

September 12, 2006

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: CITY MANAGER/CITY ATTORNEY

SUBJ: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMPTON REVISING THE CITY OF COMPTON'S EXPENSE AND REIMBURSEMENT POLICY AND RESCINDING RESOLUTION NO. 21,880.

SUMMARY

The City Council will consider a Resolution that will revise and replace the current "City of Compton's Expense and Reimbursement Policy" and rescind Resolution No. 21,880, which was adopted by the City Council on February 14, 2006.

BACKGROUND

On January 1, 2006, California Assembly Bill 1234 became effective.¹ This new state law targets the use of public resources, focusing on expense reimbursement practices and basically requiring local agencies (e.g. the City of Compton) to adopt a written policy which specifies the types of occurrences or activities, in the performance of official duties, which would qualify a local official to receive reimbursement of expenses relative to travel, meals, lodging and other actual and necessary expenses. AB 1234 was explicitly made applicable to charter cities and counties.

Pursuant to the requirements of this new law, on February 14, 2006, the City Council adopted Resolution No. 21,880, which established an expense and reimbursement policy.

STATEMENT OF THE ISSUE

Since the adoption of Resolution No. 21,880, various inquiries and requests for clarification have arisen, including but not limited to concern as to whether the City's practice of pre-paying certain expenses that will/are incurred during the

¹ **California Government Code**, Sections 53232 et seq.

course of a local official's performance of official duties is affected by the use of the word "*reimburse(ment)*" within the text of AB 1234?

ANALYSIS

AB 1234 speaks in terms of "...a local agency may reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties,..."

"Reimbursement" implies that the local official has expended his or her own monies in the pursuit of or during the course of the specific occurrence or activity engaged and now seeks repayment of those personal funds from the local agency.² Thus, in interpreting the provisions of AB 1234, it is the opinion of the City Attorney's Office that if a local official, for example, attends an out-of-town conference in the performance of his or her official duties, the City *may* pre-pay those actual and necessary expenses or costs that may be objectively identified and calculated in advance of the occurrence (e.g. conference registration fees, airfare and room rate and taxes for lodging). In such a scenario, the local official has not expended any of his or her personal funds for registration, airfare and lodging and thus cannot seek *"reimbursement"* for the same; but rather would be limited to seeking reimbursement for other, if any, authorized and necessary expenses for which the local official has in fact expended his or her own personal monies.

AB 1234 and Compton's current expense reimbursement policy focus on the situation in which an official incurs expenses and then seeks reimbursement of those expenses from the City. It does not govern situations in which the City pays such things as conference registrations, hotel rooms, airfares, etc. in the first instance. The City Attorney's Office consulted the League of California Cities' general counsel regarding this issue. She agrees that by its terms, neither AB 1234 nor Compton's expense reimbursement policy apply to such prepaid expenses. She recommends, however, that the overall policies relating to reimbursement of expenses be also applied to prepayment of costs. For example, it may be reasonable to apply the same policies relating to government or group rates for transportation and lodging that we use for reimbursement of expenses in the case of prepayment of costs, to avoid any perception that the City is circumventing its expense reimbursement policy parameters by having the City pay these expenses in advance.

The attached has been revised to address and provide for expenditure policies relative to the City pre-paying and/or using the City credit card(s) for certain

² **Merriam Webster's Collegiate Dictionary (10th ed.)** defines reimburse: "...to pay back to someone...to make restoration or payment of an equivalent to (him for his traveling expenses)..."

expenses incurred in an official's conduct of City business, in addition to clarifying implementation of the policy requirements.

General Overview of Policy (Including Revisions)

In general, the attached policy addresses the following matters:

- Clarifies at the outset, in accordance with state law, that all expenditures of public funds by the City (i.e. by prepayment or use of the City's credit cards) and all reimbursement requests by an official after he/she has expended his/her own monies must ***logically relate to*** the conduct of City business, be ***necessary*** to accomplish the purpose of the City business ***and*** be ***reasonable*** in amount.
- The types of occurrences, activities and events for which the City may prepay or an official may seek reimbursement from the City of expenses which he or she has paid to participate, including examples of expenses that shall not be paid or reimbursed by the City (Section VI.A.1).
- The mode and class of transportation an official may use for which the City may prepay or an official may seek reimbursement from the City, including the requirement that reservations be made at least 14 or more days in advance to take advantage of discounts. Officials are required to use government and/or group rates for transportation when available whether prepaid by the City or paid for by the official seeking reimbursement (Section VI.A.2).
- Officials are required to use government and/or group rates for lodging, whether prepaid by the City or paid for by the official seeking reimbursement. Lodging rates equal to or less than the government and/or group rate are presumed to be reasonable. Local lodging expenses shall not be prepaid by the City or reimbursed to the official without the prior approval of the City Manager in compliance with this policy (Section VI.A.3).
- Reimbursement for meals is limited to a maximum of \$75.00 per day, unless excepted by the policy (Section VI.A.4).
- Officials seeking reimbursement for expenses incurred shall submit an Expense Reimbursement Report and accompanying documentation to the City Manager for review within the applicable time frame specified in the policy (Section VI.B.1).

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- Officials shall provide brief reports on meetings and events attended at the next regular meeting of the legislative body (Section VI.B.2).
- When an official fails to attend an event after incurring expenses and seeks reimbursement, the official shall provide a written explanation with the reimbursement report to the City Attorney, explaining the reason(s) he/she was unable to attend so that the City Attorney may determine the legality of the requested reimbursement (Section VI.B.3).
- The City Manager may authorize prepayment by the City and/or use the City's credit cards for limited types of expenses, i.e. conference registration, lodging, airline, bus or train tickets (Section VI.C.).
- Provisions of the policy pertaining to "Authorization for Travel and Related Expenses" – Section VI.A, shall be applicable to the City's prepayment and credit card practices (i.e. expenses incurred in connection with identified activities or events generally recognized as authorized expenses (Section VI.C.).
- If the City pre-pays an official's expenses and the official is unable to attend, the official is responsible to refund any prepaid and/or credit card fees to the City within 30 days of the event that he/she failed to attend (Section VI.C.1).

RECOMMENDED ACTION

Staff recommends that the City Council adopt the attached Resolution, which revises Compton's expense and reimbursement policy, and direct all of the City's elected officials, as well as all City board, committee and commission members to immediately comply with the requirements of this revised policy.

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