



## Agenda Report

18-835

Agenda Date: 11/27/2018

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### REPORT TO COUNCIL

#### SUBJECT

Action on Agreements with Finish Line Towing Incorporated, Lima Towing, and Unique Towing for towing services and Amendment of the FY 2018-19 Municipal Fee Schedule regarding Towing Rates

#### BACKGROUND

The Police Department manages three Agreements with Finish Line Towing Incorporated, Lima Towing, and Unique Towing for towing services on behalf of the City of Santa Clara (City) to mitigate blight, reduce fire hazards, and address hazards to health, safety, and general welfare. The current agreements, as amended, expire on December 31, 2018.

The tow operators are compensated for their services by collecting towing and storage fees; revenues collected at vehicle lien sales for abandoned vehicles, and scrap metal costs for vehicles that cannot be sold and are recycled.

#### DISCUSSION

In order to prepare for successor towing agreements, staff notified approximately twenty (20) South Bay tow service operators of a Request for Information (RFI) meeting on July 27, 2018. The purpose of the meeting was to explore the possibility of increasing the number of tow operators, discuss areas where service levels can be improved, and discuss issues affecting the tow industry that are negatively impacting the operators' ability to perform the required services at reasonable profit levels.

Three tow service operators, Finish Line Towing Incorporated, Lima Towing, and Unique Towing, participated in the meeting. At the meeting, the terms of the current Agreement between the City and tow service operators were discussed and changes in the towing industry were shared. The largest area of concern was the increasing number of recreational vehicle and abandoned vehicle tows, and the significant expense to tow, clean, dismantle, and dispose of these vehicles that have little or no resale or scrap value.

A follow-up meeting was conducted on August 31, 2018, in response to the discussion at the July 27, 2018 meeting. At this meeting, several changes to the agreement were proposed with the goal of addressing lost profits due to recreational and abandoned vehicle tows and improving the overall service delivery model.

As mentioned above, only the three incumbent operators participated in the RFI process even though considerable outreach was done to encourage participation from more operators. As a result, Staff determined that additional outreach efforts or conducting a competitive process would not be of any value. Therefore, a draft tow service Agreement was sent to each of the operators on September 27, 2018, with a request for comments by October 5, 2018.

The tow service Agreements with Finish Line Towing Incorporated, Lima Towing, and Unique Towing being presented to City Council have a five (5) year term, through December 31, 2023, and incorporate the following adjustments as compared with the current Agreement:

- Reimburse the operators for towing and disposing of Recreational Vehicles (RV's), Cab-Over Campers, Motor Homes (on wheels) and open trailers; create a separate rotational tow list for such vehicles; and set a flat fee of \$1,500 per vehicle for performing this service;
- Increase tow rates, service call costs, extraordinary service tows, storage fees, and after hours gate charges as detailed below;
- Allow the City to add a tow service operator(s) at any time during the term of the Agreements;
- Modify the suspension and termination clause and eliminate the tow service provider appeal procedure;
- Allow for the tow service provider to request relocation of its primary and/or secondary storage facilities to outside the City of Santa Clara with permission from the Police Department, in accordance with the Vehicle Code;
- Update the requirement of each Contractor to provide an annual list of all drivers and proof of Controlled Substance and Alcohol Testing enrollment;
- Do not include the annual fee for tow driver's permit renewal with the City;
- Adjust the conviction disqualifier to within five (5) years of the application; and
- An escalator clause allowing for rate adjustments on November 1, annually, not to exceed the Consumer Price Index for All Urban Consumers (Current Series) for the San Francisco-Oakland-Hayward, California region, not seasonally adjusted.

The new schedule of rates and charges as recommended for approval by adoption of the attached resolution includes the following. In 2014, the rates were adjusted for the last time. Therefore, the basic tow rate was increased by \$10, or less than 5%, from \$215 to \$225. The other rate increases are mostly minimal.

Description	Rate
Basic Tow	\$225.00 per tow
Service call where towing is found not to be necessary, for each period of fifteen (15) minutes, or portion thereof	
Class "A" regular duty tow-trucks:	\$56.25 per quarter hour
Class "B" medium duty tow-trucks:	\$107.50 per quarter hour
Class "C" heavy duty tow-trucks:	\$137.50 per quarter hour
Class "D" heavy duty tow-trucks:	\$150.00 per quarter hour
Extraordinary Services Tows	
Class "A" regular duty tow-trucks:	\$225/hr.
Class "B" medium duty tow-trucks:	\$430/hr.
Class "C" heavy duty tow-trucks:	\$550/hr.
Class "D" heavy duty tow-trucks:	\$550/hr.
Storage fee for passenger vehicles, motorcycles, vans and light trucks (per day).	

Per Space, Outside	\$90.00
Per Space, Indoors	\$95.00
After Hours Gate Fee - for the release of a vehicle one hour after SCPD desk closes until the desk reopens.	\$85.00
Recreational Vehicle, Motor Home (on wheels), and Cab-Over Camper	\$1500.00 flat fee each

The Agreements also require that the Contractor shall display in its place of business in clear view of all patrons and in language acceptable to the Chief of Police, the following:

- A listing of the Tow Rates and Fees;
- A listing of the Gate Fee and when it can be charged;
- A listing of the Lien Sale Application Fee and when it can be charged;
- The name and telephone number of the S.C.P.D. Tow Liaison.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of a California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

### **FISCAL IMPACT**

The City of Santa Clara Municipal Fee Schedule currently charges \$145 per Tow Driver Application, plus fingerprinting. In addition, there is an annual \$47 renewal fee. The elimination of the annual renewal fee for tow driver's has less than a \$500 impact in revenue to the General Fund.

The maximum compensation paid to each Contractor for towing of RVs shall not exceed \$50,000 over the entire term of the contract (5 years), subject to City Council budget appropriations.

### **COORDINATION**

This report has been coordinated with the Finance Department, Police Department, and the City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

1. Approve and authorize the City Manager to execute an Agreement for towing services with Finish Line Towing Incorporated, Lima Towing, and Unique Towing;
2. Authorize the City Manager to add a tow service operator(s) at any time during the term of the Agreement using a substantially similar form of agreement; and
3. Authorize the City Manager to make minor modifications to the Agreement, including rate adjustment(s), if necessary, subject to the appropriation of funds.

4. Adopt a resolution to amend the 2018-19 Municipal Fee Schedule to eliminate the annual Tow Driver Renewal Fee, adopt new tow fees and charges, and authorize annual Consumer Price Index adjustments of these tow fees and charges.

Reviewed by: Michael J. Sellers, Chief of Police

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Agreement with Finish Line Towing Incorporated
2. Agreement with Lima Towing
3. Agreement with Unique Towing
4. Resolution Amending the 2018-19 Municipal Fee Schedule to Eliminate the Tow Driver Renewal Fee and adopting new tow fees and charges and an annual CPI escalator

**RESOLUTION NO. 18-8628**

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA  
AMENDING THE "CITY OF SANTA CLARA 2018-2019 MUNICIPAL  
FEE SCHEDULE" TO ELIMINATE THE ANNUAL FEE FOR TOW  
DRIVER RENEWAL AND ADOPTING NEW TOW FEES AND  
CHARGES AND AN ANNUAL CPI ESCALATOR.**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, under the provisions of the City of Santa Clara Municipal Code and Government Code, fees and charges assessed by the City of Santa Clara may be amended or modified upon the adoption of a Resolution by the City Council;

**WHEREAS**, the City Council has determined that the revenue received from tow driver permit renewal fees is minimal;

**WHEREAS**, the City Council has determined that it is necessary for the City to enter into agreements, effective January 1, 2019, with tow operators in the City of Santa Clara to provide on-demand towing services to the City in situations such as auto accidents and abatement of abandoned vehicles;

**WHEREAS**, the rates and charges for various on-demand services provided by the tow operators, as set forth in the agreements, are appropriate for the industry and location, and will be charged to the owners of the vehicles towed; and

**WHEREAS**, the City Council deems it to be in the best interests of the City to eliminate the \$47 Tow Driver Permit Renewal Fee and to adopt new towing fees and charges in its 2019 contracts with towing service operators, which include an annual CPI escalator.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS  
FOLLOWS:**

1. That the 2018-19 Municipal Fee Schedule last adopted May 8, 2018, is hereby amended to eliminate the \$47 annual Tow Driver Renewal Fee.

2. That the rates and charges for services performed pursuant to the January 1, 2019, Agreement for Towing Services between the City and each tow operator shall be set forth in Exhibit A.

3. That rates and charges for Rotation Schedule B may be adjusted annually, on January 1, subject to approval by City. Rate increases shall not exceed the annual percentage increase in the Consumer Price Index for All Urban Consumers (Current Series) for the San Francisco-Oakland-Hayward, CA region, no seasonally adjusted.

4. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 27<sup>th</sup> DAY OF NOVEMBER, 2018, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Davis, Kolstad, Mahan, O'Neill, and Watanabe and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:   
NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A: Schedule of Fees, Tow Rates and Charges

**EXHIBIT A**

**SCHEDULE OF FEES, TOW RATES AND**

**CHARGES**

**ROTATION SCHEDULE A:**

For rotation schedule A, City shall reimburse Contractor Fifteen Hundred Dollars and Zero Cents (\$1,500.00) for each Recreational Vehicle, Motor Home (on wheels), and Cab-Over Camper towed. Contractor shall submit to City a properly completed invoice within 30 days after the end of the month in which the tow occurred. The invoice shall itemize each vehicle towed by vehicle type, and include a photograph of the vehicle. Invoices are to be remitted to:

Santa Clara Police  
Department, 601 El Camino  
Real  
Santa Clara, CA 95050  
Attention: Field Operations Commander

**ROTATION SCHEDULE B:**

1. Basic Tow - For any tow of a disabled vehicle from the scene of an accident; or of an unattended or abandoned vehicle from a public street when authorized by a police officer or other authorized employee of City; or of a driverless vehicle from a public street or private property, when authorized by a police officer, or other authorized employee of City, and when required on account of the disability of the driver. For any tow of a vehicle from a public street or private property when authorized by the person lawfully entitled to the possession of the vehicle; or of a vehicle parked without authorization on private property by the person lawfully entitled to the possession of the real property. For any tow of a vehicle authorized by a Santa Clara Police Officer other authorized City employee from a location on a freeway within the city limits of the City of Santa Clara.	\$225.00 per tow
2. Service call - response by a Tow Truck to a request by or on behalf of the person in lawful possession of a vehicle, or by a police officer, but towing is found not to be necessary, for each period of fifteen (15) minutes, or portion thereof, required to be spent from the time of departure to return to the customary tow car location or to release to another assignment in accordance with, and subject to the limitations of, the provisions of the "No Drop or Release Charge" section of Exhibit A:	
Class "A" regular duty tow-trucks:	\$56.25 per quarter hour
Class "B" medium duty tow-trucks:	\$107.50 per quarter hour
Class "C" heavy duty tow-trucks:	\$137.50 per quarter hour
Class "D" heavy duty tow-trucks	\$150.00 per quarter hour

3. Extraordinary Services Tows	
Where one or more of the following conditions is met:	
a. Tow services authorized in writing by the City as requiring more than the use of one Class A Tow Truck for more than one hour from the time of dispatch to the time of departing the scene	
b. Vehicles that have been driven off of embankments;	
c. Accidents where a vehicle is overturned, burned, or imbedded in a structure or another vehicle	
d. Vehicles which must be recovered over six feet from the roadway	
e. Heavy Vehicle Tows (Special Tows): Class B - for towing vehicles which are under 6,000 pounds (empty) which require Class B truck recovery, (e.g. fifth wheel trailers, small motor homes, horse trailers and heavily loaded one-ton trucks); and for towing vehicles which exceed 6,000 pounds (empty) (e.g. medium to large motor homes, commercial trucks and trailers, and trailers less than 26,000 pounds (empty));  Class C & D - for towing vehicles where weight or complex recovery requires the use of a Class C or D Tow Trucks (e.g. vehicles with a weight exceeding 26,000 pounds (empty), such as a very as a very large motor home bus or semi-truck and trailer rig).	
f. Vehicles which are in more than one piece as a result of a collision and it has been documented by requiring the written authorization of the impounding officer on the CHP Form 180 (impounds only) or Tow Services Audit Form when the CHP Form 180 is not required, then the following rates are applicable as authorized.	
Class "A" regular duty tow-trucks:	\$225/hr.
Class "B" medium duty tow-trucks:	\$430/hr.
Class "C" heavy duty tow-trucks:	\$550/hr.
Class "D" heavy duty tow-trucks:	\$550/hr.
The foregoing rates shall be charged as a one-hour minimum charge plus a pro rata charge for each quarter hour as authorized	
4. Storage fee:	
Passenger vehicles, motorcycles, vans and light trucks (per day).	
Per Space, Outside	\$90.00
Per Space, Indoors	\$95.00
5. After Hours Gate Fee - for the release of a vehicle one hour after SCPD desk closes until the desk reopens.	
	\$85.00

## ADDITIONAL TOW RATE AND CHARGE REQUIREMENTS:

- A. "Rates and Charges for Rotation Schedule B only may be adjusted annually, on January 1, subject to approval by City. Rate increases shall not exceed the annual percentage increase in the Consumer Price Index for All Urban Consumers (Current Series) for the San Francisco-Oakland-Hayward, CA region, not seasonally adjusted. The annual percentage increase shall be calculated from the month of June of the current year, to June of the previous year.
- B. Consumers (Current Series) for the San Francisco-Oakland-Hayward, CA region, not seasonally adjusted. The annual percentage increase shall be calculated from the month of June of the current year, to June of the previous year.
- C. Storage and gate fees (if applicable) will be in addition to the basic tow fees listed above.
- D. The labor rate is to be applied in quarter (1/4) hour increments and shall be logged accurately on the receipt. Extra labor fees are subject to approval by S.C.P.D.
- E. Debris Removal Service will be charged at a flat fee of **one-half the tow fee** per call. In addition, assigned contractor will be placed on top of the rotation list for each request for this service.
- F. Vehicles towed to the S.C.P.D impound facility and subsequently towed to Contractor's storage lot may be subject to an additional fee of **one-half the tow fee** over and above the original tow rate.
- G. The towing and servicing of City vehicles as described in Exhibit A will be charged at **one-half the tow and related fees for Rotation B, Rates and Charges.** Extra labor fees are subject to approval by S.C.P.D.
- H. Separate Hazardous Materials Disposal Fee shall not be charged. Fees for such disposal are included in the fees established for tows under the Agreement.