

# Memorandum

**TO:** TRANSPORTATION AND  
ENVIRONMENT COMMITTEE

**FROM:** Rosalynn Hughey  
Edgardo Garcia

**SUBJECT: CITY-GENERATED TOW SERVICES DELIVERY MODEL REPORT**      **DATE:** October 25, 2019

Approved



Date

10-28-19

## RECOMMENDATION

Accept the Status Report on the development of a new City-Generated Tow Services Delivery Model, and direct staff to continue to refine the service model and the pilot program approach, and return to the Transportation and Environment Committee (T&E) in February 2020 with the final plan for implementation.

## OUTCOME

Accepting the staff recommendation will establish the framework of a new City-Generated Tow Services Delivery Model; while allowing staff to receive direction from the Committee, gather further input from stakeholders, and conduct additional analysis to incorporate into a refined service model and pilot program for final consideration by the Transportation and Environment Committee (T&E) in February 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:

1. Return to T&E in Fall 2019 with a proposed City-Generated Tow Services Delivery Model
2. Provide a status report on the Vehicle Abatement Audit
3. Consider various factors when developing the new model, including but not limited to:
  - Subcontract City-generated tow services to the California Highway Patrol (CHP);
  - Accessibility for residents when determining tow zones and tow yard locations;
  - Contracting with tow companies that specialize in oversized vehicles; 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.

Per Council direction, staff has provided a Vehicle Abatement Audit Status Report included with this memorandum as **Attachment A**.

### **Guiding Principles to Develop a Sustainable Tow Service Delivery Model**

Based upon input from various stakeholders and City Council direction, staff identified three overarching principles to guide the development of the new tow service delivery model:

- Responsive Service Delivery to Neighborhoods, Residents, and Customers
- Financially Feasible and Sustainable for Tow Companies
- Modernized and Efficient System of Operation for the City, limiting financial impact

### **Tow Audit Work Plan and City Staff Working Group**

To address the Audit Recommendations and Council direction, 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, Finance Department, the Department of Transportation, Office of Civic Innovation, the City Attorney’s Office, and the City Manager’s Office. The Working Group met bi-weekly collaborating on interim improvements, service model research through benchmarking, and industry RFPs and a Request for Information (RFI), which led to the development of the new service delivery model framework.

The “Tow Audit Work Plan” is provided as **Attachment B** to this memorandum.

## **ANALYSIS**

### **Tow Audit Work Plan Progress to Date**

Staff is making substantial progress toward achieving the goals set forth in the work plan. Specifically, staff achieved several milestones of the work plan including: identifying audit

recommendations that could be implemented quickly as part of the Second Amendment to the current Tow Services Agreements; issuance of two RFPs for contingency towing services to provide backup tows; issuance of a RFI to inform development of the new service delivery model; and opening of a Program Manager position recruitment in preparation for the transition to the Police Department.

### **Implementation of Audit Recommendations**

Significant progress was made on several audit recommendations as part of the Second Amendment to the Tow Agreements and the update to Council Policy 9-8 (setting City-generated tow rates to the CHP rate) approved by Council on June 25, 2019.

The Second Amendment continued the provisions of the previous Council approved Pilot Compensation Program through at least June 30, 2020, and addressed Audit Recommendations 2, 3, and 5-8, in whole or in part, as follows: clarifying contract expectations and requirements related to hazardous waste disposal and City-generated private property tows; streamlining the process for dispatch and contract compensation fee billing; allowing operators to charge annually approved CHP tow rates as amended; eliminating the discrepancy regarding service call fees paid by the City when the tow is cancelled due to a contractor's failure to meet timeliness standards; and clarifying the City's right to tow a vehicle by any means deemed necessary when there is a failure to perform.

### **Researching and Benchmarking to Inform Development of New Service Delivery Model**

From Spring through early Fall 2019, staff conducted significant benchmarking of the city-generated tow service delivery models used throughout the Bay Area, the State, and Western Region. Staff surveyed 11 jurisdictions throughout California including the cities of Oakland, San Francisco, Los Angeles, San Diego, Sacramento, Palo Alto, Mountain View, Stockton, Concord, Santa Clara, and the California Highway Patrol (CHP).

Staff evaluated various service model elements such as vehicle tow allocation types (e.g. zones, rotations, etc.), tow yard requirements, dispatch and tow program software and automation systems, contract management and administration, financial responsibilities, fees and costs, and jurisdiction size (e.g. population and square miles). Through staff's analysis of the different service delivery models and features, the following key model elements were identified:

- a. Vehicle Tow Allocation Types (Zones, Rotations, etc.)
- b. Tow Yard Requirements
- c. Performance Standards and Contract Breaches
- d. Administrative, Contract, and Tow Fees
- e. Contract Administration, Technology, and Software
- f. RVs/Junk Vehicles/Waste removal

A summary report of the key model elements and how each was addressed by the different jurisdictions is included with this memorandum as **Attachment C**.

**Other Research and Considerations: Following Up on Previous Direction and Questions**

Staff contacted the CHP to discuss the pros and cons of their tow service delivery model and to explore the possibility of contracting out San Jose's tow services to the CHP. The CHP advised they were not interested in providing tow services to San Jose. In addition, staff coordinated with the City's Real Estate Division to explore the feasibility of utilizing City land to provide a temporary tow storage facility in the event a current tow operator's storage lot was temporarily full, not allowing for the towing of a vehicle at a particular point in time. Staff identified a few potential sites that may warrant further exploration, and is prepared to do that exploration as part of the proposed pilot program and the negotiations with the current tow operators in relation to their participation in the proposed pilot program.

**Contingency (Interim) Tow Services Request for Proposal for Backup Towing**

While staff initiated the research and benchmarking to develop a new service delivery model, the staff Working Group also prioritized developing an interim strategy to address tow refusals. Per Council direction, staff pursued securing backup vendors to provide tow services when the current tow zone operator refused a tow or was otherwise unable to provide a requested tow.

On May 20, 2019, the Finance Department issued the first RFP for contingency towing services on the City's e-Procurement system. This first RFP received no industry responses. Based upon feedback from the tow industry, staff modified the scope and provisions and the Finance Department issued a second RFP on June 27, 2019. The RFP was open for 33 days and again the City received no responses, despite the extensive outreach staff conducted via e-mail and phone to local tow companies. Currently, there are no separate backup tow vendors, resulting in the need to use one of the other City contracted tow zone vendors for potential backup towing. The exclusive right to tow vehicles by zone was amended, however, as part of the Second Amendment to the Tow Agreements, providing the City with the authority to address tow refusals by any means the City deems necessary.

The results of the two RFPs provided staff with valuable insight. The outcome reinforced the need for staff to delve more deeply into the tow industry's perspective on the San Jose tow market, the reasons for the lack of interest in San Jose, and to attempt to determine what the tow industry thought were the most viable service models to utilize in San Jose to create a sustainable and responsive tow system. Potential bidders advised staff that providing service as a backup tow operator for primarily heavy duty vehicles and/or junk/low value vehicles was cost prohibitive and not viable. The outcome of the two RFPs indicates that securing backup tow operators to perform exclusively heavy duty vehicle and/or low/value vehicle tows, such as recreational vehicles and trailers, is unlikely to occur unless the City subsidizes the service.

***Request for Information to Gather Data to Inform a New Service Delivery Model***

In August 2019, the Finance Department released the RFI. The RFI was intended to elicit insights from both vehicle tow operators and third-party administrator/software companies in the tow industry.

The scope of the RFI allowed for both open ended responses as well as focusing on a series of elements related to key service model components. The RFI questions ranged from what service delivery model would best serve the needs of San Jose, what it may take to create a sustainable financial service model, how services could be improved, innovated, and/or automated, and how specific issues such as tow refusals, hazardous waste, and debris removal could best be addressed.

The City received one collective response from “SJ Towers”, an association representing the six tow operators currently contracted with City of San Jose, and five responses from third-party tow administrator/software companies including AutoReturn, Tow Club, DACRA Tech, UR International, and towXchange. No other direct vehicle tow companies submitted responses.

***Information Gathered from RFI Responses***

- *RFI Response from Six Current San Jose Tow Operators* – Staff conducted a post-RFI response meeting with “SJ Towers” that included the six tow operators and their representatives. During the meeting, the operators informed staff that they felt the contract compensation fee was too high and was negatively impacting their business and profitability. The operators advised that removing waste and debris from vehicles and RVs had become a prominent and costly issue and that assistance from the City to address this issue was desired. The operators also shared their openness to new software systems to modernize the tow process, and were willing to pursue changes as part of a contract amendment with the City.
- *RFI Response from Software Companies* – Staff received responses from software companies that provided primarily software only, with such features as performance and financial tracking; and other companies that provided not only software and process automation, but also operational services such as contract administration and tow company oversight. Staff conducted a post-RFI response meeting with one of the companies, AutoReturn. AutoReturn informed staff that their software platform, deployed in about 18 cities, including San Francisco and San Diego, allows field officers to either request a tow from a smartphone, tablet or mobile terminal in the field, or by contacting a call center operator who can request and dispatch a tow over the phone if needed. Similarly, customers can access their website to locate their towed vehicle and pay fees or call an operator to obtain the information. AutoReturn also indicated that they can perform data tracking and reporting, provide oversight of tow companies and required performance standards, secure contracts with tow operators, and work with jurisdictions to refine and develop optimum service models.

### **Context and Conditions Under Which New Service Model is Being Developed**

Recent community and industry challenges such as the increase in recreational vehicles tows, rising costs to tow and dispose of junk/low-value vehicles and the associated waste, and reductions in towed vehicles claimed by registered owners has made providing tow services more challenging from a financial feasibility standpoint, and from a labor intensity standpoint. The 2011 decision to eliminate 30-day impound requirements for towed vehicles of unlicensed drivers also added financial stress to local tow companies.

Furthermore, minimal changes or modifications to vehicle towing systems and processes, many in place for decades, has created a dire need for significant modernization, through automation, process streamlining, and investments by the City and tow companies. Lack of technology and automation, and reliance on predominately manual processes, has contributed to inefficient work flow and production; crude and insufficient data; manual monitoring and reporting; and minimal oversight and performance tracking which together have limited staff's ability to adequately evaluate program performance and draw meaningful conclusions to make improvements. Lastly, the depletion of available and affordable land adequate to support a tow yard and operation limits tow operator flexibility, and discourages new private entrants into the San Jose market.

Based upon this context and conditions, the lessons learned from the extensive research, benchmarking, and outreach, and outcome of the RFPs and RFI, staff developed the following proposed City-generated tow services delivery model framework.

### **Proposed City-Generated Tow Services Delivery Model Framework**

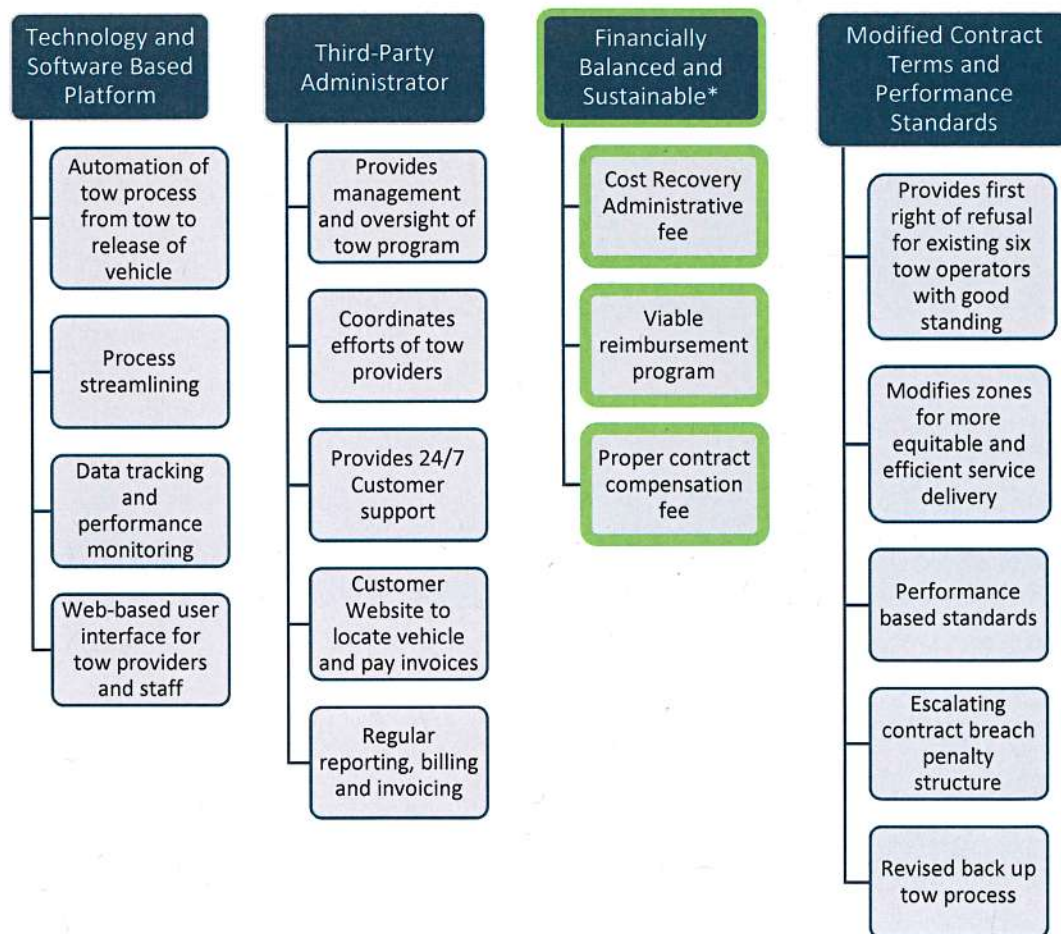
As depicted in *Diagram A*, the proposed service model framework consists of four components:

1. Technology and Software Based Platform— Applying a technology platform to automate the system and processes would aim to streamline the tow process from beginning to end (from tow request to release of vehicle), provide full activity and performance data tracking and reporting, and equip field officers, tow operators, customers, and staff with a web-based user interface that can be accessed remotely on a 24/7 basis.
2. Third-Party Administration of Tow Service Delivery – Third-party administration aims to better manage and coordinate all the efforts and performance of tow operators, administer billing and invoicing, and provide essential 24/7 customer service support, including a website for customers to locate vehicles and pay invoices.
3. Financial Balance and Sustainability – A review of all fees, costs, and budgets related to the City tow system is underway. The goal of the review is to understand historic and current set of fees and costs associated with the system, and to determine the appropriate level and balance of fees and costs between the City, tow operators, a third party administrator/technology investor, and the registered owners/residents.



4. **Modified Contract Terms and Performance Standards** – The framework includes the need to modify the existing zones to make service delivery and tow volume and type more equitable across the City and tow zones. The City Audit laid out the need for more accountability and performance by tow operators, so potential incentives and an escalating penalty structure for contract breaches needs to be considered and developed. All of this will require amending the current tow operator agreements. Staff recommends that the current tow operators, who are or will be in good standing with the City by the time the of amendment, should be given the right of first refusal to negotiate amendments to their existing agreements to operate their assigned zone during the pilot program.

*Diagram A: Proposed City-Generated Tow Services Delivery Model Framework*



*\*The fiscal sustainability of the proposed framework is still under development and will need further evaluation*

### **Proposed Pilot Program**

Staff recommends 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. The pilot would provide the City the flexibility to test the new service model, gather activity and performance data, and make changes and adjustments to refine the service to arrive at a fiscally balanced and sustainable service model that is well-managed, streamlined, and effective and meets the needs of the neighborhoods, residents and the City itself.

Finding effective, sustainable methods to address such issues as tow refusals, inequitable tow distribution, and increasing operating and disposal costs can be informed with the software's data tracking abilities and the third-party administrator's experience with software-based municipal tow operations. Automating the work flow and processes would better inform future refinements to the service model and allow the City a dynamic climate for problem solving.

In addition, the pilot program could provide the City with "quick wins" and improvements that could be realized in the near term. Automation of tow requests and dispatching would provide immediate improvements in efficiency and service delivery, enabling officers in the field to use mobile devices to request tows, ultimately bypassing manual call operator dispatching, and assigning tows to the closest available tow truck significantly reducing response times (e.g. akin to the transportation network company software based ride allocation model). The software will also streamline administrative processes allowing the City to generate dashboard and fiscal reports and conduct billing and invoicing electronically.

Lastly, the pilot program will provide statistical data mining and reporting that can show true program performance and service delivery costs that can in turn properly influence fiscal decisions with actual data versus having to make decisions on limited data and anecdotal feedback. Specifically, the data can help the City determine appropriate administrative fees charged to customers, contract compensation fees charged to operators, and City resources needed to support the program. Furthermore, data on the number of vehicles junked, vehicles claimed, and cost of vehicle and waste disposal could help the City determine an appropriate structure for contract compensation fees and reimbursements.

### **Pilot Program Implementation**

Implementation of the Pilot Program would entail three phases, and span the timeframe from receiving Committee direction in November until February 2020 (T&E Report back), and through the 2020-21 Budget Process until the end of the fiscal year and the transition to Police:

1. Detailed review and evaluation of all fees, costs, and budgets, past and present, related to the entire City tow system to determine the appropriate level and balance of fees and costs between the City, tow operators, a technology investor/third party administrator,



and registered owners/residents; and ensure a financially balanced and sustainable service delivery model into the future.

2. Development and issuance of a RFP and award of contract to a technology investor/software company/third party administrator.

Staff would report back to the T&E Committee in February 2020 prior to release of the RFP, with the results of the financial analysis, the major scoping elements of the RFP, and feedback from major stakeholders (e.g. current tow operators, further RFI results).

3. Outreach, negotiation, and amendments to Tow Agreements with current six tow operators to conform to principles and goals of the new service model framework:
  - a. Offer the first right of refusal to extend the zone based towing agreements during the pilot program, under updated and negotiated terms, and 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.

## **EVALUATION AND FOLLOW-UP**

Staff will continue to refine the service model framework and pilot program. Staff will continue to review and evaluate all related fees, costs, and budget to determine the appropriate level and balance of fees and costs to all parties and ensure a financially balanced and sustainable service delivery model. Staff will begin development of the RFP for a third-party administrator and/or software technology systems defining the desired role and scope of work. Staff will conduct outreach with the current six tow operators to discuss the proposed model including software implementation, performance standards, backup tows, first right of refusal, and other key components in preparation of tow agreement negotiations and amendments. Staff will return to the T & E Committee in February 2020 with a final proposal for implementation.

## **PUBLIC/STAKEHOLDER OUTREACH**

Staff conducted outreach by phone and email to over 40 different tow operators that are permitted by the San José Police Department to operate in San José to encourage participation in the two Contingency Plan RFPs. Staff conducted a Pre-Proposal Conference with potential bidders to answer questions regarding the RFP content and/or process. The Finance Department released a RFI on the City's e-procurement website to obtain information from key industry stakeholders. Staff conducted a meeting with SJ Towers on September 6, 2019 to discuss the

status of the tow audit work plan and provide general information about the RFI. Staff also contacted approximately 50 businesses by phone and/or e-mail to advise them of the RFI and encourage their participation. Following the closure of the RFI, staff conducted follow-up meetings with SJ Towers on October 1, 2019, and AutoReturn on October 15, 2019, to ask clarifying questions and get additional information on the content of the responses submitted. A second RFI follow up meeting with SJ Towers is scheduled for October 30, 2019. Staff is also in the process of scheduling additional RFI meetings with other software company responders.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, Finance Department, Department of Transportation, Budget Office, 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**

Staff will continue to research and evaluate the costs, fees, and budget needed for a financially balanced and sustainable service delivery model and bring more specific, preliminary information on these items to T & E in February 2020 as part of the final proposal for implementation. Staff notes these items will need to be worked through and finalized as part of the RFP process and award, negotiations with the existing six tow operators, and ultimately within the fiscal year 2020-21 budget process.

**CEQA**

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

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

Attachment A: Vehicle Abatement Audit Status Report

Attachment B: Tow Audit Work Plan

Attachment C: Tow Service Model Key Elements Research and Benchmarking Summary Report