



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Dennis Hawkins, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: 2-15-12

SUBJECT: CITY GENERATED ZONE TOWING ANNUAL RATE REVIEW

RECOMMENDATION

As recommended by the Transportation and Environment Committee on February 6, 2012 and outlined in the attached memo previously submitted to the Transportation and Environment Committee:

- (a) Adopt a resolution setting a new Fee Schedule for Tow Services Agreements to become effective February 29, 2012 as follows:
 - (1) Basic Tow Service, \$185.00 per tow
 - (2) Service call:
 - (a) Class "A" regular duty tow-trucks \$ 46.25 per quarter hour
 - (b) Class "B" medium duty tow trucks \$ 78.25 per quarter hour
 - (c) Class "C" and "D" heavy duty tow trucks \$ 112.50 per quarter hour
 - (3) Extraordinary Service Tows:
 - (a) Class "A" regular duty tow-trucks \$ 92.50 per hour
 - (b) Class "B" medium duty tow-trucks \$ 315.00 per hour
 - (c) Class "C" and "D" heavy duty tow trucks \$ 450.00 per hour
 - (4) After Hours Gate Fee -\$ 80.00 (One hour after close SJPD Desk Hours until 6:00 a.m.)
 - (5) Vehicle Storage fee:
 - (a) \$65.00 per day, per space outside
 - (b) \$75.00 per day per space indoors
 - (6) Maintain contractual rates of compensation to the City of San José at the current levels of:
 - (a) \$ 75.25 per tow
 - (b) \$ 7.00 per dispatch

- (b) Accept direction from the Committee to staff to reduce the current flat rate security deposit from \$40,000 to \$25,000.



Memorandum

TO: TRANSPORTATION AND ENVIRONMENT COMMITTEE

FROM: Joseph Horwedel
Julie H. Cooper

SUBJECT: CITY GENERATED ZONE TOWING ANNUAL RATE REVIEW

DATE: January 20, 2012

Approved

Date

1/27/12

COUNCIL DISTRICT: Citywide

SNI AREA: SNI-wide

RECOMMENDATION

It is recommended that the Committee recommend Council:

1. Adopt a resolution setting a new Fee Schedule for Tow Services Agreements to become effective February 29, 2012 as follows:
 - a. Basic Tow Service, \$185.00 per tow
 - b. Service call:
 - Class "A" regular duty tow-trucks \$ 46.25 per quarter hour
 - Class "B" medium duty tow trucks \$ 78.25 per quarter hour
 - Class "C" and "D" heavy duty tow trucks \$ 112.50 per quarter hour
 - c. Extraordinary Service Tows:
 - Class "A" regular duty tow-trucks \$ 92.50 per hour
 - Class "B" medium duty tow-trucks \$ 315.00 per hour
 - Class "C" and "D" heavy duty tow trucks \$ 450.00 per hour
 - d. After Hours Gate Fee -\$ 80.00 (*One hour after close SJPD Desk Hours until 6:00 a.m.*)
 - e. Vehicle Storage fee:
 - \$ 65.00 per day, per space outside
 - \$ 75.00 per day per space indoors
 - f. Maintain contractual rates of compensation to the City of San José at the current levels of:
 - \$ 75.25 per tow
 - \$ 7.00 per dispatch

2. Provide direction on return of the Contract Security Deposit to the Tow Zone Contractors

OUTCOME

This action will supersede Council Resolution 75086, establishing a new fee schedule for Tow Services Agreements not to exceed the maximum rate allowed under the 2011-2012 Department of Highway Patrol for Tow Services Agreement for the Golden Gate Region - San José Office.

It will further implement and conform to City Council Policy 09-08 providing customers consistency and rate predictability. This action will further assist the Tow Zone Contractors to remain financially solvent pending economic recovery.

BACKGROUND

At the November 7, 2011 Transportation and Environment Committee Meeting, the Committee received a report signed by the San José Police Chief relating to the Police Department Policy on 30-day vehicle holds and reduction in tow activities and current fiscal impacts on the Tow Zone Contractors. After receiving testimony, the Committee requested staff to complete the annual Tow Rate Review in conformance with Council Policy 09-08. Additionally, the Committee requested staff return within 90 days to provide a status report on the tow contracts, including incorporating the issues from the Committee Members, the stakeholders and the community as potential solutions. This included analysis relating to release of the contract security deposit to the Tow Zone Contractors and the possibility of passing through the City of San José contract compensation as a fee to the customer.

ANALYSIS

City Council Policy 9-08 sets forth the method and standard for establishing tow rates and City contractual compensation for the City-Generated Tow Zone Contractors as follows:

1. Ensure that the tow rates are reviewed and adjusted annually to an amount not to exceed the annually approved tow rates allowed by the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region – San José Office.
2. Ensure that any rate increase includes a review of and recommendation for changes to contractual compensation payments as required under the City of San José's adopted Tow Services Agreement.

The Policy further provides that the City Manager will implement the policy by:

1. Ensuring that the City's maximum tow services rates are reviewed annually following staff's review of the approved tow rates allowed by the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region – San José Office, and that a recommendation for rate changes is presented to the City Council for approval.

January 20, 2012

Subject: Annual City Generated Zone Towing Rate Review

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2. Every five years, or as required, reviewing this policy and recommend changes, if warranted, to Council.

Staff has completed its review and this action is to conform to Council Policy and seek Council Authorization to implement tow rates consistent with the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region – San José Office.

In late October 2011, the City Tow Contract Administrator was provided the 2011 – 2012 tow rates as determined by the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region – San José Office.

In recognition of the dramatic decrease in the number of annual tows, from 17,692 in FY07-08 to 12,357 in FY 10-11, staff is recommending an increase in all categories of fees and charges for tow services consistent with Council Policy. Staff is not recommending increasing the City Contract Compensation Fees for 2011-2012. This action will result in additional financial relief to the Tow Zone Contractors. A comparison of the changes is as follows:

Category	Current Rate	Proposed Rate	Change
Basic Tow Service "A"	\$ 175.00	\$ 185.00	\$ 10.00
Service Call - Class "A"	\$ 19.50 per quarter hr	\$ 46.25 per quarter hr	\$ 27.02
Service Call - Class "B"	\$ 71.25 per quarter hr	\$ 78.25 per quarter hr	\$ 7.00
Service Call - Class "C"	\$ 87.50 per quarter hr	\$ 112.50 per quarter hr	\$ 25.00
Service Call - Class "D"	\$ 87.50 per quarter hr	\$ 112.50 per quarter hr	\$ 25.00
Extraordinary Service "A"	\$ 78.00 per hour	\$ 92.50 per hour	\$ 14.50
Extraordinary Service "B"	\$ 285 per hour	\$ 315.00 per hour	\$ 30.00
Extraordinary Service "C"	\$ 350 per hour	\$ 450.00 per hour	\$ 100.00
Extraordinary Service "D"	\$ 350 per hour	\$ 450.00 per hour	\$ 100.00
After Hours Gate Fee	\$ 70.00	\$ 80.00	\$ 10.00
Outside Vehicle Storage Fee	\$ 55 per day	\$ 65.00 per day	\$ 10.00
Inside Vehicle Storage Fee	\$ 55 per day	\$ 75.00 per day	\$ 25.00
City Contract Comp – Tow	\$ 75.25 per tow	\$ 75.25 per tow	\$ 0.00
City Contract Comp – Dispatch	\$ 7.00 per dispatch	\$ 7.00 per dispatch	\$ 0.00

Contract Security Deposit

The City requires a security deposit by Tow Zone Contractors in order to provide the City with a failure-to-remit contract compensation. The security deposit was a condition of the Request for Proposal ("RFP") and award of contract as established by Council on March 24, 2009, and has been a requirement of all tow contractors for many years. The Tow Zone Contractors for the most recent contracts were required to provide a security deposit of \$40,000 for each awarded tow zone and an additional \$20,000 for each additional zone awarded up to a maximum of three zones. The RFP was issued with the requirement of a security deposit; the results of the RFP might have been different if the security deposit was not a mandatory part of the criteria for awarding the contracts.

The City has never had to draw down on any of the Tow Zone Contractor's security deposits during the course of these agreements. In addition, City Finance staff conduct annual reviews of the Tow

Zone Contractor franchise fee payments to ensure that the proper amount of compensation has been remitted to the City under the provisions of the contract. The six Tow Zone Contractors have consistently complied with the timely remittance of payments. The City currently has six Tow Zone Contractors serving the six tow zones in the city. The Tow Zone Contractors collect all of the revenue listed in the above rate structure and fulfill the City's contractual compensation from the revenue collected. In FY 2010-11, the largest amount of annual revenue remitted to the City from the Tow Zone Contractors was approximately \$260,000 and the smallest amount was approximately \$91,000. The existing flat rate deposit structure of \$40,000 equates to 15.3% and 43.9% respectively, of the aforementioned annual revenues range.

The table below includes total revenue remitted to the City from all six Tow Zone Contractors for the past three fiscal years. The aggregate security deposit for all six Tow Zone Contractors is \$240,000.

Fiscal Year	Total Revenue	Percent of Total Deposit (\$240,000) to Total Revenue	Three Month Revenue Average- All Six Companies
08-09	\$1,061,520	22.6%	\$ 44,230
09-10	\$1,196,028	20.1%	\$ 49,835
10-11	\$ 929,864	25.8%	\$ 38,744

As the above table illustrates, the decline in revenues remitted to the City has increased the proportionate amount of the security deposit from 22.6% of revenues in FY 08-09 to 25.8% in FY 10-11. In addition, the current \$40,000 security deposit represents approximately three months worth (25%) of FY 10-11 total revenue remitted to the City. The use of a security deposit serves as an incentive for appropriate contract compliance and staff would recommend its maintenance; however, based on the current decline in revenue, the current flat rate amount could be revisited. The Finance Department believes that two months worth of annual revenue is sufficient to maintain appropriate compliance. Based on FY 10-11 revenue, the two month average of revenues for all six Tow Zone Contractors would be \$25,830. If the security deposit were changed to \$25,000 the total deposit (\$150,000) for the six Tow Zone Contractors as a percentage of total FY 10-11 revenue would equal 16.1%.

Staff is seeking additional guidance from the Committee regarding the proposed reduction in the current flat rate security deposit from \$40,000 to \$25,000. It should be noted that per the contracts with all six tow companies the Director of Finance can annually review and adjust the security deposit.

Pass through of City of San José Contract Compensation

At the November 7, 2011 Transportation and Environment Committee Meeting, staff was requested to evaluate a variety of ideas presented during public testimony. One idea presented was the feasibility of "passing through" the required contract compensation payments of \$75.25 for each tow and \$7.00 for each dispatch remitted by the Tow Zone Contractors to the City of San José. Allowing the Tow Contractors to charge the City's compensation on top of the tow charges that the Contractors charge would effectively increase tow rates by an additional \$82.25 on top of the recommended increases. Staff believes that such a drastic annual increase in tow charges would be

in conflict with Council Policy 9-08 that ensures regional rate predictability and fairness for residents subject to tow services.

EVALUATION AND FOLLOW-UP

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and Police Department.

CEQA

Not a Project.

/s/
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

/s/
JULIA H. COOPER
Acting Director, Finance

For questions, please contact Jamie Matthews, City of San José Tow Contract Administrator at (408) 525-8288.