

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Julia H. Cooper  
Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** October 18, 2017

Approved

Date

10/20/17

**SUBJECT: AMENDMENTS TO CITY GENERATED TOW AGREEMENTS**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to:

- a) Negotiate and execute amendments to the Agreements for City Generated Tow Services for a term commencing on or around January 1, 2018 and ending on or around June 30, 2019 with the following tow operators:
- Alongi Brothers, Inc. (San José, CA)
  - Century Tow (San José, CA)
  - City Towing, Inc. (San José, CA)
  - Courtesy Tow Services, Inc. (San José, CA)
  - Matos Auto Towing & Transport (San José, CA)
  - Motor Body Company, Inc. (San José, CA)

The proposed amendments include the following terms and conditions and would revert to the original terms and conditions after June 30, 2019 absent future Council action:

1. Decrease the contract fee that the operators remit to the City from \$80 per tow to \$59 per towed vehicle to offset increased labor costs.
  2. Credit the tow operators for lost profits and expenses related to disposing of vehicles that have no value, against the \$59 contract fee that is required to be remitted to the City.
  3. Reduce each tow operator's security deposit by \$20,000, from \$25,000 to \$5,000.
- b) Report back to the City Council, on or before March 2019, the results of an independent audit and assessment of the current tow program as discussed in this memorandum, with recommendations for any program restructuring or further changes to compensation, as appropriate.

## **OUTCOME**

Maintain a Towing Services program for City-generated tows that continues to meet the City's operational requirements and provides fair compensation to the tow operators.

## **BACKGROUND**

The City has agreements for City-Generated Zone Towing Services with six tow companies that were approved by Council on March 29, 2016<sup>1</sup>. Each operator services one of six geographic tow zones within the City and tows at the request of the City from public property within their 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; abandoned, inoperable, and illegally stored vehicles on the public right-of-way. The operators do not perform private property tows, such as those from shopping center parking lots and private driveways.

The operators for City-generated public 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.

Each of the tow operators are located in San José with their principal place of business in or adjacent to the Zone they are responsible for providing tow services. See Attachment A for a map and description of tow zone boundaries.

Compensation paid to the operators is not established by a "typical" process where prices are bid and competitively established. Rather, the City establishes a common pricing schedule that stipulates the fees that tow operators can charge to vehicle owners for various towing and vehicle storage services. The revenues collected by the operators from vehicle recovery fees (towing and storage fees) are a significant source of revenue for the tow operators. In addition, the operators collect on lien sales for unclaimed vehicles and scrap sales for salvaged vehicles. Total sales from all sources of revenue must cover all operating expenses incurred by the operators to run the program.

The towing and storage fees a vehicle owner pays to the tow operator are listed in Table 1 below. The fee schedule is established in accordance with the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region - San José Office (CHP Agreement). In April

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<sup>1</sup> March 29, 2016 Council Memo:

[http://sanjose.granicus.com/Viewer.php?view\\_id=&event\\_id=2129&meta\\_id=563758](http://sanjose.granicus.com/Viewer.php?view_id=&event_id=2129&meta_id=563758)

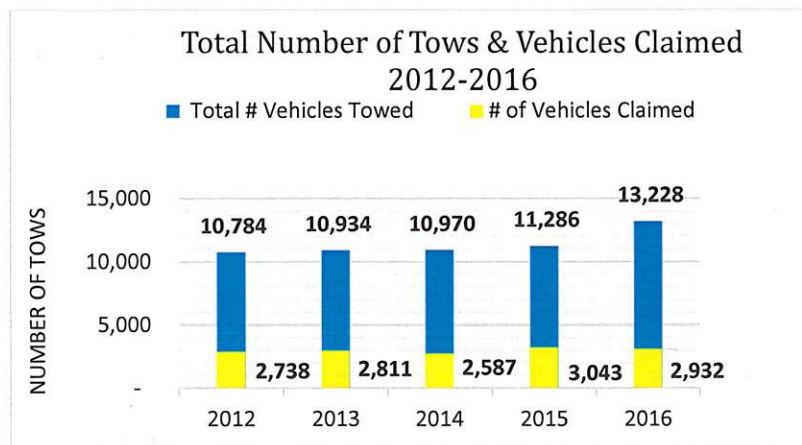
2017, Council passed a resolution to adjust the fee schedule to be consistent with the latest adjustments to the CHP Agreement<sup>2</sup>.

*Table 1*

Category	Unit of Measure	2013 Rates	2017 Rates	Change	% Change
Basic Tow Service	per tow	\$200.00	\$215.00	\$15.00	7%
Service Call – Class “A”	per quarter hour	\$50.00	\$53.75	\$3.75	7%
Service Call – Class “B”	per quarter hour	\$87.00	\$102.50	\$15.50	15%
Service Call – Class “C”	per quarter hour	\$117.00	\$137.50	\$20.50	15%
Service Call – Class “D”	per quarter hour	\$117.00	\$150.00	\$33.00	22%
Extraordinary Services “A”	per hour	\$100.00	\$215.00	\$115.00	53%
Extraordinary Services “B”	per hour	\$350.00	\$410.00	\$60.00	15%
Extraordinary Services “C”	per hour	\$470.00	\$550.00	\$80.00	15%
Extraordinary Services “D”	per hour	\$470.00	\$600.00	\$130.00	22%
After Hours Gate Fee	per call	\$85.00	\$85.00	\$0.00	0%
Outside Vehicle Storage Fee	per day	\$85.00	\$87.50	\$2.50	3%
Inside Vehicle Storage Fee	per day	\$95.00	\$95.00	\$0.00	0%

Figure 1 below demonstrates the number of vehicles towed by all operators since 2012. Approximately 76% of towed vehicles are not claimed and must be disposed of by the tow operators. Unclaimed vehicles are typically lien sold at auction, sent to scrapyards to be sold for parts, or thrown away at the tow operators’ expense. Decreased scrap metal prices and depressed auction sale prices have negatively impacted revenue to the operators. In addition, there has been a significant increase in the number of recreational vehicles (RV’s), trailers, and boats (“junk vehicles”) that have no value and must be thrown away, which has increased operating expenses due to the costs incurred by the operator to dispose of these vehicles.

**Figure 1**



<sup>2</sup> Council Resolution 78118: <http://web-apps.sjcity.net/Clerk/Chad/Prod/FileNetViewer.asp?DocId=RES78118>

On a monthly basis, the fees that the operators are contractually required to remit to the City include an \$8 fee per dispatch and an \$80 fee per tow (referred to as dispatch and contract fees, respectively). These fee levels have been in effect since 2013. In 2017-2018, the General Fund revenue estimates associated with these fees total \$1.16 million, including \$1.0 million from tow fees and \$164,000 from dispatch fees.

The operators are also contractually required to pay the City a \$25,000 security deposit in the form of an irrevocable letter of credit. The City draws down on the security deposit if liquidated damages are assessed for non-performance, as well as the assessment of late fees and interest on late payments.

In November 2016, City Towing, Inc. stopped paying their dispatch and contract fees, claiming financial hardship. As of September 30, 2017, City Towing is approximately \$256,000 delinquent in meeting their contractual obligation of remitting their tow and dispatch fees to the City, inclusive of \$26,906 in late fees and interest assessment.

In January-March of 2017, tow operators Alongi Brothers, Motor Body (same ownership) Courtesy Tow Services and Matos Auto Towing & Transport (same ownership) expressed similar concerns. These operators cited skyrocketing expenses primarily due to the growing number of recreational vehicles (RV's), trailers and boats; ("junk vehicles") the decline of scrap metal prices which reduces the revenue generated from salvaged vehicles; the decline of revenues generated from lien sales; and increased labor costs.

The City's situation regarding issues around towing and disposing of junk vehicles is not unique. Recently, the number of recreational vehicle tows in the City of Los Angeles grew to a point where the operators stopped towing these vehicles (see Attachment B).

All the tow operators have been performing on their agreements to the satisfaction of the City.

## **ANALYSIS**

Over the past several months, staff from Department of Planning, Building and Code Enforcement and the Finance Department have held numerous discussions with several of the operators to understand the issues, gather sales and financial data to support their claims, and negotiate a fair and equitable compensation model.

### **Impacts on Tow Operators' Revenue**

While the number of tows increased by 24% between 2013 and 2016, overall revenues have remained flat over the same period.

### **Impacts on Tow Operators' Expenses**

The contracts are structured to incentivize each operator to manage their business and control costs. However, the agreements with the City have several requirements that are unique and impact their operating expenses:

- **Wages:** This is a living wage contract and the City’s living wage requirements have increased by 13% from 2015, and 37% from 2013.
- **Disposal of “junk” vehicles:** Since 2015, the operators have experienced a significant increase in tows of “junk” recreational vehicles (RVs), boats, and trailers. Most of these vehicles are unclaimed, and they are often filled with garbage, and human and pet waste. The vehicles are in such poor condition that they cannot be sold at auction, and they have little or no scrap or salvage value; therefore, the operators must dispose of these vehicles at their own expense. The tow companies state that the average cost to dispose of an RV or similarly-sized vehicle is estimated at \$1,100, including the labor cost of cleaning and preparing the vehicle before the garbage company will accept it. Table 2 illustrates the growth in the number of these vehicles since 2012.

**Table 2**

<b>Year</b>	<b>Total Number of RVs Towed</b>	<b>% Change</b>
2012	87	
2013	103	18%
2014	133	29%
2015	280	111%
2016	350	25%

- **Contract and Dispatch Fee:** These fees, as described above in the Analysis Section of this memorandum, have increased since 2002 as illustrated in Table 3. While these fees have not increased since 2013, they still represent a significant expense to the operators.

**Table 3**

<b>Rate Increase Effective Date</b>	<b>Contract Fee</b>	<b>Dispatch Fee</b>	<b>Total</b>	<b>% Change</b>
12/3/2002	\$50.00	\$5.00	\$55.00	
3/25/2008	\$60.00	\$6.00	\$66.00	20%
8/20/2009	\$75.25	\$7.00	\$82.25	25%
8/13/2013	\$80.00	\$8.00	\$88.00	7%

**Recommendations**

Staff concurs that current market conditions affecting operations are impacting profitability for the operators. As a result, staff proposes an alternate compensation model using data and information provided by the operators that evaluates revenues, labor costs, reimbursed costs for cleaning and disposing of “junk” tows, and other lost revenues. The model was discussed with

several of the operators as it was being developed and then presented to all of the operators on September 19, 2017.

The recommended compensation model:

- Lowers the contract fee paid by the operator from \$80 to \$59 in recognition of increased labor costs.
- Credit the operators for the expenses that they incur to dispose of vehicles that have no salvage or resale value against the \$59 contract fee owed to the City. In addition, this credit will compensate the operators for potential lost profits due to the vehicles use of yard space. The credits will not exceed the contract fees paid.
- Increases revenues resulting from the new fee schedule adopted by the Council in April 2017 (Table 1).

Staff also recommends reducing the contractually required security deposit from \$25,000 to \$5,000 per operator. Since 2009, the City has not drawn down on these deposits more than \$3,000 for any operator in any year.

Staff evaluated various options to modify the compensation model. These included:

1. Increase the tow, storage, and other applicable fees (see Table 1) that the operators charge to registered vehicle owners.
2. Decreasing the operators' expenses by reducing the \$88 contract and dispatch fees the operator pays to the City.
3. A hybrid model that increases fees that the resident pays the operator to recover their vehicle while decreasing fees that the operator pays the City.

Council recently approved increasing the tow and storage fees to vehicle owners in April 2017 and further increases in fees could negatively impact the vehicle owner's ability to recover their towed vehicles; therefore, the approach staff is recommending is for the City to reduce General Fund revenue as a result of the recommended amendments.

This recommendation, along with the adoption of the updated fee schedule last April, is estimated to increase revenue and decrease expenses as follows for all operators:

Increased revenues due to new CHP rate schedule	\$269,400
Decreased expenses due to contract fee adjustment from \$80 to \$59 per tow	\$280,000
Credit expenses for lost profits and the disposal of "junk" vehicles by reducing the \$59 contract fee owed to the City	\$464,000
Reduced security deposit	<u>\$180,000</u>
<b>TOTAL</b>	<b><u>\$1,193,400</u></b>
<b>Average annual relief per operator</b>	<b>\$198,900</b>

The City will work with City Towing, Inc. to put them on a recovery plan for to pay the City for the amounts they have withheld since November 2016.

Finally, staff recommends an independent third-party review and audit of the City's Towing Services Program to assess the viability of the current program structure and make recommendations to further restructure the program, if appropriate. It is anticipated that the program review and audit would take place during calendar year 2018, with results of the program review and audit to be evaluated and any recommended changes in the program to be considered in the context of the development of the Fiscal Year 2019-2020 operating budget. The Administration plans to absorb the cost for this evaluation within existing department budgets. Additionally, staff is working with the City Auditor's Office to explore options for their upcoming audit of tow operations to include benchmarking to other jurisdictions and provide background analysis to assist in the review of the program.

As an immediate action, it is recommended that key staff from the Police Department, the Department of Transportation, and the Department of Planning, Building & Code Enforcement meet with the operators on at least a quarterly basis to review and discuss operational issues and take operator suggestions into consideration. Previous suggestions included coordinating and communicating scheduled events so that operators have advance notice to prepare their yards for expected tows or exploring ways in which a "junk" vehicle can be more efficiently processed.

### **EVALUATION AND FOLLOW-UP**

Staff plans to implement the changes immediately upon execution of the amendments, conduct quarterly audits of the operator's junk RV disposal expenses, and return to the City Council by March 2019 with the results of a third party review, evaluation of the modified program and recommendations for the program to be incorporated into the FY 2019-2020 budget development process.

### **PUBLIC OUTREACH**

This item will be posted on the City's website for the October 31, 2017 City Council Agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the Police Department, the Department of Transportation, and the 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 2017-2018 Operating Budget City Service Areas Delivery Framework for Performance-Driven Government for Operational Services.

**COST SUMMARY/IMPLICATIONS**

As discussed above, the General Fund revenue estimate for the tow fees is \$1.0 million in 2017-2018. Based on the recommendations in this memorandum, it is estimated that the annual loss in revenue is approximately \$744,000, which includes a reduction of \$280,000 due to the decrease in the tow fee from \$80 to \$59 per tow and a reduction of \$464,000 due to the projected credits for the disposal of junk vehicles or lost profits. With an anticipated implementation date of January 2018, the estimated revenue loss in 2017-2018 totals \$372,000 or half of the annual total. A budget action will be brought forward during 2017-2018 to account for this projected loss, offset by other adjustments to existing revenue or expenditure categories or the 2018-2019 Future Deficit Reserve.

The auditing of RV expenses will be absorbed within the Finance Department. The cost for a full program audit of the City's Towing Services by an external third-party consultant will be absorbed within the existing department budgets of PBCE, Police, and Transportation.

**CEQA**

Exempt, CEQA Guidelines Section 15262. Feasibility and Planning Studies. These are Master Agreements for consultant services with no binding commitment to a course of action that will result in a physical change to the environment.

/s/  
JULIA H. COOPER  
Director of Finance

/s/  
ROSALYNN HUGHEY  
Interim Director  
Planning, Building, and Code  
Enforcement

For questions please contact Mark Giovannetti, Deputy Director of Finance, at 408-535-7052.

Attachment A: Description of Tow Zone Boundaries  
Attachment B: Article from Los Angeles Daily News dated 8/28/17



Attachment A  
Description of Tow Zone Boundaries

Zone 1:

- East City limits go West on Alum Rock Ave.
- North on Thirteenth St. to Highway 101
- North on Highway 101 to Trimble Rd.
- East on Tremble Rd. to Guadalupe River
- North on the Guadalupe River to Highway 237
- West on Highway 237 to the Sunnyvale/Santa Clara/San José border
- The Sunnyvale/Santa Clara/San José border North to the North City limits.

Zone 2:

- East City limits go West on Alum Rock Avenue to McLaughlin Avenue
- South on McLaughlin Ave. to Tully Rd.
- East on Tully Rd. to Highway 101
- South on Highway 101 to Capitol Expressway
- East on Capitol Expressway to Silver Creek Valley Road
- South on Silver Creek Valley Road to Yerba Buena Avenue
- West on Yerba Buena Avenue to Highway 101
- South on Highway 101 to the City limits.

Zone 3:

- South City limits go North on Highway 101 to Yerba Buena Avenue
- East on Yerba Buena Avenue to Silver Creek Valley Road
- North on Silver Creek Valley Road to Capitol Expressway
- West on Capitol Expressway to Highway 101
- North on Highway 101 to Tully Rd.
- West on Tully Rd. /Curtner Ave. to Monterey Highway
- South on Monterey Highway to Capitol Expressway
- West on Capitol Expressway to Highway 87
- South on Highway 87 to the Highway 85 interchange
- Highway 87/85 interchange south on Santa Teresa
- Santa Teresa to Coleman Ave.
- Santa Teresa/Coleman interchange South to the City limits
- Follow the City limits south to the South City limits.

Zone 4:

- South City limits go North on Highway 17 to Camden Ave.
- East on Camden Ave. to Curtner Ave.
- North on Curtner Ave. Leigh Ave.
- North on Leigh Ave. to Hamilton Ave.
- East on Hamilton Ave. to Meridian Ave.
- South on Meridian Ave. to Highway 280
- East on Highway 280 to Lincoln Ave.
- North on Lincoln Ave. to Auzerais St.
- East on Auzerais St to Sunol St.
- South on Sunol St to Highway 280
- East on Highway 280 to Tenth St.
- South on Tenth St. to Tully Rd./Curtner Ave.
- West on Tully Rd. to Monterey Highway
- South on Monterey Highway to Capitol Expressway
- West on Capitol Expressway to Highway 87
- South on Highway 87 to the south City limits.

Zone 5:

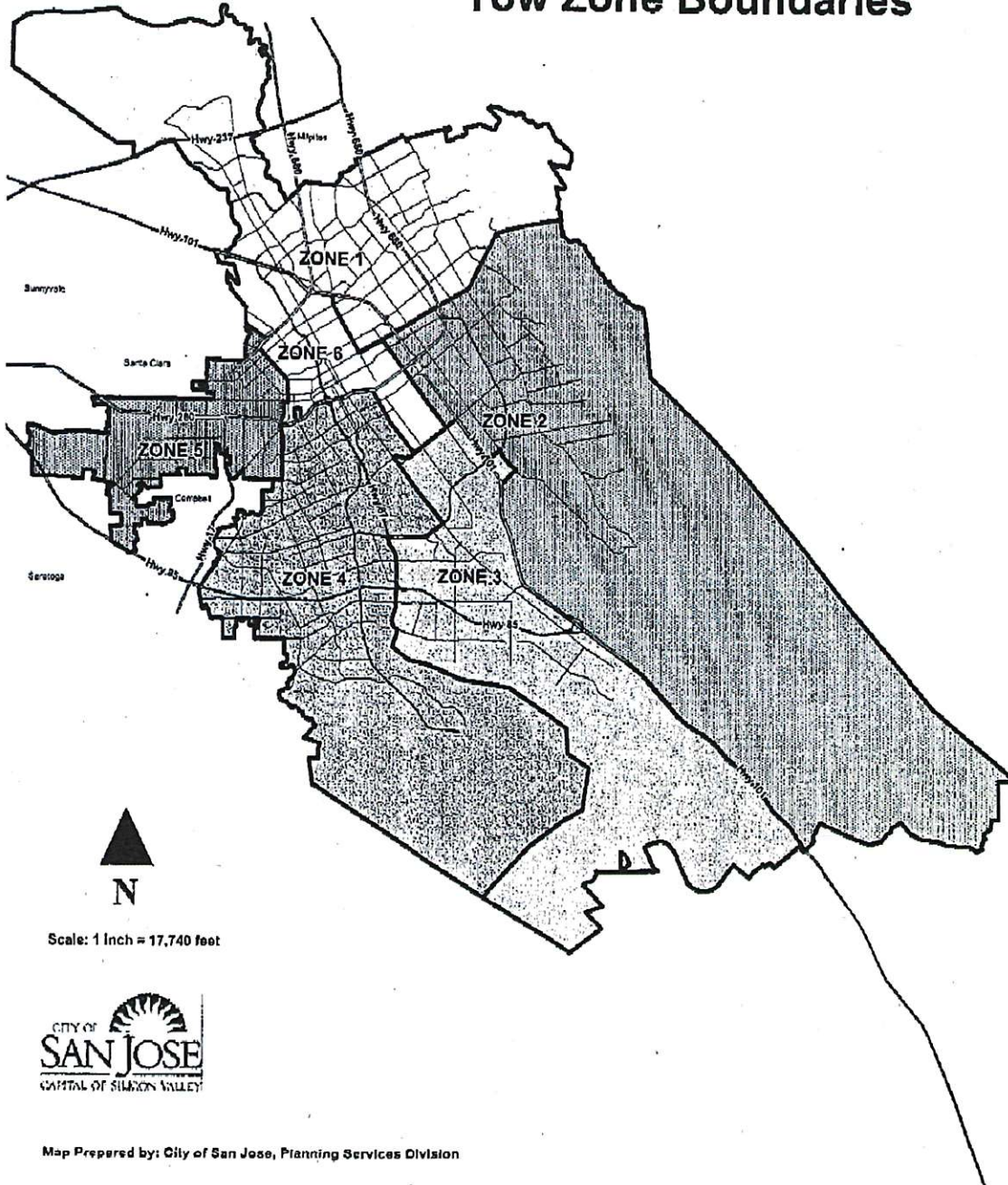
- West City limits go East on Hamilton Avenue to Meridian Avenue
- North on Meridian Avenue to San Carlos Street
- East on San Carlos Street to Race Street
- North on Race St. to The Alameda
- North on The Alameda to Highway 880
- North on Highway 880 to the Railroad tracks
- North on the Railroad tracks to the North City limits
- South from North City limits to West City.

Zone 6:

- North City limits go south on the Railroad tracks to Highway 880
- South on Highway 880 to The Alameda
- South on The Alameda to Race St.
- South on Race St. to San Carlos St.
- West on San Carlos St. to Meridian Ave.
- South on Meridian Ave to Highway 280
- East on Highway 280 to Lincoln Ave.
- North on Lincoln Ave. to Auzerais St.
- East on Auzerais St to Sunol St.
- South on Sunol St. to Highway 280
- East on Highway 280 to Tenth St.
- South on Tenth St. to Tully Rd.
- East on Tully Rd. to McLaughlin Ave.
- North on McLaughlin Ave. to Santa Clara St.
- West on Santa Clara St. to Thirteenth St.
- North on Thirteenth St. to Highway 101
- North on Highway 101 to the North City limits.

# City of San Jose

## Tow Zone Boundaries



Map Prepared by: City of San Jose, Planning Services Division

## Fed up with garbage, fleas, LA tow companies are refusing to haul away homeless RVs



Pepe's Tow Yard in Wilmington is the final resting spot for most of the motor homes formerly used by homeless persons on the streets of Los Angeles. The decrepit, trash-filled, flea ridden and burned-out hulks await the scrapyards or perhaps get auctioned off for as little as \$50. Most tow contractors won't accept the work, as it is a no win situation, financial loss. Manager Bertha Maldonado at Pepe's handles most of LA's towing in such cases. Photo by Brad Graverson/SCNG/07-13-17

By **Elizabeth Chou** | [echou@scng.com](mailto:echou@scng.com) | Daily News

**PUBLISHED: July 15, 2017 at 9:08 pm | UPDATED: August 28, 2017 at 5:34 am**

Motor homes have become a fixture on Los Angeles streets in recent years, a reflection of the growing number of homeless people living out of campers.

Along with the increase in RVs, calls to haul them away are rising. But the city has hit a roadblock as the number of tow companies willing to do the work dwindles.

According to the Los Angeles Homeless Services Authority, 2,363 people across the city live in the motor homes. That's a 20 percent increase from 2016.

City officials say that increase has led to a rise in enforcement measures, often in response to complaints from residents and business owners to remove campers that are unregistered or have overstayed the 72-hour limit on city streets.

But earlier this year, the city hit a snag in responding to the towing requests, after a pair of towing contractors quit, citing the unsanitary conditions of the vehicles and the inability to recoup the cost of towing them.

The city was left with one company in Wilmington, Pepe's Towing, to handle all of the city's towing jobs for vehicles heavier than 10,000 pounds.

Bertha Maldonado, the manager at Pepe's Towing, said Thursday she now has a yard crammed with 55 vehicles, and they have towing jobs scheduled into August.

### **Towing delays**

Detective Benjamin Jones, who runs the Los Angeles Police Department's towing service, said that in March, the city instituted a so-called "emergency stop" on the towing of motor homes. Unless the vehicle is tied to a crime or traffic accident, city departments must make an appointment to have the vehicles hauled away, which means it could take as long as two weeks to tow the vehicles, he said.

Contractors say the campers and RVs are often so dilapidated or damaged, they are in danger of falling apart while being towed. The vehicles frequently contain overflowing or leaking sewer tanks, and can come with pests such as fleas, ticks, mice and rats.

It is also difficult to justify the cost of impounding the vehicles since few of their original owners, many of whom are homeless, could afford to pick them up, or they often are only able to auction them off at basement rates, many contractors say.

The city of Los Angeles impounded "approximately" 1,000 motor homes and trailers in 2016, but only about half were claimed, according to a city report.

Jones has seen firsthand the pushback on the motor homes. His shop fields towing requests from other city agencies, particularly the transportation and police departments, which are often responding to complaints from residents and business owners.

Jones said about two to three years ago, he started seeing an increase in motor homes being impounded. That rise, he said, became acute in the middle of last year.

"I don't think it's people saying they don't like the homeless," Jones said. "It's the secondary effects. It's the garbage, needles, feces, urine. They're often overwhelmed by the odor."

He pointed to the example of Manchester Square, a city-owned area near the Los Angeles airport, as a reflection of what has happened citywide. That area used to have “one guy on the corner in a motor home,” but that grew to as many as 50 motor homes lined up in a row, he said.

Jones’ office helped clear out that motor home encampment, which was on land that was being developed into a rental car facility and parking for the airport.

## **Contractors quit**

With an average of about 83 motor homes being impounded each month last year, two of the city’s towing contractors expressed concerns in September that they were not up to the task of dealing with the sanitation issues that accompany the campers.

One of those companies is Canoga Park-based Howard Sommers, which handles the city towing assignments in the San Fernando Valley. The other contractor is ATS-Northeast Tow Inc. in Cypress Park.

In mid-March, the two companies terminated their contracts for towing heavy vehicles like motor homes and house cars.

The city put out a request for contractors in April to replace Howard Sommers and ATS, but it got no response, Jones said.

Randi Sommers, president of the Canoga Park towing company, wrote in a Sept. 27, 2016, letter to Jones, that in addition to the financial burden, “the work, time and effort to tow and store these vehicles has become a nightmare.”

Sommers explained that there is only one salvage yard where they can send the motor homes that are unclaimed to get junked, but that yard refuses to accept the vehicles unless towing employees have removed the 30-40 gallon propane tanks connected to the campers, taken out the refrigerators, which contain ammonia, and emptied out the sewer tanks.

Sommers wrote that they do not have the licenses nor are they “equipped to do this kind of work.”

Jones said they are hoping a new arrangement with the city’s existing towing contractors will resolve the current backlog. The plan will shift the work of towing the heavier vehicles to at least eight of the other contractors that currently only tow vehicles lighter than 10,000 pounds.

Under the plan, the city will pay the towing companies a \$540 hazardous materials and waste fee if the vehicle is junked, and will cover the difference in cost if the motor homes are sold at auction below the \$540 amount.

City crews will also need to “contain” the sanitation issues, such as stop up any leaks in sewer tanks, before calling out a towing company, Jones said.

### **Enlisting new tow companies**

Eight other companies, if not a few more, are expected to enter modified contracts with these terms starting Monday, according to Jones.

But for now, Pepe’s Towing, which previously was known as Los Angeles Tow, continued on Thursday to handle the heavy-duty towing jobs from their South Bay headquarters, including one across town in Woodland Hills.

Maldonado, the manager at Pepe’s, said they stuck with their contract because unlike the other two companies, they specialize in heavy-duty towing jobs. Since they began taking on more of the assignments, though, they have had to flea bomb their offices every Sunday. She pointed to a large flea bite mark on her shoulder, as an example of the problem.

She said the motor homes are “really a pain” to unload, and during auctions, final bids are usually between \$50 to \$100. But they are able to balance the more complicated, less desirable tows, with the impound fees, which start at several hundred dollars and usually run more than a \$1,000, while the nicer campers can sell for several thousand dollars.

“Every once in awhile we get some good ones,” she said.