
MEMORANDUM

DATE: December 2, 2010
TO: City Council Members
FROM: Russell Weeks
RE: Amendments to *Salt Lake City Code* to Provide for the Electronic Booting of Vehicles
CC: Cindy Gust-Jenson, David Everitt, Ed Rutan, Neil Lindberg, Rick Graham, Gordon Hoskins, Frank Gray, Karen Hale, Lisa Harrison-Smith, Mary Johnston, Jennifer Bruno, Kay Christensen, Bianca Shreeve, Gina Chamness, Carroll Mays, Mary Beth Thompson, Karen Halladay, Sylvia Richards, Lehua Weaver

This memorandum pertains to proposed amendments to Salt Lake City Code sections 12.96.020, 12.96.095 and 12.96.090 that would provide ordinance authority for Salt Lake City to use electronic “Denver boots” to immobilize vehicles whose owners have been determined to have two or more unpaid parking tickets. The amendments also would allow a private company that operates the electronic boots to collect \$147 in fees to release the boots. The fees would be in addition to payment of the outstanding fines. Another amendment would provide the owner of an immobilized vehicle with a way to appeal the immobilization after the electronic boot has been released. The City Council is scheduled to receive a briefing from the administration at the Council work session December 7. Formal consideration by the City Council tentatively is scheduled for the Council meeting December 14.

OPTIONS

- Adopt the proposed amendments.
- Do not adopt the proposed amendments.
- Revise the proposed amendments or enact additional amendments.

POTENTIAL MOTIONS

- I move that the City Council adopt the ordinance amending *City Code* sections 12.96.020, 12.96.025, and 12.96.090.
- I move that the City Council move to the next item on the agenda.
- I move that the City Council adopt the ordinance amending *City Code* sections 12.96.020, 12.96.025, and 12.96.090 with the following amendments. (Any City Council Member may propose amendments that the Member deems are appropriate.)

ISSUES/ITEMS FOR CONSIDERATION

- It appears to City Council staff that the language in Section 12.96.090, titled *Hearings Concerning Impoundment*, is the same language that is in the current ordinance.
- There are 3,571 vehicles whose owners have two or more outstanding parking citations 30 days or older, according to Salt Lake City Justice Court records. Currently, Parking Enforcement has been towing vehicles whose owners have six or more parking citations but not using mechanical

Denver boots to immobilize vehicles whose owners have between two and five outstanding parking citations. Part of the reason for that, according to the Administration, is the Compliance Division did not have enough mechanical boots on hand to immobilize vehicles whose owners had two outstanding parking citations. The Administration also indicated that towing a vehicle whose owner had two outstanding parking tickets might appear to be too draconian a method of enforcing the ordinance.

- One proposed amendment would increase the current booting release fee from \$17 to \$147 – the rate charged by the third party service provider to release the electronic boot. The provider would release the boot on 24-hour per day, seven days per week basis – if the person with outstanding citations pays the amount of the citations plus all fees associated with having the vehicle immobilized by the electronic boot.
- Adoption of the proposed ordinance to authorize using an electronic booting device would appear to end an option for people with outstanding parking citations to work out a plan with the Salt Lake City Justice Court to pay off the citations. The amount of all outstanding parking citations plus fees would be payable immediately to have the electronic boot released, according to the Compliance Division.
- The responsibility for paying the \$147 fee charged by the third-party electronic boot provider if a vehicle owner prevailed in an appeal would be determined on a case-by-case basis, according to the Compliance Division.

DISCUSSION/BACKGROUND

As part of its actions pertaining to the 2010-2011 fiscal-year budget, the City Council on June 15 adopted Ordinance No. 47 of 2010. The ordinance allowed the City to impound or immobilize immediately a vehicle whose owner was determined to have two or more parking citations that had been unpaid for thirty days or longer. The previous ordinance allowed a vehicle owner to have six unpaid parking citations before a vehicle was towed or immobilized.

Towing and other fees remained the same. The fees are: towing – The City’s actual costs incurred; Impound processing -- \$165; Storage per day at an impound lot -- \$17; Booting fee -- \$44; On-street booting release fee -- \$17.

Ordinance No. 47 also made the owner of an immobilized vehicle responsible for “the cost of repair or replacement of an immobilization device damaged or destroyed by attempts ... to remove or tamper with the device ...”

After the ordinance went into effect on July 6, the City’s Compliance Division, which includes Parking Enforcement, applied for a waiver to enter into a contract with a sole-source provider of electronic “Denver boots” – for want of a better description. The Division received authority to enter into a contract with the provider, PayLock Inc. of Somerville, New Jersey, because the company is the only one that provides the electronic vehicle boots. The company also holds the patent for the devices and provides the means to unlock them. The electronic vehicle immobilizers are used in cities such as Baltimore, Denver, New Orleans, and Oakland, according to news stories.

The City Attorney’s Office then prepared an ordinance to amend the ordinance the City Council adopted June 15. The proposed ordinance appears to do three things:

- It would allow the City to contract with a third-party service provider to collect “outstanding fees, fines, and penalties associated with parking citations that caused the vehicle to be immobilized.”

- It would allow the third-party service to collect \$147 in addition to the fees, fines and penalties listed.
- It would allow the person whose vehicle was booted to appeal the immobilization by filing a written request for a hearing under City Code Section 12.96.090 titled *Hearings Concerning Impoundment*.

There appear to be two reasons for the proposed ordinance. First, the proposed ordinance appears to be in keeping with the City Council's goal during budget discussions earlier this year to tighten collection procedures on outstanding fines and penalties. Second, according to the Compliance Division, using the electronic boot would make it easier for someone whose vehicle has been immobilized to reacquire the use of the vehicle.

PayLock would provide the City with 10 electronic boots and notification forms for people whose vehicles have been booted. PayLock also would operate a 24-hour, seven-day a week service center. A Parking Enforcement officer would place the electronic boot on the vehicle. The boot would contain the notification form with information on contacting the PayLock service center. As soon as the person pays off his or her outstanding fines plus Salt Lake City's \$44 booting fee plus Padlock's \$147 fee, the company would give the person a code to enter in the keypad on the immobilization device. The code would unlock the device, and the person whose vehicle was immobilized would bring the electronic boot to the City Compliance Division offices during standard business hours. PayLock would charge a \$25 late fee for each day the electronic boot is not returned. If the boot is stolen, PayLock would charge \$500 to replace it.

A couple of things might be noted. First, the current ordinance allows the City either to tow and impound or immobilize a vehicle for two or more parking citations that have been unpaid for 30 days or more. Given that, the City can tow and impound a vehicle for the unpaid citations. The owner of a vehicle that has been towed and impounded would pay at minimum the cost of the unpaid citations, the City's actual expenses incurred in towing the vehicle, a \$165 impound processing fee, and a \$17 per day storage fee for every day a towed vehicle is in the impounded vehicle lot. Under the proposed ordinance, the owner of a vehicle immobilized by an electronic boot would appear to pay the cost of the unpaid citations, the City's \$44 booting fee, and Padlock's \$147 fee. According to the Compliance Division, the City would continue to charge its \$44 fee for placing the electronic boot on the vehicle.

Second, using an electronic boot would get immobilized vehicles off City streets faster, according to the Compliance Division. Under current practice, if a Denver boot were placed on a vehicle, the only way to have the boot removed would be to obtain a release from the Salt Lake City Justice Court. That would be done either by paying the outstanding fines or by entering into a payment plan. After the Justice Court had given the vehicle owner a release the owner then would call Parking Enforcement and arrange to meet an officer at the vehicle. The owner then would show the officer the release, and the officer would remove the boot. It should be noted that the Parking Enforcement has not immobilized a vehicle with a boot for three years, according to the Compliance Division. The use of an electronic boot would allow for more uniform enforcement and provide violators with a process to have the immobilization device released and reacquire use of their vehicles at any time without having to obtain a release from the City Justice Court, according to the Compliance Division.



RALPH BECKER
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR
COUNCIL TRANSMITTAL

RECEIVED

OCT 11 2010

Salt Lake City Mayor


David Everitt, Chief of Staff

Date Received: 10/11/2010
Date sent to Council: 10/12/2010

TO: Salt Lake City Council
J.T. Martin, Chair

DATE: October 11, 2010

FROM: David Everitt, Chief of Staff

SUBJECT: Electronic Booting

STAFF CONTACT: Captain Carroll Mays
801-535-6584

DOCUMENT TYPE: Ordinance

RECOMMENDATION: The Administration forwards to the Council an ordinance amendment related to the implementation of a vehicle immobilization (booting) program and recommends Council adoption. The Administration recommends amending Sections 12.96.020, 12.96.025 and 12.96.090 of the *Salt Lake City Code* to provide for:

Third party vehicle immobilization device removal 24 hours per day
An increase in vehicle immobilization fees
Creation of a hearing right following removal of the immobilization device
Requirement of payment for replacement of immobilization devices not returned to the City following removal

BUDGET IMPACT: The potential for increased revenue using the electronic booting program is \$40,000. However, the Administration does not anticipate amending the current revenue projections.

BACKGROUND/DISCUSSION: The booting program that will be implemented upon passage of the attached ordinance will increase collection on tickets issued to "scofflaw" vehicles while simultaneously providing better customer service. A scofflaw vehicle, under the amended ordinance, will be any vehicle which has two or more unpaid tickets which notices are thirty days old or older.

Salt Lake City will contract with IPT LLC (Paylock) for the use of their patented SmartBoot, a self-release vehicle immobilization unit. A waiver to the competitive bid

requirement has already been obtained because the city has found no other acceptable provider. The waiver is attached.

The electronic boot will be placed by the city's parking enforcement officers. A keypad is located on the boot that allows a violator to call a 24/7 service number, pay the outstanding citations, receive a code that allows the violator to unlock and remove the boot. The violator is responsible to return the boot to Parking Enforcement.

The booting fees and booting release fees proposed in the ordinance are not intended to increase City revenue, but to recover the city's costs, including the costs of the third-party contract. It is expected that the city will see increased revenue from the earlier and more frequent payment of parking tickets.

The 36 month contract with Paylock requires no up front costs associated with the implementation of the program. Paylock will provide license plated recognition software and one plate reader, 15 self-releasing boots, and 24/7 payment services.

This program has several advantages over impoundment both for city employees and drivers and it is a response to the City Council's expressed interest in pursuing more aggressive collection procedures on all City receivables.

PUBLIC PROCESS: n/a

Ordinance No. ____ of 2010

(Amending Sections 12.96.020, 12.96.025 and 12.96.090, *Salt Lake City Code*, providing for third party vehicle immobilization device removal 24 hours per day, increasing vehicle immobilization fees, providing for a hearing following removal of the immobilization device and requiring payment for replacement of immobilization devices not returned to the City following authorized removal.)

An ordinance amending Sections 12.96.020, 12.96.025 and 12.96.090, *Salt Lake City Code*, providing for third party vehicle immobilization device removal 24 hours per day, increasing vehicle immobilization fees, providing for a hearing following removal of the immobilization device and requiring payment for replacement of immobilization devices not returned to the City following authorized removal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That the following sections of the *Salt Lake City Code* be amended as follows:

12.96.020: VEHICLES WITH OUTSTANDING PARKING TICKETS:

A. Two Or More Notices Of Unauthorized Use Of Streets (Parking Tickets): Any vehicle which has two (2) or more notices of unauthorized use of streets within the city, as defined at section 12.56.550 of this title, which notices are thirty (30) days old or older and have not been dismissed pursuant to subsection 12.56.570D of this title, or its successor, or dismissed or reduced to judgment by a court of competent jurisdiction, shall be subject to immediate impoundment by towing or by means of an immobilizing device.

B. For vehicles that have been immobilized under this section, the City contracts with a third party provider authorized to collect payment of the fees stated in section 12.96.025 and all outstanding fees, fines and penalties associated with the parking citations that caused the vehicle to be immobilized. Upon payment in full the third party provider will remotely release the immobilization device. This service is available by telephone 24 hours a day. The vehicle owner may appeal the immobilization after obtaining release of the vehicle by submitting to the City within five business days a written request for a hearing under section 12.96.090.

C. Delay Of Obtaining Vehicle Immobilization Release: If the vehicle has been immobilized for a period of twenty four (24) hours, without arrangements being made for its release, it may be immediately impounded and towed and removed to a place of storage within the city by means of towing or otherwise.

12.96.025: TOWING, IMPOUND, STORAGE, AND BOOTING FEES:

There are imposed for the towing, impound, storage, and booting of vehicles under this chapter the following fees:

A. Towing: The city's actual costs incurred.

B. Impound processing: One hundred sixty five dollars (\$165.00).

C. Storage per day: Seventeen dollars (\$17.00).

D. Booting fee: Forty four dollars (\$44.00).

E. On street booting release fee: One hundred forty seven dollars (\$147.00) for 24/7 boot release.

F. Damage to or failure to return immobilization device: The owner of a vehicle immobilized under this chapter shall be strictly liable for the cost of repair or replacement of an immobilization device damaged or destroyed by attempts to wrongfully remove or tamper with the device and for any damage to the vehicle caused by an attempt to drive while the immobilization device is in place or by failure to return the device within the time limit specified by the City's third party provider.

12.96.090: HEARINGS CONCERNING IMPOUNDMENT:

A. A hearing requested pursuant to this chapter, or successor sections, shall be conducted before a hearing examiner designated by the city within forty eight (48) hours of receipt of a written demand for such hearing, Saturdays, Sundays and city holidays excepted, unless such person waives the right to a speedy hearing.

B. The hearing proceedings shall be conducted in an informal manner and shall not be bound by the formal rules of evidence or procedure. The owner or owner's agent shall be accorded the essential elements of due process of law, including notice, and an opportunity to be heard and defend the owner's position.

C. The hearing examiner shall determine whether the city had probable cause, pursuant to city, state and federal laws, to impound the vehicle in question.

D. At the conclusion of the hearing, the hearing examiner shall prepare a written decision and a copy of such decision shall be provided to the person requesting the hearing. The decision of the hearing examiner shall be final. Failure of the registered or legal owner, or the owner's agent, to request or attend such a scheduled postseizure hearing shall be deemed a waiver of the right to such hearing.

E. The hearing examiner shall determine whether there was probable cause to impound the vehicle and, in appropriate cases, whether fees and charges should be reduced in the interest of justice. In the event that the hearing examiner determines that the vehicle should be released without fees or with a reduction in fees, the hearing examiner shall prepare and date a written waiver of such fees. Copies of the waiver shall be furnished the vehicle owner or owner's agent and the police department. The vehicle shall then be released to the owner or the owner's agent, in accordance with the terms of said waiver, or a voucher shall be authorized to reimburse the owner or owner's agent for fees paid to recover the vehicle from impound. If the hearing

examiner determines the impound was justified pursuant to city and state enactments, the owner or agent shall be responsible for the impound and storage fees accrued and accruing on the vehicle.

SECTION 2. This ordinance shall become effective upon first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2010.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2010.

Published: _____.

HB_ATTYY-#14535-v1-amending_12_96_booting_fees_and_procedures.DOC

APPROVED AS TO FORM
Salt Lake City Attorney's Office

Date 10/12/10

By [Signature]

Salt Lake City Waiver Request Form

Purchasing, Contracts & Property Management Division



NOTICE TO REQUESTING DEPARTMENT: Information provided on this form may be posted, at the discretion of the buyer, on the City's Purchasing Website. Your request must be written with reasonable justification so it will stand up to public scrutiny. To view the City's online bid system, logon or click here: www.slcpurchasing.com

INSTRUCTIONS: Read Salt Lake City Code 3.24.160 and Administrative Rules 13.3 for detailed definitions. Provide a complete explanation sufficient to describe this extraordinary circumstance and why this product or service is needed and send to your department buyer with accompanying requisition or contract request form.

TYPE OF WAIVER REQUESTED Please check all appropriate boxes:

- ☒ Sole Source ☐ Very Specialized or Confidential Services ☐ Unforeseen Conditions
☐ Procuring to meet Existing Needs ☐ Emergency & Public Threats

Recommended Supplier: Paylock PEID: _____ Contact Person: Cory Marchasin

Requisition # _____ Estimated Cost \$ Contract, TBD

☐ One-Time Purchase or Service ☒ Recurring Purchase or Service ▶ See Online Contract Request form:
<http://slcnet/purchasing/>

Describe the product or service to be purchased, and why you need this specific product or service:

Paylock provides a unique service with its patented electronic boot. A keypad is on the boot that allows a violator to call a 24/7 Customer Service Phone number, pay for their outstanding citations, and receive a combination code that allows the customer to unlock the boot, remove it from their car, and return the boot to a designated location. Current procedures/technology only allow the violator to pay their citations during normal business hours, which means that they could be denied the use of their vehicle over a weekend or holiday period with no opportunity to have the boot removed.

(Attach additional pages or separate letter, if needed)

Detail justification for not doing competitive solicitation (bid). Describe why there may not be any competition. What makes this product or service so extraordinary that the competitive solicitation process should be waived?

Paylock holds the patent for this technology and is the only company that offers this type of service. No competitors were found by a Google search. I attended the 2010 International Parking Institute Conference and found no other companies that offer this type of service.

a notice for public comment was prepared, and published and available for comment for a 1 week period. no public comments were received.

(Attach additional pages or separate letter, if needed)

REQUESTED BY: Capt. Carroll Mays Compliance/Public Services 801-535-6584
Name Dept/Div Phone

I have read Administrative Rule 13.3 and affirm the information provided on this form meets this rule.

Capt. Carroll Mays 7-16-10
Authorized Department Signature Date

Purchasing Approval

R. Bayan Hemmley 9/22/2010
Chief Procurement Officer, or designee Date

Print Form

NOTICE OF WAIVER INTENT

Salt Lake City Corporation
Purchasing & Contracts Mgmt. Div.
P.O. Box 145455
Salt Lake City, Utah 84114-5455
Telephone (801)535-6446
Fax (801)535-6638
TDD (801)535-6021



RFI NO.: 0103RFI110003

DATE: August 3, 2010

DUE DATE FOR COMMENTS:
3:00 ON: August 10, 2010

This is a notice of Salt Lake City Corporation's intent to procure an electronic boot system for parking enforcement by a waiver of the City's competitive solicitation requirements.

Product /Service to be purchased: Service/system works with an electronic boot (electro-mechanical self-release SmartBoot). A keypad is located on the boot that allows a violator to call a 24/7 service number, pay for their outstanding citations, and receive a combination code that allows the violator to unlock the boot, remove it from their car, and return the boot to a designated location.

Requesting Department: Public Services Department/Compliance Division

Proposed Supplier: Paylock

Waiver Justification: This product is unique to the industry and Paylock holds the patent for this technology.

The City is not aware of other providers that could reasonably provide the described product and a competitive solicitation does not reasonably appear likely to produce another acceptable provider.

Current procedures/technology only allow the violator to pay their citations during normal business hours, which means that they could be denied the use of their vehicle over a weekend or holiday period with no opportunity to have the boot removed. Using this technology should provide for a quicker and more efficient collection of delinquent revenue with minimal impact on the motorist. It has been determined that proceeding with the issuance of a waiver is in the best interests of the City.

If any party has any comments regarding the City's intended sole source procurement, please send your comments by the deadline to the Purchasing Office at the address above or via email to jerilyn.midthun@slcgov.com.

Salt Lake City
Purchasing & Contracts Division
RFI Response and Comment Information

No. 0103RFI110003

RE: Notice of Salt Lake City Corporation's intent to procure an electronic boot system for parking enforcement by a waiver of the City's competitive solicitation requirements.

Comment Period from August 3, 2010 through August 10, 2010.

There were no comments or responses received.

Sole Source Provisioning Justification
On-Street Collection and Immobilization Services
Utilizing Patented Self-Release SmartBoot System and Business Method

To whom it may concern:

Article III - Source Selection And Contract Formation of the Salt Lake City, UT City Code allows for the procurement official to waive a procurement process as long as a solicitation process would be unlikely to produce competition.

Salt Lake City, UT Code Sections for Reference

3.24.070: GENERAL POWERS:

D. Waive or modify requirements within a particular bid process, proposal or other solicitation process when advantageous to the city, and when consistent with mandatory applicable legal requirements and fair and equitable practices.

3.24.160: WAIVERS:

A. A procurement official may waive a procurement process required under this chapter for the reasons set forth below. Such waiver shall be approved in advance by the chief procurement officer for operational supplies and services, or by the city engineer for construction related supplies and services, except in case of an emergency. Waivers are permissible when:

1. Supplies or services are available from a sole source, or a solicitation process would be unlikely to produce competition;

PayLock IPT LLC's Issued Patents 5,829,285 and 7,731,088 are for the design and assembly of the electro-mechanical self-release SmartBoot and the business process and usage method of the self-release SmartBoot contemplated for Salt Lake City. Competition for these services could be deemed "unlikely to produce competition", as stated in City Code Section 3.24.160(1) since these services are not offered by any other company in the world.

Patent details for the self-release SmartBoot design and usage:

- Patent # **5,829,285** entitles "Tire Lock" issued November 3, 1998
- Patent # **7,731,088 B2** entitled "Vehicle Violation Enforcement System and Method" issued June 8, 2010

Patent descriptions, diagrams, and legal assignment information available upon request

PayLock IPT LLC has also received sole source designation in Oakland, CA (2009), and most recently in Rochester, NY (2010).