



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Chris Burton
Jon Cicirelli

SUBJECT: SEE BELOW

DATE: November 15, 2022

Approved

Date

11/21/22

SUBJECT: AMENDMENT TO CITY-GENERATED ZONE TOW SERVICES AGREEMENTS

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a sixth amendment to the City-Generated Zone Tow Services Agreements with Alongi Brothers, Inc., Century Tow, City Towing, Courtesy Tow Services, Inc., Matos Auto Towing & Transport, and Motor Body Company, Inc. to:

- (a) Revise the scope of services to include the Department of Parks, Recreation, and Neighborhood Services, Community Services Division, BeautifySJ abatement services that include the removal of junk vehicles.
- (b) Provide a framework for reimbursement of junk vehicle disposal costs incurred by operators for BeautifySJ abatement tows for fiscal year 2021-2022 (retroactively) and fiscal year 2022-2023 up to a total of \$350,000.
- (c) Allow the City to continue to provide reimbursement of qualified junk vehicle disposal costs to tow operators for BeautifySJ abatement services above \$350,000 at the discretion of the City Manager, subject to appropriation of funding, through the duration of the agreements as amended and/or extended.

OUTCOME

Adopting a resolution authorizing the City Manager to negotiate and execute a sixth amendment to the City-Generated Zone Tow Services Agreements with the contracted tow operators explicitly adds Parks, Recreation, and Neighborhood Services (PRNS) and BeautifySJ abatement services that include the removal of junk vehicles to the scope of City-generated tow services; allows the City to reimburse the tow operators for junk vehicle disposal costs incurred by operators for BeautifySJ abatement services' tows for the fiscal year 2021-2022 (retroactively) and fiscal year 2022-2023; and allows the City to continue to provide reimbursement to tow operators for disposal costs incurred by any BeautifySJ abatement services that include the removal of junk vehicles (such as Guadalupe Gardens, Columbus Park and Coyote Creek clean-

ups) at the discretion of the City Manager, subject to appropriation of funding, through the duration of the agreements as amended and/or extended.

EXECUTIVE SUMMARY

In alignment with the City Council Roadmap Priority: Encampment Management Strategy and Safe Relocation Policy (Roadmap Priority) and City Council direction regarding the 40-acre Guadalupe Gardens parcel, the BeautifySJ team completed the abatement of Stage 1 and 2 in October 2021 and Stage 3 in September 2022. Vehicles removed from BeautifySJ project sites are typically inoperable, stripped, damaged, hazardous, or large, and are often filled with debris and waste and may require special equipment, additional tow staff, multiple tows, and refuse removal creating additional costs to the operators for the safe towing, storage, and disposal of the junk vehicles and contents. Tow operators required to provide tow services for these junk vehicle abatements are the six tow operators contracted through the City-Generated Zone Tow Services Agreements.

Given the volume of City-generated junk vehicles that have been towed as part of BeautifySJ abatement activities in the fiscal years 2021-2022 and 2022-2023 as well as the number of junk vehicle tows expected to occur as part of future BeautifySJ abatement activities, staff determined through multi-department discussion and analysis that the tow agreements should be amended to include 1) the PRNS BeautifySJ abatement services in the scope of services and 2) a disposal cost reimbursement framework for junk vehicle tows generated as part of BeautifySJ abatement services to offset the costs to the tow operators to tow and dispose of the junk vehicles. As part of the June 6, 2022 Transportation and Environment Committee (Committee) annual status report on the new City-Generated Tow Services Delivery Model, staff informed the Committee of the need for a proposed sixth amendment to ensure the sustainability and continuity of City-generated tow services for BeautifySJ abatements as well as tow services city-wide and to offset disposal costs for operators conducting BeautifySJ junk vehicle tows.

The proposed reimbursement model would apply to any of the six contracted tow operators that have provided City-generated tow services for junk vehicles as part of BeautifySJ abatement services in the fiscal years 2021-2022 and 2022-2023. There is currently \$350,000 allocated in the BeautifySJ budget for such tow services. The total reimbursement amount across all six operators is planned not to exceed \$350,000 and reimbursement requests from the operators will be audited, reconciled, and administered by PRNS. Any additional payment for BeautifySJ abatement junk vehicle tow disposal costs above \$350,000 will be subject to appropriation of funding and will not require a contract amendment as it will be covered in the sixth amendment.

BACKGROUND

City-Generated Zone Tow Services Agreements

The City has agreements for City-generated zone tow services with six tow companies that were approved by City Council on March 29, 2016. Each operator services one of six defined geographic zones within the city and tows at the request of the City from public property within the operator's exclusively designated zone. The City may request towing services from public property for a variety of reasons such as accidents, vehicle violations, evidence in criminal cases, or abandoned, inoperable, and illegally stored vehicles on the public right-of-way. The operators do not perform tows on behalf of private property owners, such as those from shopping center parking lots and private driveways. Historically, City-generated tows have predominantly been performed at the request of the San José Police Department (SJPD) and the Department of Transportation. Since fiscal year 2021- 2022, however, the need for City-generated tow services related to PRNS BeautifySJ abatement services has steadily increased.

The operators for City-generated public property tows are as follows:

Zone 1: Matos Auto Towing & Transport

Zone 2: City Towing, Inc.

Zone 3: Century Tow

Zone 4: Motor Body Company, Inc.

Zone 5: Courtesy Tow Services, Inc.

Zone 6: Alongi Brothers, Inc.

Pursuant to the terms of the Agreements, the City reserves the right to extend the City-Generated Zone Tow Services Agreements for five additional one-year periods based upon the same conditions of the initial terms. The City Manager exercised option two of five to extend the current contract another year with the term expiring on March 31, 2023. Staff intends to exercise option three of five in March 2023 to extend the contract to March 31, 2024.

Under the current tow agreements, the City does not provide compensation to the tow operators for towing, storing, or disposing of a vehicle (and associated refuse and debris) except in limited circumstances such as the storage of an impounded vehicle for evidentiary purposes.

City-Generated Zone Towing Services Agreement Amendment History

Between October 2017 and May 2021, the City Manager authorized five amendments to the City-Generated Tow Services Agreements, approved by City Council, to address various tow performance issues such as late tows and tow refusals; make service delivery improvements; offset junk vehicle disposal costs to operators; provide financial relief for a specified duration; and implement or partially implement audit recommendations of the City Auditor's "Audit of Towing Services: Changes to Contract Terms and Consolidated Oversight Could Improve Operations" report. Staff also provided four annual status reports to the Committee on the implementation of the tow audit recommendations, work plan, and proposed new City-Generated

Tow Services Delivery Model and Request for Proposals with the most recent status report provided to the Committee on June 6, 2022.

As part of the June 6, 2022 report, staff informed the Committee of the need for a proposed sixth amendment to the agreements to address the increase in City-generated tow service requests, and associated disposal costs, in conjunction with BeautifySJ abatement services and to support current and future BeautifySJ abatement operations. Through October 2022, staff developed the proposed sixth amendment to the agreements in coordination with the City Attorney's Office, PRNS, and SJPD and conducted outreach with the tow operators to inform them of the proposed changes and to receive feedback.

BeautifySJ Abatement Services

In alignment with the Roadmap Priority and City Council direction regarding the Guadalupe Gardens abatement, the BeautifySJ team began work in the fiscal year 2021-2022 to complete the phased Guadalupe Gardens project, including the removal of all vehicles from the 40-acre parcel by September 30, 2022. BeautifySJ, in coordination with multiple departments, completed the first phase (Stages 1 and 2) in October 2021 and completed the second phase (Stage 3) on September 30, 2022. Staff is now in the process of clearing and securing Columbus Park and expects this area to be cleared in early 2023. Over 100 vehicles were relocated to this area during the Stage 3 abatement and clean-up process. Additional abatement services and removal of vehicles to address areas along Coyote Creek are expected to occur later this fiscal year.

ANALYSIS

BeautifySJ Abatement Services

Removal of vehicles is an integral part of the BeautifySJ encampment management abatement services implemented to meet the goals of the Roadmap Priority. Vehicles removed from encampment project sites are typically inoperable, stripped, damaged, hazardous, or very large, such as recreational vehicles, boats, and trailers, and are often filled with debris and waste. Abatement of these types of vehicles, referred to as "junk vehicles", may require special equipment, additional tow staff, multiple tows, and refuse removal creating additional costs to the operators for the safe towing, storage, and disposal of the junk vehicles and contents. For example, 2022 data provided by two operators that provided City-generated tow services for past BeautifySJ abatement projects showed that costs associated with the disposal of junk vehicles averaged \$775 per vehicle with 37% of the vehicles costing over \$1,000 to be disposed of and two vehicles exceeding \$2,000 in disposal costs. It is important to note that the reported costs, provided by the tow operators, are disposal costs only and do not include other costs such as labor, processing, insurance, fuel, bio-waste removal and handling, and income lost to store the vehicles.

Per the tow agreements, tow operators are not compensated by the City for City-generated tow services, except in limited circumstances. Thus, operators rely on the revenue that is generated from the storage fees of claimed vehicles or the auction of unclaimed vehicles to offset the cost

of junk vehicle tows. In the past, offsetting the costs to tow and dispose of junk vehicles with revenue generated from claimed and auctioned vehicles was feasible. However, given the change in tow services over time and the increase in the volume of City-generated junk vehicle tows over the last five years, which are usually disposed of rather than claimed or auctioned, the operators are finding it increasingly difficult to offset costs and sustainably meet demand. In fiscal years 2020-2021 and 2021-2022, staff removed a total of 99 vehicles (including one boat) from public property and waterways as part of encampment abatement projects including Guadalupe Garden Stages 1 and 2. This fiscal year, as part of the Guadalupe Gardens Stage 3 project and subsequent Columbus Park abatement, 117 vehicles have been cleared from the project sites, and estimates an additional 100-200 vehicle abatement tows from other planned project sites for 2022-2023 (*See Table 1*). In all, 216 vehicles have been towed with a projected total of up to 416 vehicles towed by the end of the fiscal year 2022-2023. BeautifySJ encampment abatement tow estimates for the fiscal year 2023-2024 have not yet been determined. Under the proposed framework, approximately 300-400 vehicles could be eligible for reimbursement.

Table 1: Vehicles removed as part of BeautifySJ Encampment abatements as of 11/1/22

BeautifySJ Project Site	FY20-21	FY21-22	FY22-23
Umbarger Road	38	-	-
Corie Court	12	-	-
Enzo Court	4	-	-
Felipe Court / Olinde Court	4	-	-
Coyote Creek	-	6	-
Guadalupe Gardens Stage 1 and 2	-	35 (includes 1 boat)	-
Guadalupe Gardens Stage 3	-	-	72
Columbus Park			45
Total # of vehicles towed to date	58	41	117
<i>Remaining Project Estimate</i>	-	-	100-200
Fiscal Year Totals (estimate)	58	41*	217-317*
Total # of Vehicles Towed FY2020-2021 through FY22-23 (estimate)	Up to 416 vehicles <i>*Reimbursement framework for junk vehicles under the sixth amendment would apply</i>		

In order to continue to meet the increasing demand for City-generated junk vehicle tows, ensure continuity and sustainability of City-generated tow services city-wide, and meet the goals of the Roadmap Priority, staff proposes the following framework to reimburse tow operators for costs incurred to dispose of junk vehicles towed for BeautifySJ abatement services (*see Table 2*). This reimbursement model would apply to any one of the six contracted tow operators that provided City-generated junk vehicle tows as part of a BeautifySJ abatement project or service in the fiscal years 2021-2022 and 2022-2023. The total reimbursement amount across all six operators is not planned to exceed \$350,000 and will be audited and administered by PRNS utilizing BeautifySJ funds in the American Recuse Plan Fund identified for this purpose.

Table 2: Proposed Junk Vehicle Reimbursement Framework for BeautifySJ Abatement Services

Vehicle Type	Proposed Disposal Cost Reimbursement Amount per Junk Vehicle*
Vehicle	Up to \$500 per vehicle
Recreational Vehicle/Trailer/Boat /Bus	Up to \$1,500 per RV/trailer/boat/bus
Special Circumstance Tow (as determined by City)	Up to \$2,500 (or more at City’s discretion) per Special Circumstance Tow
Dumpster Costs	Up to \$500 per Dumpster
Note: *Total reimbursement for junk vehicles, for all tow operators combined, planned not to exceed \$350,000 for the fiscal year 2021-2022 (retroactively) and 2022-2023.	

Status of City-Generated Zone Tow Services

Tow data shows that, overall, City-generated tow volume dropped by approximately 21% in 2020, with operators performing 14,665 tows in 2019 and 11,609 tows in 2020. Tow volume rebounded in 2021 with an approximate increase of 18% or 2,136 tows for a total of 13,745 tows. Despite this increase, the tow volume for 2021 remained lower than the 2019 tow volume by 920 tows. The projected total tow volume for 2022 is estimated at 13,000 tows.

City-Generated Zone Tow Services also incurred a significant number of high-volume tow events, which are tows involving 12 or more vehicles, largely due to BeautifySJ abatement services related to the City’s Encampment Management Strategy and the Guadalupe Gardens Project that began in 2021. The increase in high-volume tow events created the need for additional coordination among City departments and tow operators to ensure resources and tow yard capacity was adequate to handle the volume of tows and abatement timelines did not conflict with or impact other high-volume tow events or daily tow operations. While comprehensive data is not yet available for 2022, staff’s operational awareness was able to assess the effectiveness of operators’ service delivery based on ongoing communication, coordination, and daily oversight of the program. Based on this assessment, five of the six City-Generated Zone Tow Services operators consistently demonstrated the improved service delivery achieved in 2020 regarding late tows and tow refusals and met additional service demands for high-volume tow events with minimal disruption. Routine issuance of “junk slips” by the SJPD to tow operators to help the operators clear junk vehicles from their tow yards and create storage space for vehicles in a timely manner also remained ongoing. Staff also continues to evaluate compliance with the agreements and address performance issues with tow operators as they arise per the agreement terms.

As added measures, staff instituted a monthly internal coordination meeting in April 2022 involving SJPD, the Department of Transportation, PRNS, and Planning, Building, and Code Enforcement to share information on upcoming high-volume tow events, address tow service issues, and improve overall coordination. Staff also conducted weekly briefings with the assigned zone tow operator for the duration of the Guadalupe Gardens Stage 3 abatement work to inform the operator of project timelines and changing conditions, coordinate on expected

volume and types of tows, problem-solve, and ensure the operator was able to meet project demand while continuing to fulfill City-generated tow service requests throughout the rest of the city. Two SJPD officers trained to complete junk tow slips and services worked approximately twice a week during the Guadalupe Gardens Stage 3 abatement event to quickly assess vehicles to be junked on site before being towed so they could be taken directly to the scrap yard instead of being stored in the tow yard. Additional officers are currently being trained on the junk slip process and regulations to further expand this effort in the future. These added measures and enhanced communication and coordination with the tow operators through the duration of Stage 3 proved to be beneficial.

CONCLUSION

The current tow agreements do not provide compensation to the tow operators except in limited circumstances. BeautifySJ abatement services in support of City Council Roadmap Priority: Encampment Management Strategy and Safe Relocation Policy and City Council direction regarding the Guadalupe Gardens Fencing Project and Activation Alternatives have generated a significant increase in the number of junk vehicle tows impacting operators' ability to sustainably keep up with demand while continuing to provide other City-generated tow services. The proposed sixth amendment will provide reimbursement to tow operators for disposal costs of qualified junk vehicle tows improving overall sustainability and ensuring continuity of operations for current and future BeautifySJ services. Total reimbursements for the fiscal years 2021-2022 and 2022-2023 are not to exceed \$350,000 and any reimbursements above \$350,000 will be subject to appropriation of funding and will not require an additional contract amendment.

EVALUATION AND FOLLOW-UP

If approved, the City Manager will negotiate and execute the Sixth Amendment to the City-Generated Zone Tow Services Agreements. Staff will provide a status report of the new City-Generated Tow Services Delivery Model to the Committee on May 1, 2023.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

Staff met with the tow operators' representative (for three of the six contracted operators) on April 27, 2022, to discuss the ongoing service delivery environment of City-Generated Zone Tow Services. Staff conducted outreach with the City-Generated Zone Tow Services operators in

August 2022 to inform them of the proposed sixth amendment to the tow agreements including the addition of BeautifySJ abatement services in the scope of services and the proposed framework for reimbursement of disposal costs for BeautifySJ abatement services related tows and received feedback that was generally supportive. Staff coordinated with tow operators through the duration of the Guadalupe Gardens Stage 3 project and obtained feedback. Additional outreach to the tow operators regarding the sixth amendment is planned for November 2022.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

This item does not have input from a board or commission.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City's 2022-2023 Operating Budget City Service Areas Delivery Framework for Performance-Driven Government for Operational Services.

COST SUMMARY/IMPLICATIONS

To support the proposed junk vehicle disposal cost reimbursement model as part of the sixth amendment, \$350,000 is currently allocated in the BeautifySJ and Encampment Waste Pick-Up – BeautifySJ Consolidated Model appropriation in the American Rescue Plan Fund. Staff will continue to assess and evaluate the budget needed to support BeautifySJ City-generated tow services and will bring forward for City Council approval, as appropriate, any necessary budget adjustments to address those resource needs as part of a future budget process.

HONORABLE MAYOR AND CITY COUNCIL

November 15, 2022

Subject: Sixth Amendment to City-Generated Zone Tow Service Agreements

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CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/
JON CICIRELLI, DIRECTOR
Parks, Recreation, and
Neighborhood Services

/s/
CHRISTOPHER BURTON, DIRECTOR
Planning, Building, and Code Enforcement

For questions, please contact Rachel Roberts, Deputy Director of Code Enforcement, at rachel.roberts@sanjoseca.gov.