard Agreement C1300129](#)
2. [Resolution No. 14-](#)