BUDGET & FINANCE

# MOTION

The federal government and 17 states sued American Express ("AmEx"), MasterCard and Visa in 2010 in a federal antitrust complaint, challenging the restraints imposed on merchants by these credit card companies. These restrains came in the form of anti-steering rules that artificially inflated the interchange fees (swipe fees) paid by merchants to Amex for each transaction. Visa and MasterCard settled a year later, rescinded the merchant restraints, and in response to class actions from merchants, agreed to pay $7.2 billion in damages, while AmEx refused to settle.

In February of this year, a federal judge ruled that the anti-steering rules used by AmEx violated federal antitrust laws. The federal judge's ruling provides merchants that accept AmEx payment cards with a powerful basis for seeking recovery of the amounts they have been overcharged as a result of AmEx's illegal conduct. These fees are not only paid by retailers and other businesses, but also by municipalities and other government agencies that accept AmEx as a form of payment. Earlier this month, the San Francisco City Attorney filed suit against AmEx, holding them responsible for billions of dollars in "excessive and improper" costs borne directly by retailers and, indirectly, by all California consumers. The San Francisco City Attorney indicates that California businesses pay about $2.25 billion in interchange fees to AmEx each year.

The City of Los Angeles as a municipal corporation processes ten of millions of dollars in American Express transactions from residents and businesses on an annual basis. Any inflated interchange fees associated with these transactions could otherwise be used to help fund vital City services or even to offset the City's multi-million dollar investment in new credit card processing equipment, purchased to comply with the new Payment Card Industry (PCI) Data Security Standard. These inflated interchange fees are passed onto Los Angeles taxpayers by way of increasing the cost of government services. Equally concerning is the impact of these fees on local businesses that are inevitably forced to pass these increased costs onto their consumers.

**I THEREFORE MOVE** to request the City Attorney, in consultation with the Office of Finance, to report in closed session on what actions the City of Los Angeles has taken with respect to the illegal conduct of American Express, and all legal options available to pursue a potential recovery of artificially inflated interchange fees.

PRESENTED BY: _____
MIKE BONIN
Councilmember, 11th District

SECONDED BY: _____

ORIGINAL

NOV 24 2015