



## **REPORT TO CITY COUNCIL**

**To: Honorable Mayor and Members of the City Council**

**From: Jason Simpson, City Manager**

**Prepared by: Alex Teahen, Management Analyst**

**Date: June 28, 2022**

**Subject: Adopt a Resolution Awarding Tow Franchise Agreements, Resolution Amending Tow Franchise Fees, and Introduction of an Ordinance amending and restating Chapter 12.14 of the Lake Elsinore Municipal Code regarding rotational towing services**

### **Recommendation**

adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AWARDED TOW FRANCHISES AGREEMENTS TO BROTHER'S TOWING, STEVE'S TOWING, DIAMOND VALLEY TOWING AND RIVERA TOWING.

adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AMENDING TOW FRANCHISE FEES.

Introduce by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AMENDING AND RESTATING CHAPTER 12.14 OF THE LAKE ELSINORE MUNICIPAL CODE REGARDING ROTATIONAL TOWING SERVICES

### **Background**

Pursuant to California Vehicle Code Section 12110(b), the City has the authority to grant franchises to companies that provide certain towing services and to collect a franchise tow service fee to offset actual and reasonable costs incurred in connection with administering its police towing program.

In February 2014, the City Council adopted Ordinance No. 2014-1322 amending and restating Chapter 12.14 of the Lake Elsinore Municipal Code regarding rotational tow services. Subsequently, the City issued a request for qualifications (RFQ) to local tow truck operators and entered into a Tow Operation Franchise Agreement with five local tow companies on July 22, 2014. The original franchise agreements were for a term not to exceed four years with a two-year extension for well-performing franchisees.

## Tow Franchise Ordinance Update, Fee Resolution, and Agreements

On July 19, 2020, the City authorized Amendment No. 1 to the City Tow Operation Franchise Agreement, extending the term of the Original Agreement to June 30, 2021, for three remaining companies with existing agreements.

On June 22, 2021, the City authorized Amendment No. 2 to the City Tow Operation Franchise Agreement, extending the term of the Original Agreement to June 30, 2022, for the three companies with existing agreements. Currently, the City has existing agreements in place with Brother's Towing, Diamond Valley Towing, and Steve's Towing.

Both agreement amendments continued all terms of the current agreements and allowed for the franchise fee structure to remain unchanged. As stated in the June 22, 2021, Staff Report recommending execution of Amendment No. 2, any changes to the fee structure would not take place until Fiscal Year 2022/2023.

Per the original Tow Operation Franchise Agreement executed in February 2014, the City received a \$1,000 flat-fee per franchisee, which gradually was increased by \$1,000 each year for four years. The \$4,000 fee has remained unchanged since 2020. However, as the costs of police services have increased so have the costs of administering the tow program.

During FY 2020-2021 and FY 2021-2022, the Police Department estimates they towed approximately 1,700 vehicles, or approximately 850 vehicles per year.

### **Discussion**

During FY 2021-2022, Staff conducted an evaluation of the City's rotational tow services program and fee schedule. Current sources of revenue for the program include the existing franchise fee of \$4,000 per franchisee and Vehicle Impound Cost Recovery Fees (VICR) paid by registered or legal owners who seek the release of a vehicle that has been impounded. While the VICR fees offset the majority of the cost associated with the program, the franchise fee can fill the remaining gap in the overall costs of administering the program, which gap is estimated to be approximately \$20,000 per year.

Staff determined that a gradual fee structure that begins with a \$4,000 flat-fee per franchisee that will generate \$16,000 in Fiscal Year 2022-2023 along with annual increases of \$500 per year was appropriate to fill the City's cost gap as noted above. Accordingly, staff recommends the following franchise fee schedule over the next four years:

- Year 1: \$4,000 flat-fee per franchisee
- Year 2: \$4,500 flat-fee per franchisee
- Year 3: \$5,000 flat-fee per franchisee
- Year 4: \$5,500 flat-fee per franchisee

On January 7, City staff issued a notice of request for qualifications (RFQ) to solicit qualified tow truck operators currently operating in the City who were interested in entering into a franchise agreement to provide rotational police towing and storage services to the City of Lake Elsinore and the Lake Elsinore Police Department.

Five local tow truck operators responded to the RFQ. The City and Police Department conducted a multi-step evaluation of the submitted tow franchise proposals and concluded that four tow companies have met or exceeded the requirements of the RFQ and the Tow Operation

## Tow Franchise Ordinance Update, Fee Resolution, and Agreements

Franchise Agreement. This included facility and equipment inspections by the Police Department to assess the quality and condition of the vehicles, equipment, and storage areas.

Pursuant to Chapter 12.14, Police Captain Andrew Elias determined the number of franchisees needed to provide towing services to the Police Department. Therefore, Captain Elias is recommending the award of franchises to four (4) tow companies including: Brother's Towing, Steve's Towing, Diamond Valley Towing and Rivera Towing.

Currently, the City has franchise agreements with three of the local companies. The proposed recommendation adds an additional operator, Rivera Towing Inc. to the Police Department's rotational tow schedule.

During the evaluation of the City's rotational tow services program, staff also reviewed the City's tow franchise ordinance, Lake Elsinore Municipal Code, Chapter 12.14. Staff is proposing minimal revisions to LEMC Chapter 12.14 in order to streamline the ordinance. Proposed changes would not change the fundamental relationship between the City and the franchisees. Key revisions include:

- Removed chapter 12.14.070 Conditions on franchises and 12.14.080 Rates to allow the Tow Operation Franchise Agreement to set the conditions on franchise operators and franchisee rates.
- Removed prohibition of Class B, C, or D operators from maintaining a place on a lighter class rotation list.
- Removed language regarding transfer of Tow Operation Franchise Agreement.

Attached is a clean version and a redline version of the proposed changes to the existing municipal code and the franchise agreement.

The proposed franchise agreements would be for a term not to exceed four years with the new agreements taking effect July 1, 2022, with the possibility of a two-year extension for well-performing franchisees.

### **Fiscal Impact**

The current annual franchise fee for each company is a flat fee of \$4,000 per year. This would result in total franchise fees to the City of \$16,000 for Fiscal Year 2022-2023, \$18,000 for Fiscal Year 2023-2024, \$20,000 for Fiscal Year 2024-2025, and \$22,000 for Fiscal Year 2025-2026.

### **Exhibits**

- A – Ordinance
- B – Resolution Awarding Tow Franchises
- C – Resolution Amending Tow Franchise Fees
- D1 – Tow Franchise Agreement Brother's Towing
- D2 – Tow Franchise Agreement Diamond Valley
- D3 – Tow Franchise Agreement Rivera Towing
- D4 – Tow Franchise Agreement Steve's Towing
- E – Comparison of Existing and Proposed Changes to Ch. 12.14 Marked to Show Revisions