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# CITY OF POMONA COUNCIL REPORT

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November 21, 2022

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Michael Ellis, Chief of Police

**SUBJECT: APPROVE A RESOLUTION PROVIDING NOTICE OF INTENT TO AWARD NON-EXCLUSIVE TOWING FRANCHISES FOR CITY-INITIATED TOWS TO FOUR (4) FRANCHISES AND SETTING A PUBLIC HEARING TO INTRODUCE A TOWING FRANCHISE ORDINANCE**

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## **RECOMMENDATION:**

It is recommended that the City Council take the following actions:

- 1) Adopt the following resolution:

**RESOLUTION NO. 2022-177 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, DECLARING ITS INTENT TO GRANT THREE-YEAR NON-EXCLUSIVE TOWING FRANCHISES FOR CITY-INITIATED TOWS AND SETTING THE PUBLIC HEARING TO INTRODUCE THE TOW FRANCHISE ORDINANCE**

- 2) Approve extension of the current tow franchise agreement from January 2, 2023 through January 18, 2023.

## **EXECUTIVE SUMMARY:**

The City Charter sets forth the procedures for entering into franchise agreements with providers of services utilized by the City. Pomona City Code Chapter 58, Article VIII, sets forth the procedures specific to the award of towing service franchises. Entering into Non-Exclusive Franchise agreements with qualified tow companies for City-initiated tows provides the Police Department with a reliable and orderly means for towing vehicles when required, such as: 1) when a vehicle is involved in a traffic collision and is non-operable, 2) a vehicle requires impoundment pursuant to State Law, and 3) other situations where leaving a vehicle unattended or unsecured on public rights-of-way could pose a hazard or public safety issue. The Police Department is

recommending three-year contracts be awarded to S & J Towing, Inc., Carpe Carma, L.L.C. dba Pomona Valley Towing, Inc., Sanders Towing, Inc., and Al & Son's Towing, Inc. The attached resolution (Attachment No. 1) declares the City's intent to award the franchises for a three-year term. A public hearing on the matter will be set for December 5, 2022.

### **FISCAL IMPACT:**

General Fund revenue from Franchise Fees for FY2021-22 was \$130,850. It is estimated that the City will receive \$125,000 for Fiscal Year 2022-23. It is anticipated that Franchise Fees for City initiated tows, at the rate of \$50 per tow, will generate an estimated \$130,000 to \$150,000 in annual revenue for FY2023-24 through FY 2024-25.

### **PUBLIC NOTICING REQUIREMENTS:**

There is no public notice required for adoption of the Resolution of Intent. The Notice for the recommended public hearing date of December 5, 2022 will be published in the Inland Valley Daily Bulletin.

### **PREVIOUS RELATED ACTION:**

On October 21, 2002 the City Council (Council) adopted Ordinance No. 3965 to amend the Pomona City Code to provide for and specify the means for the City to attain the best tow truck services for the City, establishing the Tow Service Franchise.

On February 25, 2013, Council approved an extension of franchises for 90 days to allow staff time to review the existing code and determine what amendments could be incorporated that would allow additional tow franchise opportunities.

On June 17, 2013, the Council adopted Ordinance No. 4171 which reduced storage requirements from 200 to 100 vehicle spaces for towing franchises, clarified that vehicles must be stored and released from the same location as the tow operators' office, and continued to require that the office and storage yard shall have operated for at least two calendar years prior to applying for and obtaining a franchise.

On September 9, 2013, Ordinance No. 4174 was introduced for the award of three non-exclusive towing franchises. Council adopted Resolution No. 2013-87 declaring the City's intent to award the franchises and setting the public hearing on the matter for October 7, 2013. Council also adopted Resolution No. 2013-88 approving the maximum towing and storage rates for City-initiated tows, and directed staff to bring back an ordinance to lower the vehicle storage capacity to 75 and amend the Pomona business history requirement for franchise applicants.

On October 7, 2013, Council adopted Ordinance No. 4174 approving three, three-year non-exclusive towing franchises for City-initiated tows; and, introduced Ordinance No. 4176 to reduce the vehicle storage capacity from 100 vehicles to 75 and modify the Pomona business history requirement for franchise applicants.

On October 21, 2013, the Council adopted Ordinance No. 4176 which further reduced storage requirements from 100 to 75 vehicle spaces for towing franchises, and amended the requirement that franchisees must have been operating in the City for a minimum of two years. The adoption of this amendment changed the requirement to operation as a vehicle tow and storage provider for a minimum of four consecutive years within California, or operation as a contracted tow and storage provider for a public agency for a minimum of two years.

On September 12, 2016, the Council adopted Ordinance No. 4174 extending the three franchises for one year and directing staff to issue a Request for Qualification to seek additional two franchise applications.

On November 4, 2019, the Council adopted Resolution 2019-168 declaring the City's intent to award the franchises and setting a public hearing date of November 18, 2019.

On November 18, 2019, Council introduced Ordinance No. 4272 for the award of three non-exclusive towing franchises. Council also adopted Resolution No. 2019-181, approving the maximum allowable tow and storage rate schedule for city-initiated tows.

On December 2, 2019, Council adopted Ordinance No. 4272, awarding non-exclusive towing franchises for city initiated tows to Sanders Towing, Inc., S&J Towing Service Inc., and Carpe Carma, L.L.C. dba Pomona Valley Towing Inc., for a term of three years.

July 18, 2022, Council adopted Ordinance No. 4318 which amended sections 58-676(18) and 58-679(a) and (b) of the Pomona City Code pertaining to equipment requirements and the rotation system for City tow franchises. This amendment required equipment capable of heavy-duty tows, established a second rotation system for heavy-duty tows, and change response requirements for City tow franchises.

## **DISCUSSION:**

Pursuant to Pomona City Code ("PCC") section 58-678, the initial term of a towing franchise agreement is three years, which the Council may extend for additional terms for a period of one year to three years. The initial three-year term of the current tow franchise agreements expires January 2, 2023. In accordance with the provisions of Chapter 58, Article VIII, and the term of the franchise agreements, the current franchises may be extended for a second three-year term.

On August 11, 2022, a Request for Qualifications (RFQ) was prepared and posted on the City's website. The RFQ was sent to sixteen (16) tow service companies; thirteen (13) of those companies downloaded the RFQ, and six (6) of those submitted bids. Of the six bids received, one failed to meet the minimum qualifications listed in the RFQ. The following five (5) bidders met the minimum requirements listed in the RFQ and were forwarded to the Pomona Police Department Traffic Services Bureau for inspections: Al & Son's Towing Inc., Carpe Carma, L.L.C. dba Pomona Valley Towing, Inc., Edwin's Towing, Inc., S & J Towing Service, Inc., and Sanders Towing, Inc.

Each proposal was reviewed for completeness and qualifications, and an inspection of each tow yard was conducted by Police Traffic Services Bureau Personnel (“Personnel”). Al & Son’s Towing, Inc., Carpe Carma, L.L.C. dba Pomona Valley Towing, Inc., S & J Towing Service, Inc., and Sanders Towing, Inc. met the requirements of the City’s franchise ordinances and passed inspection; however, Edwin’s Towing, Inc. failed to meet the requirements and failed the inspection.

Staff recommends awarding S & J Towing Service, Inc., Carpe Carma, L.L.C. dba Pomona Valley Towing, Inc., Sanders Towing, Inc., and Al & Son’s Towing, Inc. non-exclusive towing franchises for City-initiated tows for the contract term of January 19, 2023 through January 18, 2026.

Staff is further recommending that the Council, as allowed by Section 58-678 of the City Code, extend the three current Franchise Agreements for City-Initiated Tows with S & J Towing, Inc. Sanders Towing, Inc., and Carpe Carma, L.L.C. dba Pomona Valley Towing, Inc. until the proposed ordinance officially awarding the non-exclusive towing franchises becomes effective, which is thirty (30) days after second reading and adoption of said ordinance. During the extension period, all terms and conditions of the current Franchise Agreements approved by Ordinance No. 4272 shall remain in full force and effect.

Pursuant to PCC§ 56-678 the initial term of a towing franchise agreement is three years, which the Council may then extend for an additional term; for a period of one year to three years. Pursuant to PCC § 58-675, the Chief of Police may determine whether an additional tow franchise operator is needed for the rotation process, due to an increase in volume or termination of an existing franchise.

Prepared by:

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Robert Scheppmann  
Police Sergeant

**ATTACHMENT(S):**

Attachment No. 1 – Resolution No. 2022-177