



# Memorandum

**TO:** TRANSPORTATION AND  
ENVIRONMENT COMMITTEE

**FROM:** Chu Chang  
Anthony Mata

**SUBJECT: CITY-GENERATED TOW SERVICES DELIVERY MODEL STATUS REPORT**     **DATE:** April 14, 2021

Approved

Date

4/23/21

## **RECOMMENDATION**

1. Accept the status report of the City-Generated Tow Services Delivery Model.
2. Accept the revisions to the final implementation plan of the new City-Generated Tow Services Delivery Model and updates to the work plan timeline including:
  - a. Removal of the pilot program from the implementation framework.
  - b. Addition of the option to subcontract with tow operators to the scope of work as part of software and/or contract administration Request for Proposal (RFP).
  - c. Projected completion date of February 2022.

## **OUTCOME**

Accepting the staff recommendation would:

- 1) Revise the approved implementation plan for the new City-Generated Tow Services Delivery Model;
- 2) Update the tow audit work plan timeline with a projected completion date of February 2022;
- 3) Eliminate the pilot program from the work plan; and
- 4) Add the option to subcontract with tow operators to the scope of work for the software and/or contract administration RFP.

## **BACKGROUND**

On February 3, 2020<sup>1</sup>, staff provided a status report to the Transportation and Environment (T&E) Committee on the City-Generated Tow Services Delivery Model including the proposed final plan for implementation of the new City-Generated Tow Services Delivery Model and work plan timeline. The final plan for implementation included a proposed pilot program, release of a software and/or tow contract administration RFP, and a recommendation for interim financial

<sup>1</sup> [Transportation and Environment Committee City Generated Tow Services Status Report February 3, 2020](#)

relief for tow operators. The T&E Committee approved staff's recommendation and directed staff to return to Council with Second Amendments<sup>2</sup> to the City Generated Tow Service Agreements to provide interim financial relief to the tow operators retroactively to January 1, 2020.

On March 17, 2020, City Council adopted a resolution authorizing the City Manager to negotiate and execute Third Amendments<sup>3</sup> to the City-Generated Tow Service Agreements which included decreasing the tow operator's contract compensation fee from \$59 to \$41 per towed vehicle to offset increased labor and operational costs; and credit the tow operators for expenses and lost profits related to the disposal of qualified vehicles against the \$41 contract compensation fee. This Amendment implemented the February 3, 2020 T&E Committee direction.

Significantly impacted by the March 17, 2020 County Shelter in Place Order, the City Council adopted a resolution on June 30, 2020 authorizing the City Manager to negotiate and execute Fourth Amendments<sup>4</sup> to the Agreements for City-Generated Zone Tow Services to further provide financial relief to the tow operators and ensure continuity of tow services during the City's emergency response to the COVID19 pandemic. The Fourth Amendment included but was not limited to:

- Reduction of the contract compensation fee, paid by the tow operators to the City, from \$41 to \$0 for a term from March 17, 2020 through September 30, 2020;
- Payment of \$200 per vehicle and an additional \$1000 for certain vehicle types (up to a total of \$25,000 per tow operator) for a term retroactive from June 1 through September 30, 2020 for any "Qualified Vehicle" that is either issued a form REG 462 ("junk slip") by the City or the operator is required to pay to dispose of the vehicle; and
- Up to \$500 in monthly compensation for each operator for a total maximum compensation of no more than \$1,500 from July 1, 2020 until September 30, 2020 for garbage disposal/dumpster costs related to the disposal/cleaning of Qualified Vehicles.

More recently, the City Council adopted a resolution on March 30, 2021 authorizing the City Manager to negotiate and execute Fifth Amendments<sup>5</sup> to the City-Generated Zone Tow Services Agreements to extend the terms of the Second, Third, and Fourth Amendments that otherwise expired on March 31, 2021 for the duration of the Agreement, which is currently through March 31, 2022, but may be extended year-by-year through March 31, 2026 at the City's option. The Fifth Amendments included all the terms amended by the Second and Third Amendments and reduction of the Contract Compensation Fee to \$0, as amended in the Fourth Amendment.

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<sup>2</sup> [June 25, 2019 City Council-Second Amendment to City-Generated Tow Services Agreements](#)

<sup>3</sup> [March 17, 2020 City Council- Third Amendment to City-Generated Tow Services Agreements](#)

<sup>4</sup> [June 30, 2020 City Council- Fourth Amendment to City-Generated Tow Services Agreements](#)

<sup>5</sup> [March 30, 2021 City Council-Fifth Amendment to City-Generated Tow Services Agreements](#)

### *County Shelter in Place Order/COVID-19*

On March 17, 2020, the County of Santa Clara issued a Public Health Order requiring the public to shelter in place in response to the COVID-19 pandemic. Subsequently, various City services, were suspended or significantly reduced performing only essential City services and operations. Additionally, resources were redeployed to support emergency operations as the City responded to the pandemic and critical needs of the community. Subject to these impacts, key milestones of the Tow Audit Work Plan were impacted as staff's focus shifted to the delivery of essential services and operations in support of the City's ongoing emergency response. The timeline to release the Request for Proposal for tow software and/or contract administration, the Request for Proposal for the new City-Generated Zone Tow Services Agreements, and transition of the tow program to the San Jose Police Department (SJPd) have been delayed.

### *Status of City-Generated Tow Services*

The Amendments to the City-Generated Tow Services Agreements, implementation of process improvements, and coordinated efforts and communication between City staff and the tow operators have resulted in overall improved service delivery, specifically, a significant reduction in late tows and tow refusals.

Since 2018, late tows have declined from 4.5% of tows to 0.7% of tows (or 686 to 81) annually. Tow refusals have dropped from 1.9% of tows in 2018 to 0.03% of tows in 2020 (or 297 to 3 refusals). Following a decline in Q1 and Q2 of 2020, City-generated tows increased in Q3 and Q4 2020 as some city services resumed.

Increased coordination and communication on high-volume tow events and the timely issuance of "junk slips" by the SJPd has also had a positive impact. The Department of Transportation communicated with tow operators throughout the recent street paving project to ensure tow operators were notified prior to these high-volume tow events. SJPd also continues to visit the tow yards at a greater frequency to issue "junk slips" to formally declare vehicles as low-value and allow disposal. The increase in the number of weekly visits has allowed operators to clear those vehicles from their yards more frequently, thereby increasing tow yard capacity and reducing the likelihood of a tow refusal.

While services have generally improved, tow data shows overall tow volume continues to be reduced. Tow data for 2020 show the number of tows is down approximately 21% (or 3,056 tows) from the prior calendar year and approximately 26% (or 4,134 tows) compared to 2018. Data provided by five of the six tow operators indicate an average annual reduction of 510 tows per operator in 2020 from the previous year and an average release (or claimed) vehicle rate of 53.2%.

## **ANALYSIS**

As noted in the background of this memo, staff completed key Tow Audit Work Plan milestones and continued to work in accordance with the work plan timeline up until the March 17, 2020 County Shelter in Place Order. Following the County order, staff resources were redirected to address the reduction or change in services as many departments focused on how to continue to deliver core services under new conditions. Staff also shifted focus to address the critical impacts of the County Shelter in Place Order on the tow operators resulting in the Fourth Amendment to the Agreements to provide further emergency financial relief and ensure continued tow services. As a result of these factors, completion of the Request for Proposal for tow software and/or contract administration, the Request for Proposal for the new City-Generated Zone Tow Services Agreements, and transition of the tow program to the SJPD have been delayed. A more detailed summary of the status of each of these elements is provided below.

### *Request for Proposals- Tow Software Platform and/or Contract Administration and New City-Generated Tow Services Delivery Agreements*

As presented to the T&E Committee on February 3, 2020, the tow software and/or contract administration RFP 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.

Staff is proposing to add a third component to the RFP scope of work - the option for proposers to also subcontract directly with the tow operators to provide city-generated tow services (outsourcing the tow contract agreements to an external vendor). This addition would eliminate the need for the previously recommended pilot program as improvements to the City-Generated Tow Services Delivery Model would be an iterative process between the City and the contracted vendor through the duration of the implementation and contract terms. Similarly, this approach would also eliminate the need for an RFP for new City-Generated Tow Services Delivery Agreements as the contracts with operators providing tow services would be outsourced.

If the proposed subcontract option is exercised:

1. The third-party contract administrator would subcontract directly with tow operators and oversee execution of city-generated tow services.
2. City would no longer have contract agreements with tow operators for city-generated tow services.
3. City would:
  - a. Oversee performance of third-party software/contract administrator
  - b. Have one point of contact, likely requiring less City staff and resources for contract management and oversight
  - c. Provide:

- i. Guidelines/requirements for city-generated tow service delivery including tow rate limits
- ii. Criteria and performance standards subcontracted tow operators must meet
- iii. Oversight and assessment of breaches

Projected benefits of this proposal include:

1. Increased Efficiency:
  - a. Expedited timeline to implement
  - b. More flexibility and efficiency in amending contract terms with tow operators
  - c. Increased ability to adjust to industry/service delivery challenges more quickly
  - d. Streamlined operations
2. Reduced financial impact:
  - a. No City contract compensation or other administrative fees, etc.
  - b. Reduced costs/resources to administer contract- estimated minimum staffing of 1.0 FTE Program Manager to administer program
3. Improved Communication and Customer Service:
  - a. More streamlined communication between City, contract administrator, and tow operators
  - b. Improved overall customer service- one point of contact
4. Alignment with key Tow Audit Findings and Recommendations:
  - a. *Finding 3: The City should issue a new request for proposals with streamlined contract terms*
  - b. *Finding 4: The City should improve management of data and billing including Recommendation #12 to require tow records be provided by operators in electronic format or require the use of a towed vehicle database system.*
  - c. *Finding 5: The City should consolidate and improve program oversight*

This proposed change to the RFP scoping requirements is highlighted in Attachment A.

Staff submitted the scope of the tow software and/or contract RFP to the City Administration's Procurement Prioritization Board (PPB) in September 2020 and is currently developing the scope of work in coordination with Finance. Should the committee accept the recommendation to add the option to subcontract with the tow operators, staff will work with Finance to revise the scope accordingly. Currently, staff has targeted release of the RFP in June 2021 and anticipates returning to City Council October 2021 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 November 2021 through January 2022 with full implementation by February 2022. The revised Tow Audit Work Plan timelines are provided in Attachment B.

*Transition of Tow Program from Planning, Building, and Code Enforcement to San Jose Police Department*

PBCE and SJPD continue to coordinate on the Tow Audit Work Plan and plans for transition of the tow program. Staff anticipates transition of the program to the SJPD would begin in March 2022 and continue through the end of the fiscal year. Staff will continue to research and evaluate the costs, fees, and budget needed to support City-Generated Tow Services Program and will propose resource needs as part of the mid-year 2021-2022 and 2022-2023 proposed budget process as appropriate.

*Open Tow Audit Recommendations*

Staff will continue to work to address the remaining open Tow Audit recommendations and will incorporate audit recommendations into the RFP scope of work for tow software and/or contract administration as appropriate. Staff's progress to date on implementation of the audit recommendations can be viewed in the City Auditor's *Semi-Annual Open Audit Recommendations* report<sup>6</sup> provided to Council on March 23, 2021.

**EVALUATION AND FOLLOW-UP**

Staff will continue to develop and refine the tow software and/or contract administration RFP scope of work (with option to subcontract with tow operators) in coordination with Finance for release in June 2021. Staff will continue efforts to complete the open Tow Audit recommendations and incorporate audit recommendations into the RFP scope of work for tow software and/or contract administration as appropriate. Staff will continue to research and evaluate the costs, fees, and budget needed to support the City-Generated Tow Services Program and will propose resource needs as part of the mid-year 2021-2022 and 2022-2023 proposed budget process as appropriate. Staff anticipates returning to City Council October 2021 for Council direction to negotiate and execute the final award of contract and plans to begin transitioning to the new technology and software-based platform and/or third-party contract administration in November 2021 through March 2022. PBCE and SJPD coordination on the Tow Audit Work Plan and plans for transition of the tow program remains ongoing.

**CLIMATE SMART SAN JOSE**

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

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<sup>6</sup> [March 23, 2021 Semi-Annual Open Audit Recommendations Report](#)

### **PUBLIC/STAKEHOLDER OUTREACH**

Staff met with the tow operator's representatives (for 5 of the 6 contracted operators) on January 12, 2021 and February 9, 2021 to discuss the status of the Tow Audit Work Plan, RFP for tow software and/or contract administration, and ongoing conditions of City-generated Tow Services.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and Finance Department. The City Manager's Office and Department of Transportation have also been consulted on the contents of this memo.

### **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 2020-2021 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 to support the 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, and ultimately within the mid-year 2021-2022 and 2022-2023 proposed budget process.

TRANSPORTATION AND ENVIRONMENT COMMITTEE

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**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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San Jose Police Department

/s/

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