SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 16-024

WHEREAS, The SFMTA is responsible for efficiently controlling and removing illegally parked and abandoned vehicles to maximize on-street parking, manage traffic congestion and maintain clean, safe and functional streets for the public's use; and,

WHEREAS, Towing is mostly driven by safety requirements and in response to public requests for blocked driveways; and,

WHEREAS, Services have been contracted out for towing, storage and lien sale support since 1987; and,

WHEREAS, On July 31, 2005, the SFMTA executed Contract No. 2013-45 with AutoReturn to manage towing, storage and lien sales for abandoned and illegally-parked vehicles in San Francisco; and,

WHEREAS, The Contract's term was for five years, and two extension were granted – one for five years and one for eight months – with the contract set to expire on March 31, 2016; and,

WHEREAS, AutoReturn has performed their contractual obligations under the current agreement to the satisfaction of the SFMTA through successful technological improvements and integrations with other agency software; and, these improvements have enabled the SFMTA to redirect enforcement labor to other transportation commitments, such as safety and other customer activities; and,

WHEREAS, The SFMTA released a Request for Proposals (RFP) on June 19, 2015 to conduct a competitive procurement process to award a new agreement; and,

WHEREAS, Three proposers submitted proposals in the SFMTA's competitive bid process: San Francisco AutoReturn, AutoSafe, and All Counties Towing; and,

WHEREAS, AutoReturn, the incumbent contractor, was selected as the highest-ranked proposer; and,

WHEREAS, The local business enterprise goal for the new agreement was raised from 12% to 20% to encourage participation from local businesses; and,

WHEREAS, Staff has improved the business model under the proposed contract because the existing business model is dependent on tow volume; and, if volume decreases, as it did from approximately 71,000 tows in 2005 to 42,000 tows in 2015, the contractor may be unable to meet operating expenses; and,

WHEREAS, Under the proposed Contract, the contractor will collect all fees associated with towing, storage, sale and release of vehicles on behalf of the SFMTA. The SFMTA will reimburse the contractor for services through a monthly management fee and variable per vehicle fees for towing, transfer, and lien/auction expenses, which will improve cost control, service oversight, and fee setting; and,

WHEREAS, After a thorough analysis of all costs related to the towing program, the proposed administrative and base tow fees will be reduced by $22.25, or 5%, compared to the current fee; and,

WHEREAS, The administrative fee, tow fee, and 48-hour storage fee waivers, applied to San Francisco residents, who's vehicles are stolen, will be extended to non-residents, which reduces revenue to this program by approximately $1.2 million annually; and,

WHEREAS, Pursuant to Charter Section 16.112 and Section 10 of the SFMTA Board's Rules of Order, advertisements were placed in the City's official newspaper, the San Francisco Chronicle, to provide published notice of the February 16, 2016 hearing, and the notices ran for five consecutive days beginning on January 25, 2016; and,

WHEREAS, The SFMTA, under authority delegated by the Planning Department, has determined that the proposed customer fee schedule and extension of stolen vehicle waivers is statutorily exempt from environmental review pursuant to California Public Resources Code section 21080(b)(8) and CEQA implementing guidelines; and,

WHEREAS, The proposed fee are for the purpose of meeting operating expenses and to ensure adequate funds are available for transit funds; and,

WHEREAS, Payment for all aspects of the tow program will be recovered from fees, therefore having no impact on SFMTA's operational budget; and,

WHEREAS, Said CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by this reference; now, therefore, be it

RESOLVED, The San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute Contract No. SFMTA 2014-48, with TEGSCO, LLC., dba San Francisco AutoReturn, for the Towing and Storage of Abandoned and Illegally-Parked Vehicles in an amount not-to-exceed $65.4 million, for a five-year term ending March 31, 2021, with the option to extend for up to five years; and, be it further

RESOLVED, The SFMTA Board authorizes the Director of Transportation to execute the Bayshore License Agreement for a five-year term ending March 31, 2021, with the option to extend for up to five years; and, be it further

RESOLVED, The SFMTA Board recommends this Towing Agreement and Bayshore License to the Board of Supervisors for its review and approval; and, be it further

RESOLVED, The San Francisco Municipal Transportation Agency Board of Directors amends Transportation Code, Division II, Section 305 to incorporate customer towing, storage, auction and related fees and to extend San Francisco resident waiver provisions to Non-San Francisco residents.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of February 16, 2016.

R. Boomer

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

RESOLUTION NO. 16-024

[Transportation Code – Tow Fees]

Resolution amending the Transportation Code to change the administrative fee and to set the other fees to be charged by the SFMTA in connection with the tow, storage, sale, and release of vehicles towed by the City, and to grant to non-residents the same fee waivers granted to City residents when a stolen vehicle is towed.

NOTE: Additions are single-underline Times New Roman; deletions are ~~strike-through Times New Roman~~.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 300 of Division II of the Transportation Code is hereby revised by amending Section 305, to read as follows:

SEC. 305. TOWING AND STORAGE FEES.

(a) Fees.

(1) The SFMTA shall charge the owner of a towed vehicle the following ~~a~~ fees ~~in the amount of $263.00 effective July 1, 2014, and $266.00 effective July 1, 2015,~~ to reimburse the City for its ~~administrative~~ costs related to the removal, storage, ~~impound,~~ sale, or release of vehicles towed from the public right-of-way, public property, or private property:

Fee Type	Fee Amount
SFMTA Administrative Fee	$261.00

Tow Fees

Fee Type	Fee Amount
Passenger Vehicles Under 10,000 GVW (e.g. cars, light duty trucks, passenger vehicles w/ trailers, unattached trailers, motorcycles and scooters) - Up to 1 Hour	$208.00
Each Additional 1/4 Hour Labor Required	$48.50
Medium Duty Vehicles Over 10,000 GVW (e.g. trucks, buses and unattached trailers) - Up to 1 Hour	$265.00
Each Additional 1/4 Hour Labor Required	$60.25
Heavy Duty Vehicles Over 26,000 GVW (e.g. buses, tractor trucks and/or trailers) - Up to 1 Hour	$419.50
Each Additional 1/4 Hour Labor Required	$73.25
Flat Bed or Dolly Fee	$50.50

Storage Fees (waived if vehicle is picked up within four hours of arrival at storage facility)	Day 1 Fee	Additional Per Day Fee
Storage Fee - Motorcycle	$22.25	$26.00
Storage Fee - Light/Regular Duty Vehicles	$58.50	$68.25
Storage Fee - Medium Duty Vehicles	$85.75	$93.75
Storage Fee - Heavy Duty Vehicles	$138.00	$138.00

Vehicle Transfer Fees

(vehicles transferred to long-term storage facility after 48 hours at primary storage facility)

Fee Type	Fee Amount
Passenger/Light Duty Vehicles	$27.75
Medium Duty Vehicles	$113.75
Heavy Duty Vehicles	$183.75

Tow-Back Fees

(Contractor will, upon request, tow vehicle to Customer's location after all fees are paid)

Fee Type	Fee Amount
Tow-back service for passenger cars, motorcycles, and scooters (per vehicle) towed within the City and County of San Francisco (passenger/light duty only)	$95.00
Additional per-mile fee for any portion of tow-back occurring outside the limits of the City	$9.50

Lien Fees

Fee Type	Fee Amount
Vehicles valued at $4000 or less	$35.00
Vehicles valued at more than $4000	$50.00

(2) The SFMTA shall charge the purchaser of a towed vehicle sold at a lien sale the following fees related to the sale:

Auction Sales Service Fee (based on vehicle sale amount)

Fee Type	Fee Amount
$0 - $249.99	No charge
$250 - $499.99	$110.00
$500 - $999.99	$140.00
$1,000 - $1,499.99	$185.00
$1,500 - $1,999.99	$240.00
$2,000 - $2,499.99	$300.00
$2,500 - $4,999.99	$380.00
$5,000 and above	$635.00

~~In addition, the SFMTA shall charge the vehicle owner a fee to reimburse the City for administrative costs related to the storage of such towed vehicles in the amount of $2.75 effective July 1, 2014, and $3.00 effective July 1, 2015, for the first day of storage (24 hours or less), and $3.25 effective July 1, 2014, and $3.50 effective July 1, 2015, for each day, or part thereof, that the vehicle remains in storage~~

~~after the first 24 hours. The administrative fees imposed pursuant to this subsection (a) shall be in addition to the fee charged by a tow car operator to the owner of a towed vehicle for the costs of towing and storing the vehicle. The administrative fees imposed pursuant to this subsection shall not be taken into account in determining the maximum fee that may lawfully be charged by the tow car operator to the owner of a removed vehicle, nor shall the administrative fees imposed pursuant to this subsection be taken into account in determining whether a fee charged by the tow car operator to the owner of a removed vehicle is excessive as a matter of law.~~

(b) **Reimbursement and Waiver of Towing and Storage Fees.**

(1) ~~Except as provided in subsection (c), below, any~~Any fees imposed or authorized under subsection (a) ~~by the SFMTA~~ in connection with the tow, storage, or lien of vehicles towed from the public right-of-way, public property, or private property ~~towing or storage of vehicles, or the amount charged for removal of components of a vehicle,~~ may be waived for, or reimbursed to, the registered or legal owner of the vehicle if the fees were incurred:

(A) Because the vehicle was towed or stored by order of the San Francisco Police Department to examine the vehicle for evidence of a crime;

(B) Because the vehicle was towed and stored by order of the San Francisco Police Department or the SFMTA and said towing or storage was not authorized by state or local law;

(C) Because the San Francisco Police Department or the SFMTA erroneously reported, filed, or recorded the circumstances of the towing or storage of the vehicle; or

(D) Because the vehicle was towed or stored by order of the San Francisco Police Department or the SFMTA for removal of components of the vehicle, which components were placed on the vehicle in violation of Section 10751 of the Vehicle Code.

(2) Upon verifiable proof that the vehicle was reported stolen before it was towed, or upon a determination by the San Francisco Police Department that the vehicle was stolen, and if the vehicle owner is an individual, the SFMTA shall waive~~, if the vehicle owner is an individual,~~ for, or reimburse to, the registered or legal owner:

(A) ~~All of it's~~ The ~~tow fees, storage fees,~~ administrative, tow, vehicle transfer, and lien ~~fee, tow~~ fees~~, related to the removal, impound, or release of the vehicle~~ established in subsection (a), above; and ~~(see subsection (a), above) if the vehicle owner is a San Francisco resident, and 50% of such fee if the vehicle owner is a non-resident;~~

~~(B) Its administrative fee related to the storage of the towed vehicle (see subsection (a), above);~~

~~(C) The City Contractor's fees related to the removal, impound, or release of the towed vehicle; and~~

(B~~D~~) The ~~City Contractor's~~ storage fees that would otherwise accrue during the first 48 hours that the vehicle is stored, established in subsection (a), above ~~if the vehicle owner is a San Francisco resident, and the Contractor's storage fees that would otherwise accrue during the first 24 hours that the towed vehicle is stored if the vehicle owner is a non-resident~~.

(c) **Indigent Owner.**

(1) Should the owner of the vehicle or one in lawful possession sign an affidavit, under penalty of perjury, that said person is indigent and does not immediately have the funds to pay the accrued fees related to the tow, storage, or lien of the vehicle, ~~towing, storage, or removal of component fee,~~ the Director of the SFMTA or his or her designee shall immediately make such investigation as necessary to ascertain if said indigent person is entitled to immediate possession of his or her vehicle without the payment of the fees ~~incurred for towing, storage, or removal of component parts of said vehicle~~.

(2) Should the Director of the SFMTA or his or her designee, after an investigation, decide that the towing, or storage~~, or removal of the component parts~~ of a vehicle comes within the provisions of subsections (b)(1) or (2), above, and the owner of the vehicle or one in lawful possession signs an affidavit of indigency, the Director of the SFMTA shall issue a waiver directed to the person, firm or corporation having custody of the vehicle. Said affidavit shall be on a form approved by the Director of the SFMTA.

(3) Upon presentation of this waiver to the person, firm, or corporation having custody of the vehicle, the vehicle shall be repossessed by the person presenting the waiver, without further payment.

(4) The person, firm, or corporation receiving the waiver may present the waiver to the office of the SFMTA designated by its Director for payment of the fees stated on the waiver.

(d) **Prohibition on Wavier and Reimbursement of Towing and Storage Fees.** No reimbursement or waiver shall be made to the registered or legal owner of a vehicle pursuant to the provisions of subsection (b)(1) or (2), above, if:

(1) The owner or person in lawful possession of the vehicle is chargeable with violation of any law of the City and County of San Francisco, the State of California, or the United States, and said charge relates to the towing and storage of the vehicle or the removal of component parts thereof; or

(2) Reimbursement or waiver is requested pursuant to subsections (b)(1)(B) or (b)(1)(C), above, and the City's error in ordering, reporting, filing, or recording the tow is attributable, in part, to the conduct of the registered owner, legal owner, or one in lawful possession of the vehicle; or

(3) The registered or legal owner of the vehicle, including a firm or corporation that owns vehicles used for commercial purposes, cannot show evidence of

financial responsibility for said vehicle as required by Section 16020 of the California Vehicle Code.

(e) **Application for Reimbursement or Waiver.**

(1) Requests for reimbursement or waiver must be presented to the Director of the SFMTA or his or her designee, on a form provided therefor, within 30 days of the date of the tow of the vehicle. The Director, or his or her designee, may, in his or her sole discretion, extend this deadline for good cause shown.

(2) Requests for reimbursement or waiver shall be itemized, describing all circumstances known to the requesting party. The Director of the SFMTA or his or her designee may request such additional information as necessary to determine the legitimacy of the request for reimbursement or waiver.

(3) All requests for reimbursement or waiver shall be made under penalty of perjury.

(4) The amount of the requested reimbursement or waiver shall not exceed the actual fees charged to the individual or entity requesting reimbursement or waiver.

(f) **Prosecution of Person Responsible.** No request for reimbursement or waiver shall be considered by the Director of the SFMTA or his or her designee unless and until the person requesting reimbursement or waiver agrees in writing that said person will fully cooperate in the investigation or prosecution of any person or persons responsible for any violation of law giving rise to the request for reimbursement or waiver.

(g) **Subrogation.** Whenever reimbursement or waiver is made pursuant to this Section 305, the City and County of San Francisco is subrogated to all rights and privileges, at law or equity, of the person, or his or her heirs or assigns, to whom payment was made to recover any monies, from any source whatsoever, due to the person requesting reimbursement or waiver arising from the activity that caused the fees to be incurred.

(h) **Procedures.** The Director of Transportation may establish such procedures as he or she deems appropriate to facilitate the waiver and reimbursement of towing and storage fees in accordance with this Section 305.

Section 2. Effective and Operative Dates. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation Agency Board of Directors approves this ordinance. This ordinance shall become operative on April 1, 2016.

Section 3. Scope of Ordinance. In enacting this ordinance, the San Francisco Municipal Transportation Agency Board of Directors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Transportation Code that are explicitly shown in this ordinance as additions or deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Mariam M. Morley
Deputy City Attorney

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of February 16, 2016.

R. Boomer
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Secretary to the Board of Directors
San Francisco Municipal Transportation Agency