

**City and County of San Francisco
Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, California 94103**

**Second Amendment to
the Restated and Amended Agreement
for Towing and Storage of Abandoned and Illegally-Parked Vehicles**

THIS AMENDMENT (this "Amendment") is made as of August 1, 2015, in San Francisco, California, by and between TEGSCO, LLC, d.b.a. San Francisco AutoReturn ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA").

RECITALS

- A. City and Contractor have entered into the Agreement (as defined below).
- B. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the Agreement by eight months and waive the Contractor's towing fee for individuals with stolen vehicles and allow a grace period of up to 72 hours for the Contractor's storage fees for stolen vehicles.

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated July 31, 2015 between Contractor and City, as amended by the:

First Amendment, dated May 1, 2014

1b. Contract Monitoring Division. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division ("CMD"). Wherever "Human Rights Commission" or "HRC" appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean "Contract Monitoring Division" or "CMD" respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is modified as follows:

2a. Section 2 (Term of the Agreement) is replaced in its entirety to read as follows:

The Term of this Agreement shall be from July 31, 2010 through March 31, 2016.

2b. Subsection (a) (City Waivers) of Section 12.2 of Appendix A – Scope of Work (Credits Due to Contractor) is replaced in its entirety to read as follows:

(a) City Waivers

In the event that (i) SFMTA, DPH or the SFPD determines pursuant to a post-storage hearing as required by Vehicle Code § 22852 that the towing, storage, transfer, lien and/or other fees shall be waived for a vehicle, or (ii) SFMTA, DPH or the SFPD waives the fees for the towing, storage, transfer and/or lien of a vehicle, or (iii) SFMTA or (iv) the SFPD waives the fees for the towing and storage of a vehicle for one of the reasons enumerated in §§ 10C.1 or 10C.8 of the San Francisco Administrative Code, or for towed vehicles identified by the SFPD as stolen then no such fees shall be charged by Contractor to the owner or operator of such vehicle. In the event that the owner or operator of a vehicle has paid Contractor for towing, storage, transfer, lien and/or other fees and the City subsequently waives the tow, storage, transfer, lien and/or other fees for that owner or operator, then Contractor shall directly reimburse the owner or operator in full the amounts previously paid to Contractor for such vehicle. When the City waives towing, storage, transfer and/or lien fees as provided for in this section, the City shall pay Contractor only the towing, storage, transfer and/or lien fees that would have been owed by the vehicle owner or operator, and such fees shall not include any SFMTA Administrative Fees as Contractor might otherwise charge. When the City waives storage fees as provided in this Section, the City shall pay Contractor storage fees for each such vehicle as set forth above for the first three (3) days of storage. There shall be no storage charge for the fourth (4th) through the ninth (9th) days of storage. For the tenth (10th) storage day and all days thereafter, City shall pay Contractor ten dollars (\$10.00) per day for the storage of such vehicles. Adjustments and credits and payments due to Contractor as a result of City waivers shall be calculated and submitted to the City through the City's claims process and are to be paid within one (1) month from the date of submission by the Contractor.

There shall be no late payment charges or interest assessed against City for late payment.

When SFMTA or the SFPD orders Contractor to release a vehicle pursuant to Vehicle Code § 22654(e) relating to authorization for moving a vehicle otherwise lawfully parked, City shall pay the cost of the tow and storage charges for a period not to exceed seventy-two (72) hours.”

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after August 1, 2015.

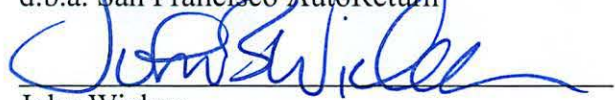
4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY
San Francisco
Municipal Transportation Agency

CONTRACTOR

TESGCO, LLC,
d.b.a. San Francisco AutoReturn



Edward D. Reiskin
Director of Transportation

John Wicker
President and CEO

City vendor number: 01-0688299

Approved as to Form:
Dennis J. Herrera
City Attorney

By:

Mariam Morley
Deputy City Attorney

San Francisco Municipal Transportation
Agency
Board of Directors
Resolution No: _____
Adopted: _____
Attest: _____

Secretary, SFMTA Board of Directors

Board of Supervisors

Resolution No: _____
Adopted: _____

Attest: _____
Clerk of the Board

LEASE AMENDMENT

THIS FIRST AMENDMENT (this "Amendment") is made as of August 1, 2015, by and between CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City") acting by and through its Municipal Transportation Agency ("SFMTA"), and TEGSCO, LLC., a California limited liability corporation, d.b.a San Francisco AutoReturn ("Licensee").

RECITALS

A. City and Licensee have previously entered into an existing license agreement, dated as of May 1, 2014 (the "Original License"), for the Premises (as defined in the Original License) located at 2650 Bayshore Boulevard, Daly City, California. The Original License, as amended by this Amendment, shall be referred to herein as the "License Agreement".

B. The term of the Original License expires on July 31, 2015, and the parties now desire to extend such term on the terms and conditions as set forth herein.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and Licensee agree as follows:

1. Extension of License Term. Section 4.1 of the Original License is hereby amended and restated to read in its entirety as follows:

"4.1 Original Term. The privilege given to Licensee pursuant to this License is temporary only and shall commence upon the Commencement Date (as described in the Basic License Information) and shall terminate on March 31, 2016, or the date of earlier termination of this License pursuant to the terms of this License or the Towing Agreement (the "Expiration Date"). Without limiting any of its rights hereunder, City may at its sole option freely revoke this License at any time, without cause and without any obligation to pay any consideration to Licensee. Licensee acknowledges its receipt and acceptance of the Premises on May 1, 2013."

2. 7th Street Lease Rent Credit. Pursuant to a SF Parking Airspace Lease between Licensee and the State of California (SF-80-11), dated as of January 6, 2015 (the "7th Street Lease"), Licensee leases certain real property at 450 7th Street in San Francisco, California, from the State of California, for the customer service center and short-term towing and storage facility Licensee must provide under the Towing Agreement. Notwithstanding anything to the contrary in Article 5 of the Original License, if Licensee makes a rent payment of \$90,000 or more under the 7th Street Lease to the State of California for any month between August 1, 2015 through March 31, 2016, Tenant shall receive a rent credit of \$53,000 against the Base Fee owed by Licensee for such month under the License Agreement.

3. Criminal History Inquiries for Employment.

(a) Unless exempt, Licensee agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; “Chapter 12 T”), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Licensee who would be or are performing work at the Premises.

(b) Licensee shall incorporate by reference the provisions of Chapter 12T in all sublicenses of some or all of the Premises, and shall require all sublicensees to comply with such provisions. Licensee’s failure to comply with the obligations in this subsection shall constitute a material breach of the License Agreement.

(c) Licensee and sublicensees shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant’s or potential applicant for employment, or employee’s: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Licensee and sublicensees shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Licensee and sublicensees shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Licensee and sublicensees shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises that the Licensee and sublicensees will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Licensee and sublicensees shall post the notice prepared by the Office of Labor Standards Enforcement (“OLSE”), available on OLSE’s website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Licensee and sublicensees understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T or this Permit, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of the License Agreement.

(h) If Licensee has any questions about the applicability of Chapter 12T, it may contact the SFMTA for additional information. SFMTA may consult with the Director of the City’s Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

4. Bottled Drinking Water. Unless exempt, Licensee agrees to comply fully with and be bound by all of the provisions of the San Francisco Bottled Water Ordinance, as set forth in San Francisco Environment Code Chapter 24, including the administrative fines, remedies, and implementing regulations provided therein, as the same may be amended from time to time. The provisions of Chapter 24 are incorporated herein by reference and made a part of the License Agreement as though fully set forth.

5. No Joint Venture. This Amendment or any activity by the City hereunder does not create a partnership or joint venture between the City and Licensee relating to the License Agreement or otherwise. This Amendment does not constitute authorization or approval by the City of any activity conducted by Licensee, and the City shall in no way be responsible for the acts or omissions of Licensee on the Premises or otherwise.

6. Attorneys Fees. In the event a dispute arises concerning this Amendment, the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Amendment, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

7. References. No reference to this Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended hereby.

8. Applicable Law. This Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

9. Further Instruments. The parties hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this Amendment.

10. Effective Date. The date of which this Amendment shall become effective as of the date this Amendment is duly executed and exchanged by the parties hereto.


11. Miscellaneous. Except as expressly modified herein, the terms, covenants and conditions of the Original License shall remain unmodified and in full force and effect. The Original License as amended by this Amendment constitutes the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. The execution of this Amendment shall not constitute a waiver of relinquishment of any rights that City may have relating to the Original License. Licensee and City hereby ratify and confirm all of the provisions of the Original License as amended by this Amendment.

In witness whereof, the parties hereto have executed this Amendment as of the date written above.

[SIGNATURES ON FOLLOWING PAGE]

LICENSEE:

TEGSCO, LLC, a California limited liability company d.b.a. San Francisco AutoReturn

By: 
John Wicker, President and CEO

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation

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

By: _____
Mariam Morley,
Deputy City Attorney

San Francisco Municipal Transportation Agency
Board of Directors
Resolution No: _____
Adopted: _____
Attest: _____

Secretary, SFMTA Board of Directors

Board of Supervisors

Resolution No: _____
Adopted: _____

Attest: _____
Clerk of the Board