



Memorandum

TO: TRANSPORTATION AND ENVIRONMENT COMMITTEE

FROM: Rosalynn Hughey
Edgardo Garcia

SUBJECT: CITY-GENERATED TOW SERVICES DELIVERY MODEL REPORT

DATE: January 27, 2020

Approved

Date

1-27-20

RECOMMENDATION

- 1) Accept the final plan for implementation of the new City-Generated Tow Services Delivery Model and pilot program including:
 - a. Approving the release of a tow software and contract administration Request for Proposal; and
 - b. Directing staff to bring to Council: (i) a recommendation to award the RFP Contract for tow software and/or contract administration to a third-party; and (ii) a proposed City-Generated Tow Services Delivery Model fees and charges for Fiscal Year 2020-2021 to support the new City-Generated Tow Services Program, software, and contract administration.

- 2) Accept the recommendation for interim financial relief for tow operators from January 1 through June 30, 2020, with the option to extend, and return to City Council with:
 - a. An amendment to the City Generated Tow Service Agreements retroactive to January 1, 2020 including:
 - i. Reducing the contract compensation fee from \$59 to \$41;
 - ii. Modify the definition of "Qualified Vehicles" and related list of qualified vehicle types eligible for reimbursement to include *all* vehicle types that otherwise meet the criteria for "Qualified Vehicles" under the contract; and
 - iii. Credit the tow operators for operator expenses and lost profits related to disposing of *all* qualified vehicles that meet the defined criteria, against the proposed \$41 contract fee that is required to be remitted to the City.

OUTCOME

Accepting the staff recommendation will:

- 1) Establish the final plan for implementation of the new City-Generated Tow Services Delivery Model and pilot program to implement the accepted recommendations from the 2019 Tow Services Audit Report. This includes releasing the RFP for tow program

software and/or contract administration, recommending an award of the RFP to City Council, and proposing fees and charges for Fiscal Year 2020-2021 to City Council to support the new City-Generated Tow Services Delivery Program

- 2) Direct staff to return to City Council for approval of the interim financial relief for the tow operators through June 30, 2020 with the option to extend. This relief would be retroactive to January 1, 2020.

BACKGROUND

City-Generated Tow Services Audit and Council Direction

On January 15, 2019, the City Council accepted the City Auditor's "Audit of Towing Services: Changes to Contract Terms and Consolidated Oversight Could Improve Operations" and the Administration Response, and directed staff to return to Transportation & Environment Committee (T&E) in Fall 2019 with a proposed City-Generated Tow Services Delivery Model. Council also directed staff to consider various factors when developing the new model, such as accessibility for residents when determining tow zones and tow yard locations and an interim plan to address tow refusals. Additionally, as part of the March 2019 Council Priority Setting Session, Council green-lighted the Council Priority Nomination to explore a "Temporary Municipal Recreational Vehicle and Trailer Specific Storage Facility" as part of the process to research and develop a new City-Generated Tow Services Delivery Model.

Tow Audit Work Plan and Tow Audit Working Group

Staff developed a comprehensive Tow Audit Work Plan outlining a near and long-term strategy to accomplish the following goals:

1. Address all 17 tow audit recommendations
2. Develop a new City-generated tow service delivery model
3. Develop Request for Proposal (RFP) and recommend award of contract(s)
4. Transition the new program model to the Police Department by June 30, 2020

To achieve the work plan goals, staff formed the Tow Audit Working Group comprised of staff from multiple departments including: Planning, Building and Code Enforcement, the Police Department, the Finance Department, the Department of Transportation, Office of Civic Innovation, the City Attorney's Office, and the City Manager's Office. The Tow Audit Working Group met bi-weekly collaborating on interim improvement strategies, service model research through benchmarking, the release of two industry RFPs to provide contingent tow services (back-up tows), and a Request for Information (RFI) to generate information to inform the development of a new service delivery model framework.

Transportation and Environment Committee

On November 4, 2019, as directed by Council, staff presented the Status Report on the development of the new City-Generated Tow Services Delivery Model to the T & E Committee. The Status Report included the Tow Audit Work Plan and Audit recommendation implementation progress to date; research and benchmarking outcomes; results of the two contingency (interim) towing services RFPs and RFI for vehicle tow operators and third-party software administrators¹; and identified three guiding principles being utilized in the on-going development of the new City-Generated Tow Services delivery model as follows:

- Responsive Service Delivery to Neighborhoods, Residents, and Customers
- Financial Feasibility and Sustainability for Tow Companies
- Modernized and Efficient System of Operation for the City, limiting financial impact

As part of the Status Report staff also presented the proposed new City-Generated Tow Services Delivery Model framework and pilot program. The proposed Service Delivery Model framework consisted of four components:

- 1) A technology and software based platform
- 2) Third-party administration of the City-generated tow services
- 3) Financial balance and sustainability; and
- 4) Modified contract terms and performance standards for the existing tow operators.

Staff recommended as part of the Status Report that the City conduct a pilot program with a contracted third-party administrator that has the capability to install a full service technology platform and work with the City and the existing tow operators to test and refine the proposed service model. Staff identified three phases for implementation of the pilot program as follows:

1. **Financial Analysis:** Detailed review and evaluation of all fees, costs, and budget, past and present, related to the City tow system to determine the appropriate level and balance of fees and costs between the City, tow operators, a third-party administrator/technology investor, and registered owners/residents; and ensure a financially balanced and sustainable service delivery model.
2. **Request for Proposal:** Development and issuance of a RFP and award of contract to a third-party administrator/software company.
3. **Outreach, Negotiation, and Contract Amendments:** Outreach, negotiation, and amendments to Tow Agreements with the current six tow operators to conform to principles and goals of the new service model framework including:

¹ [Transportation and Environment Committee City-Generated Tow Services Delivery Model Report November 4, 2019](#)

- a. First right of refusal to extend the zone based towing agreements during the pilot program, under updated and negotiated terms, with the condition that the operator is in good standing (or has an agreement to be in good standing) with the City.
- b. Adjust zone boundaries to create a fair and balanced distribution of vehicle tows, update performance standards to comply with the City Audit recommendations, and changing realities in the City over time
- c. Reduce and/or eliminate refusals and establish a system for back up tows
- d. Address junk and large vehicle tows in a fair and effective manner

The T & E Committee accepted the Status Report and directed staff to:

- 1) Continue to refine the proposed service model and pilot program approach;
- 2) Explore an interim solution to provide financial relief to the six contracted tow operators, with a corresponding commitment to ensure responsive service; and
- 3) Return to T & E in February 2020 with a final plan for implementation.

ANALYSIS

Following the November 4, 2019 T & E Committee direction, the Tow Audit Working Group worked to continue to refine the tow service delivery model, finalize the pilot program implementation plan and the three identified phases, and explore an interim solution to provide financial relief to the contracted tow operators for the remainder of the 2019-2020 fiscal year.

Staff conducted three follow up meetings with the current six tow operators (“SJ Towers”) on December 3, 2019, December 17, 2019, and January 15, 2020 to explore opportunities for interim financial relief and discuss potential solutions to identified service challenges, including tow refusals, the “junk slip” process, and City/tow operator communication. Additionally, the Tow Audit Working Group continued to meet bi-weekly to review and analyze all fees, costs, revenue, and budget, past and present, related to the City tow system to support staff’s recommendation for interim financial relief.

Phase 1. Financial Analysis: Interim Financial Relief Recommendation

SJ Towers have continued to express to the City their financial struggles and the need for financial relief from the current City-Generated Tow Services contract compensation fee. The Tow Audit Working Group held several meetings with SJ Towers to better understand their concerns, gather current financial data to verify their claims, and develop a proposal to provide interim financial relief to the operators that is fair, sustainable, and ensures continued City-generated tow service delivery.

Currently the operators are contractually required to remit fees to the City on a monthly basis, including an \$8 fee per dispatch and a \$59 contract compensation fee per tow. In an effort to recoup some of the operating costs and lost profits, the operators can receive a credit for documented expenses and lost profits related to the disposal of qualified vehicles (such as recreational vehicles and trailers) to off-set the \$59 contract fee that is required to be remitted to the City until the remittance reaches zero.

Per the existing contract agreements, a “Qualified Vehicle” is currently limited to large vehicles that are eligible for up to \$100 credit for cleaning and \$226 credit for lost profit per vehicle. A “Qualified Vehicle” is defined as any recreational vehicle, motor home, camper, trailer, box truck, and various other types of defined large vehicles that 1) have not been claimed by the vehicle owner and do not generate revenue through the lien sale process, or 2) have been deemed scrap (valued at less than \$500) by the City upon issuance of a REG 462 form also known as a “junk-slip”. This fee and credit system has been in effect since 2017 when Council directed staff to modify contract terms to reduce the contract compensation fee from \$80 to \$59 per tow and to add the qualified vehicle reimbursement option. In June 2019, Council directed staff to extend the modified contract compensation fee of \$59 per tow from July 1, 2019 until March 31, 2021, the end of the current contract term. The 2019-2020 Adopted Budget revenue estimate in the General Fund for these fees, after qualified vehicle credits, total \$360,000.

Despite the reduction in contract compensation fees charged to the tow operators and the establishment of the reimbursement structure since 2017, SJ Towers continue to express financial feasibility and labor intensity challenges. Community and industry challenges such as the increase in overall junk/low-value vehicle tows, the rising costs to tow and dispose of overall junk/low-value vehicles and the associated waste, and reductions in towed vehicles claimed by registered owners has continued to impact the operators “bottom line” and their ability to sustainably provide tow services. Based upon the information submitted by the operators to the City, the percentage of vehicles that are unclaimed by registered owners, are deemed junk, are disposed of, and scrapped is significant. In 2019, the tow operators reported that 51% of towed vehicles go unclaimed, 11% are deemed junk vehicles, and 35% are disposed of or scrapped. Compounding their financial issues is: the decline over the past few years of scrap metal prices, which reduces the revenue generated from salvaged vehicles; the decline of revenues generated from lien sales; and increased labor costs.

To review their claims, staff requested and utilized updated financial statements from SJ Towers to update the financial model that was used to determine the contract compensation fee reduction in 2017. This exercise indicated a further adjustment to the contract compensation fee is appropriate due to the reasons mentioned above, which has had a limiting effect on revenue generated by City tow operators for City tow work, and the annual increases in City’s living wage has increased labor costs.

After completion of the financial review and further discussions with the operators, the Tow Audit Working Group concluded that reducing the contract compensation fee from \$59 to \$41 and expanding the definition of “Qualified Vehicles” to include all vehicles that 1) have not been

claimed by the vehicle owner and do not generate revenue through the lien sale process, or 2) have been issued a REG 462 form (“junk-slip”) by the City would provide the needed interim financial relief to the tow operators.

Staff recommends amending the current City-Generated Tow Services Agreements with the following terms and conditions, effective January 1, 2020 through June 30, 2020, with the option to extend to March 31, 2021, the end of the term of the existing agreements:

1. Decrease the contract fee that the operators remit to the City from \$59 per tow to \$41 per towed vehicle to offset increased labor and operational costs.
2. Expand the list of qualified vehicles to include any vehicle that 1) has not been claimed by the vehicle owner and do not generate revenue through the lien sale process, or 2) has been issued a REG 462 form (“junk-slip”) by the City.
3. Credit the tow operators for operator expenses and lost profits related to disposing of qualified vehicles that meet the criteria, against the \$41 contract fee that is required to be remitted to the City.

Phase 2. Request for Proposal: Key Scoping Elements and Proposed Timeline

The Request for Proposal will incorporate two key components: requirements for a technology and software-based platform and requirements for contract administration, with the understanding that proposers may offer a technology/software based platform independent of contract administration, contract administration independent of a technology/software based platform, or may provide both services. The proposed high-level scoping requirements are outlined in Attachment A.

Staff will finalize and submit the RFP scope of work to the City Administration’s Procurement Prioritization Board (PPB) in February 2020 for review and procurement prioritization. Currently, staff anticipates release of the RFP in March 2020 and anticipates returning to City Council in June 2020 for Council direction to negotiate and execute the final award of contract. Staff plans to begin transitioning to the new technology and software-based platform and/or third-party contract administration in July through August 2020. Competing priorities such as the development and launch of the City-wide ADU Amnesty Program, limited staff resources across Departments, as well as other priority procurements already in progress or in queue were key considerations in the development of the proposed RFP timeline.

Phase 3. Outreach, Negotiation, and Contract Amendments: Process Improvements to Address Tow Refusals

As part of the continued outreach with SJ Towers, staff met with the operators to discuss ongoing challenges including tow refusals. The tow operators stated that a primary catalyst for refusals is lack of vehicle storage space in their tow yards. The operators argued that better

coordination and advance communication between City staff and the operators would improve overall tow yard capacity and decrease tow refusals. Providing advance notice to the tow operators for activities such as street sweep days, special events, or other high-volume generating tow activities would allow the operators ample time to create space in their yards to handle the volume of tows. The operators also advised staff that increasing the frequency of visits by the San Jose Police Department (SJPD) to issue “junk-slips” for qualified vehicles could also improve tow yard capacity and further reduce tow refusals because the operators could clear vehicles from their yards more quickly.

In response to this feedback, staff has begun implementing new processes to improve coordination and communication on high-volume tow events and increase the timely issuance of “junk slips” by the SJPD. The Department of Transportation has updated the calendar of scheduled street sweeping days to include the tow zone in which the sweep is occurring and has provided this calendar directly to the operators so that the operators may make necessary adjustments to prepare for the impending tow requests. Additionally, the Tow Audit Working Group is in the process of coordinating with other City work groups, such as street paving, whose activities may impact tow operations to ensure proper communication is occurring between the City and tow operators prior to a high-volume tow event.

SJPD has also taken steps to increase tow yard visits for issuance of “junk slips” from a few times per month (or as needed) to every Tuesday and Thursday to formally declare vehicles as low-value and allow disposal. Increasing the number of weekly visits will allow operators to clear those vehicles from their yards more frequently, thereby increasing tow yard capacity and reducing the likelihood of a tow refusal.

As staff has been working with the tow operators to resolve issues and improve the program, we have seen a significant reduction in refusals. Tow refusals have decreased from a total of 297 refusals in 2018 to 162 refusals in 2019, a 45% reduction. The Tow Contract Administrator will follow up on a monthly basis with City staff and operators to ensure the newly implemented coordination, communication and junk slip process improvements are effective in reaching the desired outcome of further reducing or eliminating refusals and improving overall communication with the tow operators.

Other Key Service Model Elements and Potential Improvements for Consideration in the Development of the new City-Generated Tow Service Delivery Model RFP

The Status Report presented at November 4, 2019 T & E included staff’s preliminary conclusions on various tow service model key elements such as service delivery model type (zone or rotation), tow yard requirements, performance standards, and contract breaches². Staff will continue to refine these preliminary conclusions and recommendations as part of the pilot program to inform a new City-Generated Tow Services Delivery Model and associated new Tow Services RFP and Contract anticipated to come before Council later this calendar year.

² [Transportation and Environment Committee Memo Attachment C: Tow Service Model Key Elements: Research and Benchmarking Summary Report, November 4, 2019](#)

Implementation of the technology/software-based platform and/or third-party contract administration as part of the pilot program will provide the City with the statistical data and reporting needed to show true program performance and service delivery costs and in turn help the City determine the optimum tow service model including appropriate administrative fees to charge to customers, the ideal structure for contract compensation fees and reimbursements, and the most efficient allocation of City resources needed to support the program.

Additionally, in support of the previously identified tow service model framework and goals, staff will incorporate first right of refusal to extend the zone-based towing agreements during the pilot program with the condition that the operator is in good standing (or has an agreement to be in good standing) with the City and continue to explore adjustment of zone boundaries to create a fair and balanced distribution of vehicle tows; updates to performance standards to comply with the City Audit recommendations; methods to effectively reduce and/or eliminate tow refusals and establish a system for back-up tows; and additional measures to address junk and large vehicle tows in a fair and effective manner.

EVALUATION AND FOLLOW-UP

Staff will return to City Council in early March 2020 with an amendment to the City-Generated Tow Service Agreements to implement the recommended solution for interim financial relief retroactive to January 1, 2020. Staff will release the RFP for a technology/software platform and/or contract administration and return to Council in June 2020 with a recommendation for an award of the contract. Staff will bring forward proposed City-Generated Tow Services Delivery Model fees and charges, as appropriate, as part of the 2020-2021 Proposed Budget process to support the new City-Generated Tow Services Delivery Program, software, and/or contract administration. (See Attachment B, Figure 1 for “Proposed Estimated Timeline”.)

CLIMATE SMART SAN JOSE

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

PUBLIC/STAKEHOLDER OUTREACH

Staff conducted three follow-up meetings with SJ Towers to gain an understanding of the need for financial relief and obtain financial information to support the recommended interim relief. Staff also discussed ongoing issues with the operators and collaborated in the development of process improvements related to coordination and communication of high-volume tow events and issuance of “junk-slips” by the City that are in the process of being implemented.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, Finance Department, and City Manager's 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 2019-2020 Operating Budget City Service Areas Delivery Framework for Performance-Driven Government for Operational Services.

COST SUMMARY/IMPLICATIONS

The 2019-2020 Adopted Budget includes a revenue estimate of \$360,000 from City-Generated Tow Service fees, which includes the contract compensation fee minus the credit for junk vehicles. Reducing the tow services contract compensation fee from \$59 to \$41 would result in a reduction of \$18 per tow for tows conducted over the remainder of the fiscal year, retroactive to January 1, 2020. Additionally, expanding the definition of "Qualified vehicles" from large low value vehicles, such as recreational vehicles and trailers, to include any vehicle that cannot be lien sold for revenue or is deemed junk by the City may result in increased credits to the tow operators further reducing the projected revenue. Staff anticipates a potential budgetary impact, in the General Fund, between \$200,000 to \$250,000 as a result of the recommended actions in this memorandum.

Staff will continue to research and evaluate the costs, fees, and budget needed to support a financially balanced and sustainable new City-Generated Tow Service Delivery Model. Staff notes these items will need to be worked through and finalized as part of the tow software and/or contract administration RFP process and award of contract to a third-party, pending negotiations and contract agreement amendments with SJ Towers, and ultimately within the 2020-2021 Proposed Budget process.

CEQA

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

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For questions, please contact Rachel Roberts, Deputy Director of Code Enforcement, at (408) 535-7719.