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OAKLAND

2014 JUN 26 PM 4: 15

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2ND FLOOR • OAKLAND, CALIFORNIA 94612

Councilmember Rebecca Kaplan

(510) 238-7008

RE: A RESOLUTION ENCOURAGING THE ADMINISTRATION TO ENTER INTO AGREEMENTS FOR THE COLLECTION AND REMITTANCE OF LOCAL TAXES TO THE CITY OF OAKLAND BY BROKERS, AGGREGATORS AND COLLECTIVES.

Dear Members of the City Council:

On June 24th, the Finance Committee heard an informational report from staff, on the options and recommendations on the fiscal impact and possible revenue mechanisms to collect local Oakland taxes from identified types of online, third party private accommodations and ride sharing in the City of Oakland.

Many of the questions raised in the report focused on the regulation and operations of these enterprises, including Short-term Residential Rental (STRR). Of greater interest to the Finance Committee was the means through which the City can collect relevant local city taxes. The Committee recognized that the regulation maybe desirable, but would be done through a process separate from revenue collection.

The resolution before you today, recognizes how costly and difficult it would be to implement tax collection and registration requirements against each individual provider, and proposes collecting taxes in aggregate, which would enable smoother and more efficient way of obtain local tax revenue.

In order to have revenue collection occur in a manner that is reasonable and cost recovering, the resolution encourages the City Administrator to enter into voluntary agreements to facilitate collection and remittance of taxes, by a third party who is facilitating the sale of taxable goods or services on behalf of others.

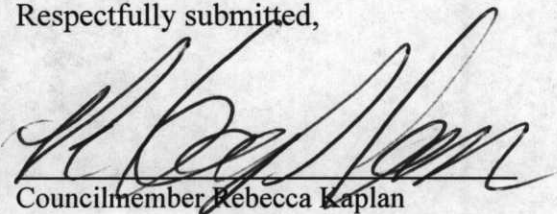
These would be mutual agreements developed by the City of Oakland Revenue & Tax Administrator and any third party collector. Entering into a voluntary agreement would not constitute an admission or any waiver of any argument or assertion of law, and shall not constitute evidence of agreement or waiver of responsibility other than as set forth in the agreement.

Approval of the resolution would encourage the Revenue & Tax Administrator to administratively enter into these agreements, without requiring return to council, until such a time that a more formal industry based tax structure could be created with related regulatory changes to the OMC.

Entering into these agreements should in no way restrict the City's ability to thereafter adopt regulations regarding that enterprise/industry. Collecting and remitting tax shall not be interpreted to exempt a business from meeting other laws and regulations that apply to the relevant industry/enterprise.

As requested during discussion at Finance Committee, we anticipate that Transportation Network Companies will be handled through a separate process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rebecca Kaplan', written over a horizontal line.

Councilmember Rebecca Kaplan

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Approved as to Form and Legality

DRAFT

2014 JUN 26 PM 4:16

OAKLAND CITY COUNCIL

City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember: Rebecca Kaplan

A RESOLUTION ENCOURAGING THE ADMINISTRATION TO ENTER INTO AGREEMENTS FOR THE COLLECTION AND REMITTANCE OF LOCAL TAXES TO THE CITY OF OAKLAND BY BROKERS, AGGREGATORS, AND COLLECTIVES.

WHEREAS, in recent years, there has been significant growth in businesses that use brokers, aggregators and collectives to process payments for services on behalf of members/clients; and

WHEREAS, it is important to the Citizens of Oakland that the City's tax collection policies be fair and equitable, both for those who do, and those who do not, use aggregators, brokers, or collectives to collect payment for their services; and

WHEREAS, it is important to the Citizens of Oakland that the City's public services be adequately funded, and the leakage of revenues that has occurred due to online third party brokers, aggregators and collectives be collected so as to fund vital services; and

WHEREAS, it would be cost prohibitive to implement a tax collection and registration requirement against each individual proprietor; and

WHEREAS, new technology allows for business platforms to change at a faster rate than the City's ability to regulate and enforce; and

WHEREAS, new technology has changed existing business models and requires new collection strategies, which include partnering with online third party brokers, aggregators and collectives to ensure revenues are being collected and remitted properly to the City; and

WHEREAS, section 4.08.060 of the Oakland Municipal Code gives the Revenue and Tax Administrator the power to adopt rules and regulations for the purpose of carrying out and enforcing the payment, collection and remittance of Oakland local taxes; now there for be it

RESOLVED, that the Oakland City Council urges the City Administration to enter into voluntary agreements to facilitate collection and remittance of local taxes, by any third party who is facilitating the sale of taxable services on behalf of others; and be it

FURTHER RESOLVED, that entering into a voluntary agreement would not constitute an admission or any waiver of any argument or assertion of law, and shall not constitute evidence of agreement or waiver of responsibility other than as set forth in the agreement; and be it

FURTHER RESOLVED, such agreements should allow either party to terminate with advanced notice as agreed upon within the agreement; and be it

FURTHER RESOLVED, entering into these agreements should in no way restrict the City's ability to thereafter adopt regulations, rules, or policies regarding brokers, aggregators and collectors; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California