

# TOWING CAN DEVASTATE A POOR FAMILY: THE SOLUTION IS TO REDUCE THE FEES.

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## ABSTRACT

*California’s exceedingly steep fees for government-ordered vehicle tows drain local budgets and punish low-income vehicle owners and their families. The average total cost of a vehicle tow and impound in California is \$500.00—more than an entire week pay on the state’s full-time minimum wage. Overnight tow-yard storage fees alone are astronomical, exceeding the cost of nearby market rate parking by as much as \$78.00 in some cities.*

*In response to these excesses, State Assembly Member Davd Chiu introduced a bill in 2019, AB-516, aimed at overhauling California’s statutory towing scheme. AB-516 called for cuts to the state’s permissible grounds for towing, garnered extensive attention, and failed, precisely because of fear of State encroachment on localities ability to enforce towing rules.*

*This note adds to the public debate over government-ordered tows that began in 2019. It argues that a statewide fee reduction for low-income and first-time tows, modeled after San Francisco’s, could alleviate the worst effects of California’s towing system. More broadly, it attempts to pick up where Assembly Member Chiu’s AB-516 left off. As the bill was debated, print publications and public comments theorized that a reduction in tow fees would go far in fixing California’s towing system. This note shows that this is indeed a viable path.*

*First, the note provides a bird’s eye view of California’s statutory towing system, focusing on the financial toll the tow system has on low-income vehicle owners. Second, this note focuses on the San Francisco Metropolitan Transit Authority’s “first-time/low-income” fee reduction program for tows. The note discusses the Program’s most recent iteration and the circumstances surrounding its passage, arguing that a similar statewide fee reduction for tows is sound and effective policy that should be taken up in the State legislature. As part of its analysis, the Note provides model amendments as well as recommendations for further research.*

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## I. THE RECENT DEBATE OVER GOVERNMENT-ORDERED CAR TOWS

“Letters to The Editor” sections of newspapers are often fraught with snubs, backhanded compliments, and appeals to humanity. The Los Angeles Times’ “To the Editor” section on June 18, 2019, was a perfect example. Marsha of Los Angeles wrote, “compassion should be taken into account when making any decision, especially by those who have the power to influence the lives of others.”<sup>1</sup> On the same issue, Earl of Granada Hills came out differently. “We have too many cars on the street,” he explained.<sup>2</sup> “If you have no place to park your car, cannot pay your tickets or otherwise cannot be responsible for your vehicle, you should not be driving.”<sup>3</sup>

Marsha and Earl were writing about the same thing—car tows. And they were responding to the same L.A. Times editorial entitled “Towing Can Devastate a Poor

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1. *Readers React: A towed car can mean life on the street for some homeless people*, L.A. TIMES (June 18, 2019) [hereinafter *Readers React*], <https://www.latimes.com/opinion/readersreact/la-ol-le-tow-cars-homeless-street-20190618-story.html>.

2. *Id.*

3. *Id.*

Family. But the Solution Isn't to Throw Out the Rules.”<sup>4</sup> The editorial focused on State Assembly Bill No. 516 (AB-516), which if passed, would change some of the state's permissible grounds for government-ordered vehicle tows (as opposed to private tows, ordered by an insurer or private business).<sup>5</sup>

As its title indicates, “Towing Can Devastate a Poor Family” applauded AB-516's goal, shielding low-income Californians from increasingly high penalties for vehicle tows.<sup>6</sup> Citing a report by the bill's sponsors, the editorial agreed that the same astronomical tow fees used by public agencies to change the behavior of “the more affluent,” unjustly punishes those living paycheck-to-paycheck.<sup>7</sup>

Despite AB-516's noble intentions however, “Towing Can Devastate a Poor Family,” concluded that the bill was wrong in its approach to fixing California's towing problem. The bill simply went too far by limiting cities' rights to tow cars on reasonable grounds. AB-516, for example, would have imposed a five-day notice requirement before a city could tow a vehicle because it was legally parked in front of private property for more than 72 hours.<sup>8</sup>

This five-day notice requirement was of chief concern to those writing into the L.A. Times on June 18, 2019, including Marsha, the bill's lone published supporter.<sup>9</sup> In her view, the notice requirement was necessary recognition of the rising number of families forced to call their cars and RVs home because of the region's high cost of living. All others writing into the Times though, disagreed. Gene of West Covina described the majority view best. Gene acknowledged the state's swelling homeless population but in his view it was for this very reason that cities needed all they could—including the unchanged 72 hour rule—to keep cities orderly and presentable, and those “who choose to leave their vehicles parked indefinitely . . . financially accountable . . . regardless of their economic status.”<sup>10</sup>

Practically speaking today, AB-516 is dead. Just weeks after “Towing Can Devastate a Poor Family” was published, the bill found itself floating indefinitely, “Held Under Submission” in the State Senate.<sup>11</sup> Still, while this particular approach to fixing the legal scheme governing car tows fizzled, the economic harm it highlighted remains all too real. And that is exactly where this Note picks up.

This Note adds to the public debate over government-ordered tows that took place in 2019. In particular, it argues that a statewide fee reduction program for low-income and first-time tows, modeled after San Francisco's, could alleviate the worst effects of California's towing system. More broadly, the Note follows-up on the approach promoted by the L.A. Times Editorial Board in its response to AB-516. The Board's view in “Towing Can Devastate a Poor Family,” the was that a reduction in tow fees could fix California's towing system.<sup>12</sup> This Note shows that this is indeed a

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4. L.A. Times Editorial Board, *Towing can devastate a poor family. But the solution isn't to throw out the rules*, L.A. TIMES (June 15, 2019), <https://www.latimes.com/opinion/editorials/la-ed-poverty-towing-bill-20190615-story.html>

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Readers React*, *supra* note 1.

10. *Id.*

11. Bill History, Authority to Remove Vehicles, AB 516, 2019-2020 Reg. Sess. (Cal. 2019), available at [https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill\\_id=201920200AB516](https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill_id=201920200AB516).

12. *Towing can devastate a poor family*, L.A. TIMES, June 2019.

viable path towards creating a more humane legal scheme for tows in the State.

To begin, the Note provides a bird’s eye view of California’s statutory towing system, with a particular focus on the dire financial consequences the current system has for low-income vehicle owners. Second, this Note focuses on the San Francisco Metropolitan Transit Authority’s “first-time/low-income” tow fee reduction program. The Note discusses the Program’s most recent iteration and the circumstances surrounding its passage, arguing that a similar *statewide* fee reduction for tows is sound and effective policy that should be taken up in the state legislature. As part of its analysis, the Note provides model amendments as well as recommendations for further research.

## II. CALIFORNIA’S TOWING REGIME: A BIRD’S EYE VIEW

Generally speaking, the state statutory framework for government-ordered vehicle impounds can be organized into four sections; (1) rules establishing permissible grounds for vehicle towing by public agencies; (2) rules related to the collection of fees by public agencies from registered owners who seek to recover their vehicles; (3) provisions that establish an appeals process for contesting tows, and finally; (4) provisions authorizing lien sales of impounded vehicles when they are not recovered after a certain amount of time.

### A. *Permissible Grounds for Government-Ordered Vehicle Tows*

The California Vehicle Code (CVC) includes more than 30 allowable reasons for public car tows or immobilizations (via a wheel clamp or “car boot”).<sup>13</sup> The majority of these legal grounds relate to public safety, criminal investigations and arrests, or otherwise promote the flow of traffic—say, where a vehicle is towed because it blocks a freeway entrance.<sup>14</sup> On the other hand, some of the legal grounds for tows do not directly relate to public safety and are instead a means of debt collection by public agencies. These so-called “poverty tows”—which AB-516 sought to eliminate—include vehicle tows based on lapsed or non-existing vehicle registration, outstanding parking and traffic tickets, or, where a vehicle is parked in the same legal spot for more than 72 hours.<sup>15</sup>

Poverty tows are further distinguished from other permissible towing grounds because of their increasing centrality under California’s current system. Poverty tows refer to only a handful of specific grounds for towing. However, they made up more than a quarter of all government-ordered tows in the state in 2017.<sup>16</sup> In fact, in some cities, poverty tows already account for the majority of all government-ordered vehicle impounds.<sup>17</sup> Additionally, poverty tows disproportionately impact low-income people—who are by definition, the most vulnerable to their resulting economic loss. 72-hour ordinances have an outsized effect on low-income renters who cannot afford

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13. JORGE ALVARADO, PUBLIC LAW CENTER, ET. AL., TOWED INTO DEBT: HOW TOWING PRACTICES IN CALIFORNIA PUNISH POOR PEOPLE 5 (2019).

14. Cal. Veh. Code § 22651.

15. ALVARADO, ET AL., *supra* note 13, at 3-4.

16. *Id.* at 21-22.

17. *Id.* at 23-24.

off-street parking and people who live in their cars or RV's.<sup>18</sup> Studies also show that debt-collection tows are more likely to result in the owner's vehicle loss through a lien sale.<sup>19</sup> Recent reporting further suggests that public agencies engage in targeted enforcement of "poverty tows" in low-income communities—where vehicle loss is especially harmful.<sup>20</sup>

### B. Tow Fees

Tow-related fees pose yet another challenge for California's low-income vehicle owners. Cities no-doubt identify their tow and impound fees by different names and vary in both the number of fees they charge and pricing. Still, three generalities can be parsed. The first is that all permissible tow fees are rooted in state statute allowing tow companies to recover (1) the direct costs of towing, (2) daily storage costs, and (3) release fees. Release fees—often referred to as "administrative," or "gate" fees—are tacked on to a vehicle's recovery and can increase if recovery occurs after regular business hours.<sup>21</sup>

The second generality is that tow and impound fees are too expensive. Here are just a few telling statistics: Overnight tow-yard storage fees in California exceed the cost of market rate parking within a three mile radius by as much as \$78.00 in some cities, and by an average of \$40.00 across some of the state's largest municipalities.<sup>22</sup> Debt-collection tows (representing about half of all tows in California's largest cities) mandate full payment of all outstanding late- registration or ticket fines in addition to tow and storage costs, often adding thousands of dollars to an impound.<sup>23</sup> Finally, the average total cost of a vehicle tow and impound in California is \$500.00, which exceeds an entire weeks pay on the state's full-time minimum wage.<sup>24</sup>

The third generality is that while the CVC contains built-in measures to protect consumers from the most egregious tow fee pricing, these protections do not adequately extend to the bulk of government-ordered tows. The Vehicle Code for instance, requires that tow fees imposed by insurance companies meet a "reasonable" standard roughly based on market rate fee equivalents.<sup>25</sup> However, the requirement contains an express exemption for government-ordered tows. The CVC does allow cities to enact ordinances waiving administrative fees set by public agencies, but the only express grounds for waiving fees is if a vehicle was stolen when towed.<sup>26</sup>

### C. Contesting Tows

Two outcomes remain for the growing number of Californians who are unable to afford the fees required for vehicle recovery. Under the CVC, an owner may

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18. *Id.* at 28.

19. ALVARADO, ET AL., *supra* note 13, at 25-26.

20. *Id.* at 29; Josh Slowiczek, *The East Bay's Tow Hustle*, EAST BAY EXPRESS, (Nov. 14, 2018), <https://www.eastbayexpress.com/oakland/the-east-bays-tow-hustle/Content?oid=22699510>.

21. Cal. Veh. Code § 22850.5.

22. ALVARADO, ET AL., *supra* note 13, at 9-10.

23. *Id.* at 7, 22.

24. *Id.* at 7-8.

25. Cal. Veh. Code §22524.5.

26. Cal. Veh. Code §22850.5.

recover their vehicle through a “poststorage hearing” contesting their tow.<sup>27</sup> Alternatively, the vehicle will be auctioned at a lien sale.<sup>28</sup> Tow hearings however, are notoriously unfriendly for the average vehicle owner, all but ensuring a lien sale. The main issue is that the hearings turn only on the question of whether the government-issued tow was made on lawful grounds, leaving no room for case-specific considerations.<sup>29</sup> Hearing officers are not authorized to reduce fees if a person cannot afford them.<sup>30</sup> A vehicle owner then, could argue that their recent hospitalization or other financial emergency is to blame for their registration lapse and has rendered them unable to pay for their cars storage fees. Still, because lapsed registration is a permissible ground for towing, no fee reduction or vehicle recovery will be afforded.<sup>31</sup>

#### D. Lien Sales

If tow hearings are one-sided affairs that disfavor vehicle owners, lien sales are more egalitarian—disfavoring both the vehicle owner and the public agency that ordered the tow.<sup>32</sup> The harm to an owner is clear. Once a vehicle is sold at a lien auction, recovery is impossible. On the other hand, studies show that public agencies are increasingly at a loss as well, because vehicles are generally auctioned off for less than the expenditures used to tow and impound vehicles in the first place.<sup>33</sup> In addition, while the CVC allows cities to recover the expenses spent ordering tows with lien sale proceeds, tow companies recover their own costs and fees with these proceeds first.<sup>34</sup> The result is a never ending cycle of financial loss paid for by California vehicle owners. Local governments lose money on lien sales and make up for these losses by charging vehicle owners ever-higher administrative fees—pushing vehicle recovery further out of reach, and, increasing the number of costly lien sales.<sup>35</sup>

### III. SAN FRANCISCO’S MODEL FOR A STATEWIDE FEE REDUCTION PROGRAM

San Francisco can lay claim to two recent policy efforts aimed at ending the cycle of financial loss for vehicle owners outlined above. San Francisco State Assembly Member Chiu sponsored AB-516<sup>36</sup>, and in 2016, the San Francisco Metropolitan Transit Authority (SFMTA) implemented the First-Time/Low-Income Fee Reduction for Tows Program.<sup>37</sup>

SFMTA’s fee reduction program has not been the silver bullet San

27. Cal. Veh. Code § 22852.

28. Alvarado, Et Al., at 12.

29. See, e.g., City of Sacramento, Towed Vehicles, <https://www.cityofsacramento.org/Police/How-Do-I/Get-My-Towed-Vehicle> (Sacramento’s poststorage hearing expressly states that the only relevant consideration is whether a tow was based on lawful grounds).

30. ALVARADO, ET AL., *supra* note 13, at 33-34.

31. *Id.*

32. *Id.* at 12-13.

33. *Id.* at 27.

34. Cal. Veh. Code § 22851.1.

35. ALVARADO, ET AL., *supra* note 13, at 15.

36. David Chu, *Readers React: What good does towing a car do if it puts its owner on the street?*, L.A. TIMES, (June 19, 2019), <https://www.latimes.com/opinion/readersreact/la-ol-le-towing-cars-homelessness-20190619-story.html>.

37. Emily Green, *MTA agree to trim towing charge*, S.F. CHRONICLE (Mar. 11, 2016).

San Francisco's vehicle owners likely wish it was.<sup>38</sup> Still, there are two reasons this program warrants close attention by progressive policymakers in Sacramento. First, the program's ability to assist vehicle owners most at risk of substantial financial loss after a tow can be replicated statewide. Second, and more generally, the program's early political and legislative history suggest that tackling tow fees is a winning political strategy in the wake of AB-516. In short, a statewide fee waiver modeled after San Francisco's is sound policy that should be taken up in California's legislature.

#### A. *What is the SFMTA Tow Fee Reduction?*

The SFMTA tow-fee reduction program is a creature of San Francisco's Transportation Code.<sup>39</sup> The program reduces the total amount of fees paid for by eligible vehicle owners and renters when their vehicle is towed by either the SFMTA or the San Francisco Police Department (SFPD).<sup>40</sup> Under the program, registered vehicle owners are eligible to receive an \$87.50 "administrative" fee reduction if their vehicle has not been previously towed by either of these agencies. In the case of vehicle renters, this \$87.50 reduction applies where the SFPD or SFMTA has not previously towed any vehicle then owned or rented by the applicant.<sup>41</sup>

An even larger fee reduction is available to vehicle owners and renters who meet low-income requirements established by the Transportation Code. Qualified low-income owners and renters are allotted a complete waiver of the city's approximately \$300.00 administrative fee, no matter how many times they have been towed by the SFPD or SFMTA.<sup>42</sup> Dolly and flatbed fees are also waived for low-income persons, totaling \$77.50 and \$103.25 respectively.<sup>43</sup> Finally, low-income individuals can also obtain a reduction in storage fees. The fee for the first 24 hours of storage for the average car in San Francisco is \$52.25. And every subsequent calendar day of storage is valued at \$62.50.<sup>44</sup> Under the low-income reduction though, both the first 24 hours of storage and the following two consecutive days of storage are waived, amounting to as much as \$180.00.<sup>45</sup>

#### B. *The SFMTA Tow Fee Reduction Program Works*

While there is room for improvement, the SFMTA fee reduction program is a promising model for statewide policy because it achieves its objective, assisting consumers most impacted by government-ordered tows.

### 1. The SFMTA Fee Reduction Provides Substantial Financial

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38. Tow fees in San Francisco remain some of the highest in the state three years into the program's creation; *See, e.g.,* ALVARADO, ET AL., *supra* note 13, at 7-8,14.

39. S.F., Cal. Transp. Code div. II, §305.

40. SFMTA, *Reduced Fees for First Time Tow and Low Income Individuals*, <https://www.sfmta.com/getting-around/drive-park/towed-vehicles/reduced-fees-first-time-tow-and-low-income-individuals>.

41. S.F., Cal. Transp. Code div. II, §305(a)(1)(A).

42. S.F., Cal. Transp. Code div. II, §305(a)(1)(B).

43. *Id.*

44. S.F., Cal. Transp. Code div. II, §305(a)(1).

45. S.F., Cal. Transp. Code div. II, §305(a)(1)(B).

### Assistance

At first glance, the most overt issue with the program is that the \$90.00 first-time tow reduction pales in comparison to the minimum total cost of the average San Francisco tow (\$537.00).<sup>46</sup> What the program lacks in its first-time reduction however, is made up for in its benefits to low-income persons, who see their costs cut by more than half. Records also suggest that both program reductions generally succeed in reaching their intended population. According to revenue reports provided by the SFMTA, about 63% of all SFMTA and SFPD tows between July 2017 and June 2018 were first-time tows which obtained the corresponding administrative fee reduction.<sup>47</sup> As the program enters its third year, the number of claimed low-income reductions has also risen. Between the summer of 2017 and 2019, the number of low-income reductions doubled, jumping from about 9% of all city tows to 13%.<sup>48</sup>

#### 2. The SFMTA Reduction Is Accessible To Those Who Need It The Most

The current household income requirements imposed by the program's low-income application rely on nationwide poverty thresholds instead of the more appropriate California-Specific thresholds.<sup>49</sup> Still, applicants that meet the program's standards have multiple options to show they are eligible. Vehicle owners can receive the low-income reduction if they already participate in the state's medical assistance program (Medi-Cal), receive reduced SFMTA transportation fare, or if they receive other local, state, or federal benefits.<sup>50</sup> Applications for both the SFMTA low-income and first-time tow reductions contain online requirements, which might slow down the application process down for those without computer access.<sup>51</sup> However, both reductions are available retroactively through a reimbursement process that extends 30 days after the tow, mitigating this problem.<sup>52</sup>

#### 3. The SFMTA Reduction Program is Fiscally Sound

In addition, the SFMTA First-Time/Low-Income Fee Reduction appears to be financially sustainable. Data on San Francisco's lien sales and lien fees is notoriously limited. Yet SFMTA operating budgets and internal reports suggest that the roughly 3.5-million-dollar program is funded by specific lien fees applying to individuals who purchase auctioned vehicles with a market value over \$4,000.00.<sup>53</sup> In fact, it may be the case that the program provides net savings. Calls for the statewide elimination of debt-collection tows are predicated on the idea that reducing the number of debt-collection tows decreases the number of lien sales, effectively saving public

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46. \$537.00 is calculated by applying the same methodology used throughout in *Towed Into Debt*. The figure assumes a light duty vehicle stored for 3 days.

47. See Appendix A.

48. See Appendix A.

49. S.F., Cal. Transp. Code div. II, §305(a)(1)(B).

50. SFMTA, *Reduced Fees for First Time Tow and Low-Income Individuals*, *supra* note 40.

51. *Id.*

52. *Id.*

53. See Appendix B.



funds because public agencies lose money on these sales.<sup>54</sup> While more research is required to definitively conclude that the SFMTA fee reduction program accomplishes this in San Francisco, it follows that it may have a comparable effect given the number of people that avoid lien sales because of its savings.<sup>55</sup>

#### 4. The SFMTA's Success Can Be Replicated Statewide

With a few tweaks to San Francisco's program, a first-time/low-income tow fee reduction can take effect statewide. The most apparent issue with applying the SFMTA model across California is the fact that tow fee pricing is not consistent across the state. But both the first-time and low-income reductions can be changed from specific dollar figures to a percentage of any public agencies existing charges when applied statewide.<sup>56</sup> This is only one potential approach. However, doing so would account for the range in fee pricing across California public agencies, while retaining the SFMTA reduction program's impact. A statewide low-income reduction for tows can similarly go without the specific eligibility requirements as those imposed by the SFMTA. As mentioned, applying California-specific instead of federal poverty standards seems most appropriate for the state's most vulnerable drivers.<sup>57</sup> Nevertheless, multiple existing benefits programs in California (from Medi-Cal to Judicial Filings fee-waivers) carry their own low-income requirements and methods for proving eligibility status. These programs provide a menu from which to base the requirements for receiving a low-income tow fee reduction.

Finally, SFMTA records indicate that its tow fee reduction program is financed by lien initiation fees applying to high valued lien sale purchases and passed alongside the program.<sup>58</sup> It is unlikely that a statewide equivalent will be able to force localities to recover losses through such a system. However, many existing lien sale programs across California have yet to authorize similar preparation fees.<sup>59</sup> As such, a bill proposing a statewide tow-fee reduction program can point to the same existing Vehicle Code provision authorizing San Francisco's framework for lien sales, highlighting their ability to finance the first-time/low-income waiver in a similar fashion.<sup>60</sup>

#### C. *California Is Ready For A First-Time/Low-Income Fee Reduction Program*

A look at the circumstances surrounding the passage of the SFMTA fee reduction program, shows that three major factors were responsible for its creation in 2016. First, the impetus for the program was heightened public scrutiny on the SFMTA

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54. See ALVARADO, ET AL., *supra* note 13, at 22-26.

55. After all, in light of the city's high tow fees and the program's income requirements, it is likely that most every low-income reduction means one less lien sale.

56. See Appendix D.

57. The California-wide proposal in Appendix D uses California-specific income brackets relied on by other state programs and reproduced annually under the California Code of Regulations.

58. See Appendix B.

59. See Auto Plus Towing, Auction Rules, <http://oaklandautoplustowing.com> (Showing Oakland's towing contractor does not impose lien preparation fee).

60. Of course, the fact that municipalities might be able to tailor how they fund the fee reduction program could be used as a selling point to policymakers (and members of the public), apt to dismiss a fee-reduction program as state encroachment on local governance.

and its high fees in the wake of a citywide contract renewal. Second, passage of a fee reduction for victims of vehicle in early 2015, appears to have opened the door for the program. Third, the San Francisco Board of Supervisors found a palatable funding source in added lien sale fees. Because factors similar to each of these are at play across California today, the lesson afforded by the SFMTA reduction's passage is clear: the time is ripe for a California-wide fee reduction program.

### 1. Heightened Scrutiny On Vehicle Tows

In the months leading up to the creation of the SFMTA fee reduction program, the SFMTA's contract with towing company Autoreturn expired, bringing heightened public attention to San Francisco's towing system.<sup>61</sup> The agency's renewal negotiations became a relatively frequent news topic in early 2015 in part because the contract, once finalized, required approval by the San Francisco Board of Supervisors.<sup>62</sup> Commenters made themselves heard at Board committee meetings and in print-news once the SFMTA revealed its 5-year, \$65.4 million contract renewal.<sup>63</sup> Unsurprisingly, most comments complained about the high fees under the proposed Autoreturn renewal. By the time the board came to a vote on the contract in 2016, approval was conditioned on the creation of some sort of income-based tow fee reduction.<sup>64</sup>

AB-516's life in the state legislature and the published research that inspired it, appear to have ushered in statewide scrutiny akin to local attention that led to the FMTA's tow fee reduction program in 2016. The bill, in particular, became the topic of substantial public debate.<sup>65</sup> And though the bill focused on overhauling California's permissible grounds for public tows, much of the public response to AB-516 has tended to focus on the system's high fees.<sup>66</sup> In fact, public commentary over AB-516 often mirrors the very complaints that San Franciscans had in the leadup to the SFMTA reduction program.<sup>67</sup>

### 2. Concern Over The Towing System's Inherent Inequality

Reporting from 2015 and 2016 suggests that the SFMTA's successful passage of a similar tow fee reduction program for stolen vehicles, two years before its tenuous contract deal with Autoreturn, influenced its decision to create an income driven program for first-time/low- income tows.<sup>68</sup> The San Francisco program for vehicles towed while registered stolen, was enacted in 2015—as a result of a public

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61. See Appendix B; See Green, *MTA agree to trim towing charge*, S.F. CHRONICLE (Mar. 11, 2016).

62. *Editorial: Tow Away an Unfair Contract*, S.F. CHRONICLE (Mar. 9, 2016); *Victims of expensive tow-away fees*, S.F. CHRONICLE (Mar. 10, 2016).

63. *Victims of expensive tow-away fees*, S.F. CHRONICLE, Mar. 2016, at A9.

64. See Appendix B.

65. *Letters to the Editor: Don't eliminate enforcement tools for motorists*, S.F. CHRONICLE (June. 9, 2019), <https://www.sfchronicle.com/opinion/letterstoeditor/article/Letters-to-the-Editor-Don-t-eliminate-13960694.php>.

66. *A towed car can mean life on the street for some homeless people*, L.A. TIMES (June. 2019).

67. See, e.g., *A towed car can mean life on the street for some homeless people*, L.A. TIMES, (June. 2019); *Victims of expensive tow-away fees*, S.F. CHRONICLE, (Mar. 2016).

68. Emily Green & Lizzie Johnson, *S.F. rethinking soaring cost of getting towed*, S.F. CHRONICLE, (Mar. 8, 2016); See Appendix C, at 2.

outcry over the inherent unfairness of charging victims of vehicle theft with exceedingly high tow fees. Public scrutiny over the development of the program for theft victims persisted well into 2016, pressuring the SFMTA into amending program's first iteration (a fee *reduction*) into the waiver it is now.<sup>69</sup>

Today, a similar concern for the inherent unfairness of charging poor families the same tow fees that apply to everyone else exists statewide. Commenters to the public debate around AB-516, for instance, often draw a direct line between the state's broken towing system and the state's homelessness crisis.<sup>70</sup> This suggests that Californians increasingly see the state's towing system as both an extension of the state's surging income inequality.

### 3. Existing Source of Funding

Finally, the early push-back against the SFMTA's first-time/low-income waiver is helpful for predicting (and dealing with) the public's concerns if a statewide fee reduction is proposed today. In 2016, then Supervisor Scott Wiener was the source of the most significant criticism against the SFMTA's draft fee reduction program.<sup>71</sup> His main concern was that the program would result in reduced funding for SFMTA bus and rail service, and, it was only appeased after added fees for lien purchases were tacked onto the reduction program.<sup>72</sup> Wiener's concern was arguably San Francisco-specific. Indeed, the city's towing system may be the only in California aiming for "full cost recovery" of its expenditures.<sup>73</sup> Still, Wiener's criticism suggests that local funding for a California-wide tow fee reduction will be a main point of contention if formally proposed. Fortunately, as discussed below, the very same state statute authorizing San Francisco's funding source can be used by all California cities.

#### *D. The Form Of The California First-Time/Low-Income Fee Reduction Program*

A statewide fee reduction for first-time and low-income tows will require changes to California's Vehicle Code. While a sound program may take the form of multiple different amendments and additions, three specific CVC sections can serve as starting points to: (1) carve out the program's fee pricing and eligibility standards; (2) assure consumers have notice of their rights, and; (3) facilitate progressive local funding.

#### 1. Situating The Fee Reduction Program in CVC Section 22850.5

CVC Section 22850.5 is the best place to situate the statewide reduction program's fee pricing requirements and eligibility standards. The section gives local towing agencies the express right to enact local procedures for the "imposition of a charge equal to [the] administrative costs relating to the removal, impound, storage, or

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69. C.W. Nevius, *Cost of retrieving car too steep for retiree*, S.F. CHRONICLE, (June. 23, 2016).

70. *A towed car can mean life on the street for some homeless people*, L.A. TIMES (June. 2019).

71. Green, *MTA agree to trim towing charge*, S.F. CHRONICLE (Mar. 11, 2016).

72. *Id.*

73. Green & Johnson, *S.F. rethinking soaring cost of getting towed*, S.F. CHRONICLE (Mar.

release of the vehicles.”<sup>74</sup> In addition, it supplies useful language for carving out the reduction program as it also provides local agencies the right to waive tow fees “upon verifiable proof” that the vehicle is reported stolen at the time of the tow.<sup>75</sup>

Two particular changes to Section 22850.5, detailed in Appendix D, can be used to create the tow fee reduction. First, 22850.5(a) may be amended to make explicit that while the state’s allowable tow fees may be waived where the car was stolen during the tow, fees *will* be waived pursuant to the tow fee reduction program. Second, two subsections should be added to 22850.5(b), which currently imposes requirements on the collection of tow fees by public agencies. A new subsection (5), may carry the first-time tow rule, while a new subsection (6) can provide for the low-income waiver.<sup>76</sup>

## 2. Providing Notice to Eligible Consumers Under CVC Section 22651.07

Under CVC Section 22651.07, all companies charging registered owners for towing and storage costs must make information about their customers’ consumer rights available through a standardized notice—the “Towing and Storage Fees and Access Notice.”<sup>77</sup> Accordingly, information about the California first-time/low-income fee reduction and its potential savings should be added to this standard notice. As shown in Appendix E, key points to include in the notice include an overview of the program’s eligibility requirements, and contact information linking consumers to sources of more detailed information about the fee reduction program.<sup>78</sup> Additionally, CVC Section 22651.07 might be amended to require all towing companies to post the dollar savings available under either prong of the tow fee reduction. This may be especially useful, if, as Appendix D proposes, the statewide reduction mandates fee caps that vary from county to county.

## 3. Local Funding Options Under CVC Section 22851.12

Finally, a bill proposing the California-wide fee reduction program will do well highlight CVC Section 22851.12, as is. The section authorizes lienholders (both public and private) to charge a fee for “lien-sale preparations” in addition to a fee tacked onto to the lien sale itself.<sup>79</sup> Because many cities only charge a flat lien fee, Section 22851.12 would appear to provide a useful source of local funding for the proposed fee reduction program. Section 22851.12 caps its lien preparation fee at \$70.00 and \$100.00, depending on whether the vehicle’s value is below or exceeds \$4,000.00.<sup>80</sup> San Francisco and Los Angeles have taken advantage of the authorized fee.<sup>81</sup> Cities such as Watsonville, Oakland, Riverside, Monterey, and presumably

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74. Note that the statute applies the term “administrative fee” as an umbrella term for all authorized fees, while the SFMTA uses “administrative fee” to refer to what is effectively a release fee.

75. Cal. Veh. Code § 22850.5.

76. Appendix D, at 2.

77. Cal. Veh. Code § 22651.07.

78. See Appendix E.

79. Cal. Veh. Code § 22851.12.

80. *Id.*

81. Los Angeles: See L.A. Official Police Garages, Towing and Storage Rates, <http://www.opgla.com/rates.aspx>. San Francisco: See S.F., Cal. Transp. Code div. II, §305(a)(1).

others, have yet to tap into this source of funding.<sup>82</sup>

#### IV. OTHER APPROACHES TO MAKE CALIFORNIA TOW FEES MORE EQUITABLE

California's exceedingly steep fees for government-ordered vehicle tows punish vulnerable vehicle owners and their families. Tackling this issue, if approached correctly, has the potential for real public backing. While a California-wide tow fee reduction program for first-time and low-income drivers is one practical and likely popular approach for aiding vulnerable drivers, the following recommendations are also worth considering.

##### A. Long Beach's Homelessness Waiver

In early 2019, Long Beach became the second California city to enact an income-driven fee waivers for public vehicle tows in the state.<sup>83</sup> The "Homelessness Waiver's" unique features may be added to a statewide program modeled after the SFMTA's program, or, might even serve as an independent model for a statewide program.<sup>84</sup> Notably, the program is administered by both the city's Towing and Lien Sales Division, and it's Homelessness Services Department. Together, these agencies provide a one-time waiver of all outstanding parking, tow, and storage fees. Required application materials include "proof of indigent status," and either a self-completed homelessness declaration or homelessness validation by the city's Homelessness Services. Notably, the program's definition of "indigent" borrows from CVC Section 40220, which authorizes a parking citation installment plan for low-income Californians.<sup>85</sup>

##### B. Applying the CVC's Reasonable Fee Standard to Government Ordered Tows

CVC Section 22524.5 mandates that tows administered by auto insurers adhere to stricter, more consumer-friendly fee standards than those ordered by local governments. Expanding these requirements to all government-ordered tows could help rid the state of the most egregious tow fees. Under the current rules, fees charged

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82. Watsonville: Watsonville, Cal. Mun. Code, Title 4, Chapter 11, §20 (1988); *See generally*, Watsonville Police Department, Fee Schedule, <https://www.cityofwatsonville.org/249/Fee-Schedule>. Oakland: See Auto Plus Towing, Auction Rules, <http://oaklandautoplustowing.com>. Riverside: See Victoria Auto Towing, Vehicles For Sale, <https://www.victoriaautotowing.com/vehicles-for-sale/> (In a phone interview with a Riverside Police Department Clerk, Victoria Auto Towing was described as the city's main towing contractor. The working manager at Victoria Auto Towing explained they do not charge a lien preparation fee, during a phone interview.). Monterey: In a phone interview with a Monterey Police Department Clerk, United Auto Towing was described as the city's main towing contractor. In an interview, United Towing's owner explained they do not charge a lien preparation fee.

83. Hayley Munguia, *Long Beach offers parking, towing waivers for homeless; safe parking program launches next month*, L.B. PRESS-TELEGRAM, (Oct. 29, 2019), <https://www.presstelegram.com/2019/10/29/long-beach-offers-parking-towing-waivers-for-homeless-folks-safe-parking-program-to-launch-next-month/>.

84. City of Long Beach, Homelessness Waiver: One-Time Towing and Parking Citation Waiver for Homelessness Policy, <http://www.longbeach.gov/finance/services-and-permits/towing-and-lien-sales/homelessness-waiver/>.

85. City of Long Beach, Homelessness Waiver; Cal. Veh. Code § 40220.

by insurance companies after an accident must be “reasonable.” That is, insurer rates may not exceed rates for similar accident-tow requests charged by the California Highway Patrol, and, must roughly track market-rate equivalents.<sup>86</sup> The code’s “reasonable” standard is loose, and difficult to enforce.<sup>87</sup> Still, there is one more reason for expanding this rule to encompass government ordered tows. Section 22524.5(c)(3) provides a laundry list of tow-related fees that are “presumptively unreasonable.” These unreasonable fees include, dolly fees and administrative fees unrelated to a tow company’s dealings with the DMV or lien sales—two of the most common fees charged by government contracted tow companies.<sup>88</sup>

## V. APPENDICES

Most of the information gathered in this Note about the SFMTA first-time/low-income program came directly from the source—the SFMTA itself. Between October and November 2019, two separate SFMTA Public Record Requests provided SFMTA operating budgets, internal presentations (power points) created and used by staff during briefings, and memos in response to requests by the San Francisco Board of Supervisors. Appendices A, B, and C provide materials from these record requests.

**Appendix A** provides a copy of the SFMTA’s records on the number of Claimed administrative and storage fee reductions between the Summer of 2017 and 2019.

**Appendix B** provides a copy of the formal recommendations made by the Finance and Information Division of the SFMTA in March of 2016, soon after the San Francisco Board of Supervisors conditioned approval of the SFMTA’s budget and towing contract, on a reduction in fees. In an especially relevant section, pages 3-4. The recommendation points to a lien preparation fee as a reliable source of funding for a first-time/low-income program.

**Appendix C** provides a copy of a similar recommendation by the Finance and Information Division of the SFMTA in 2015. The initial pages of this recommendation are useful as they chronicle the early development of the SFMTA fee reduction for victims of car theft.

**Appendices D and E** provide examples of proposed amendments to the California Vehicle Code for enactment of a California-wide First-Time/Low-Income Fee reduction program. Note that similar to proposed California Assembly and Senate bills, existing language is black, while proposed additions are in blue text.

### *Appendix A*

#### Claimed Vehicle Admin Fee Reduction FY20

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86. Cal. Veh. Code § 22524.5

87. Cal. Veh. Code § 22524.5(c)(2)(B) for instance, explains that “reasonable” fees may still exceed market-fees.

88. Cal. Veh. Code § 22524.5(c)(3).

	Jul-19	Aug-19	Sep-19	Total	Monetary Reduction
After first tow	660	654	599	1,913	\$0
First tow	2,004	2,113	2,017	6,134	\$536,725
Low income at pos	428	447	450	1,325	\$395,844
<b>Total tows</b>	<b>3,092</b>	<b>3,214</b>	<b>3,066</b>	<b>9,372</b>	<b>\$932,569</b>
Low income storage (Day 1)	232	259	259	750	39,188
Low income storage (Day 2 or 3)	127	137	137	401	25,063
Dolly	260	249	258	767	59,443
Flatbed	33	27	22	82	8,467
Total storage and equipment					
<b>Total</b>			Estimate	Estimate	

<b>FY20 Reduction Case Count Tracker by month (Salesforce only)</b>			
Status	Oct-19	Nov-19	Dec-19
Approved - 1st Tow	6		
Approved - Low Income			
Closed/Duplicate	32		
Closed/Refund Issued - First Tow	24		
Closed/Refund Issued - Low Income	72		
In Process	4		
Not Eligible - 1st Tow	9		
Not Eligible - Low Income	45		
Not Eligible - Previously Issued	40		
Pending Additional Information	15		
Processed by Accounting - First Tow	2		

Processed by Accounting - Low Incom	30		
Under Review	58		
Grand Total	337	0	0
Change	85	-337	0
<b>FY20 Reduction Case Count Tracker (Salesforce only)</b>			
Status	Oct-19	Nov-19	Dec-19
Refund Issued	134	0	0
Refund Issued - Low Income			
Not Eligible	126	0	0
Under Review	77	0	0
Grand Total	337	0	0
<b>New cases</b>	<b>85</b>	<b>-337</b>	<b>0</b>
	<b>38</b>	<b>-134</b>	<b>0</b>

<b>Claimed Vehicle Admin Fee Reduction FY20</b>													
	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Total
After first tow	573	646	624	638	576	566	635	571	676	575	650	598	7,328
First tow	2,213	2,339	1,935	2,068	1,673	1,937	1,886	1,624	1,859	2,041	2,100	1,945	23,620
Low income at pos	316	355	325	377	339	337	377	319	380	441	373	413	4,352
Reduction reimbursements, LI	24	33	58	39	9	14	35	38	29	26	38	32	375
Total LI reduction	340	388	383	416	348	351	412	357	409	467	411	445	4,727
Total tows	3,102	3,340	2,884	3,083	2,588	2,840	2,898	2,514	2,915	3,057	3,123	2,956	35,300
Low income	159	192	183	200	174	180	206	191	183	217	213	212	2,310



storage (Day 1)													
Low inco me stora ge (Day 2 or 3)	80	104	98	101	92	88	116	97	102	112	110	110	1,210
Dolly	170	221	202	222	198	207	219	192	239	260	240	235	2,605
Flatbed	16	16	24	20	18	26	20	26	30	27	34	31	288
Total stora ge and equip ment													
Total													Estimate

Claimed Vehicle Admin Fee Reduction FY20 Continued		
	Monetary Reduction	Estimate 12 months
After First Tow	\$0	\$0
First Tow	\$1,960,460	\$2,005,059
Low income at pos	\$1,234,880	\$1,149,755
Reduction reimbursements, LI		
Total LI reduction		
Total tows	\$3,195,340	\$3,154,814
Low income storage (Day 1)	\$117,233	\$117,233
Low income storage (Day 2 or 3)	\$73,508	\$73,508
Dolly	\$194,073	\$154,650
Flatbed	\$28,584	\$20,376

Total storage and equipment	\$413,397	\$365,767
Total	\$3,608,737	\$3,520,580

<b>FY19 Reduction Case Count Tracker by month (Salesforce only)</b>									
Status	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
Approved - 1st Tow	1	2				3	1	3	6
Approved Low Income	9				13	14	4	22	22
Closed/Duplicate	12	13	16	21	23	29	36	49	53
Closed/Refund Issued - First Tow	14	23	32	37	43	48	55	63	67
Closed/Refund Issued - Low Income	93	137	159	173	208	257	286	317	355
In Process			12	1	9	9	14		8
Not Eligible 1st Tow	23	27	30	33	37	31	34	40	43
Not Eligible Low Income	34	44	49	65	75	87	105	121	133
Not Eligible Previously Issued	15	18	20	28	31	40	49	63	68
Pending Additional Information	7	8	5	4	4	11	16	18	18
Processed by Accounting - First Tow	4	2	5	6	5	5	5	1	3
Processed by Accounting - Low Income	30	9	14	35	25	15	22	16	10
Under Review	22	38	36	41	33	29	29	33	33
Grand Total	264	321	378	444	506	578	656	746	819
Change	48	57	57	66	62	72	78	90	73
<b>FY19 Reduction Case Count Tracker (Salesforce only)</b>									

Status	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
Refund Issued	151	173	210	251	294	342	373	422	463
Refund Issued - Low Income									
Not Eligible	84	102	115	147	166	187	224	273	297
Under Review	29	46	53	46	46	49	59	51	59
Grand Total	264	321	378	444	506	578	656	746	819
<b>New cases</b>	<b>48</b>	57	57	66	62	72	78	90	73
	44	22	37	41	43	48	31	49	

<b>Claimed Vehicle Admin Fee Reduction FY18</b>								
	Fee amount (Customer pays)	Fee reduction (Impact)	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
After first time	\$269	\$0	895	992	865	874	695	718
First time claimed	\$177	\$92	1,717	1,867	1,821	1,904	1,544	1,813
Low income claimed	\$89	\$180	171	173	171	198	187	200
<i>Low income reimbursements</i>		\$180	10	16	20	16	24	16
<i>Total low-income customers</i>			181	189	191	214	211	216
Total tows			2,783	3,032	2,857	2,976	2,426	2,731
Low income storage (Day 1)	\$59.25	\$59.25	85	86	77	94	92	104

Low income storage (Day 2 or 3)	\$71	\$71	63	70	62	57	84	93
Total storage			148	156	139	151	176	197
Total								

**Claimed Vehicle Admin Fee Reduction FY18 Continued**

	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	Total (continued)
After first time	743	727	796	832	934	964	10,035
First time claimed	1,721	1,573	1,800	1,759	2,060	1,936	21,515
Low income claimed	222	207	238	232	233	239	2,471
Low income reimbursements	40	53	68	80	102	113	558
Total low-income customers	262	260	306	312	335	352	3,029
Total tows	2,686	2,507	2,834	2,823	3,227	3,139	34,021
Low income storage (Day 1)	106	102	116	117	121	122	1,222
Low income storage (Day 2 or 3)	95	107	94	49	128	58	960
Total storage	201	209	210	166	249	180	2,182
Total							Estimate

**FY18 Salesforce case count**

Row Labels	31-Jul-17	31-Aug-17	30-Sep-17	31-Oct-17	30-Nov-17	Subtotal
Approved - Low Income	15	12	12	16		<b>55</b>
Approved - First Tow	5	4	10	2		<b>21</b>
Not Eligible - 1st Tow	4	2	1	1		<b>8</b>

Not Eligible - Low Income	2	4	2	2	1	<b>11</b>
Under Review						<b>0</b>
Pending	2	1	1			<b>4</b>
<b>Total</b>	<b>28</b>	<b>23</b>	<b>26</b>	<b>21</b>	<b>1</b>	<b>99</b>
<b>Approved cases monthly</b>						
<b>Total approved</b>						
Difference from month prior						

<b>FY18 Salesforce case count</b>								
Row Labels	31-Dec-17	31-Jan-18	28-Feb-18	31-Mar-18	30-Apr-18	##### ###	30-Jun-18	Total
Approved - Low Income	16	24	13	15	12	22	11	113
Approved - First Tow	5	7	1	1	4	1	2	21
Not Eligible - 1st Tow	3	5	13	11	9	16	3	60
Not Eligible - Low Income	5	6	2	1	5	5	1	25
Under Review						2	23	25
Pending								
<b>Total</b>	<b>29</b>	<b>42</b>	<b>29</b>	<b>28</b>	<b>30</b>	<b>46</b>	<b>40</b>	<b>244</b>
<b>Approved cases monthly</b>								
<b>Total approved</b>	<b>21</b>	<b>31</b>	<b>14</b>	<b>16</b>	<b>16</b>	<b>23</b>	<b>13</b>	<b>134</b>
Difference from month prior	21	10	-17	2	0	7	-10	13

*Appendix B*

THIS PRINT COVERS CALENDAR ITEM NO.: 13  
SAN FRANCISCO

**MUNICIPAL TRANSPORTATION AGENCY****DIVISION:** Finance & Information Technology**BRIEF DESCRIPTION:**

Public Hearing and discussion of the FY 2017 and FY 2018 Operating Budget, including possible modifications to various fares, fees, fines, rates and charges; possible new revenue sources and new expenditures; and revenue and expenditure reductions; discussion of the FY 2017 and FY 2018 Capital funding through development fees and Population-based General Fund allocation included in the FY 2017 and FY 2018 Operating Budget and approving changes to towing related fees, including a discount program for low income vehicle owners and adding a new fee for vehicle liens, and amending the Transportation Code Division II to reflect these changes and rectify other non-substantive omissions.

**SUMMARY:**

- Charter Section 8A.106 provides that the SFMTA must submit a two-year budget by May 1 to the Mayor and Board of Supervisors.
- The SFMTA Board considered various options related to the budget at the January 26 Workshop and the February 26 SFMTA Board meeting. Staff will present a balanced budget at the April 5 meeting.
- Before the Board can approve the Agency's Operating Budget, a Title VI analysis for proposed fare changes must be approved.
- The Board of Supervisors has requested consideration of the administrative fee for towed cars and the establishment of a program to provide discounts for low income drivers.
- The proposed action for the changes to towing related fees is the Approval Action as defined by the S. F. Administrative Code Chapter 31.

**ENCLOSURES:**

1. Resolution
2. New Proposals on Revenues and Expenditures
3. Comparative Fares
4. Indexed Fares and Cost Recovery Fees included in FY17/FY18 Baseline Budget
5. Off-Street Parking Rates and Fees included in FY17/ FY18 Baseline Budget

6. FY17/ FY18 Capital funding through development fees and Population-based General Fund allocation included in the FY17 and FY18 operating budget
7. Preliminary Title VI Analysis
8. Transportation Code Division II amendment

## APPROVALS:

DIRECTOR \_\_\_\_\_

SECRETARY \_\_\_\_\_

## DATE:

3/10/163/10/16**ASSIGNED SFMTAB CALENDAR DATE:** March 15, 2016

## PURPOSE

Public hearing and discussion of the FY 2017 and FY 2018 Operating Budget, including possible modifications to various fares, fees, fines, rates and charges; possible new revenue sources and new expenditures; and revenue and expenditure reductions; discussion of the FY 2017 and FY 2018 Capital funding through development fees and population-based General Fund allocation included in the FY 2017 and FY 2018 Operating Budget and approving changes to towing related fees, including a discount program for low income vehicle owners and adding a new fee for vehicle liens, and amending the Transportation Code Division II to reflect these changes and rectify other non-substantive omissions.

## GOAL

This item supports all of the Strategic Plan Goals.

Goal 1: Create a safer transportation experience for everyone

Goal 2: Make transit, walking, bicycling, taxi, ridesharing and carsharing the most attractive and preferred means of travel

Goal 3: Improve the environment and quality of life in San Francisco

Goal 4: Create a workplace that delivers outstanding service

## DESCRIPTION

The SFMTA is preparing a two-year Operating Budget for FY 2017 and FY 2018 for submittal by May 1, 2016 to the Mayor and Board of Supervisors as required by Charter Section 8A.106. On January 26, 2016, the SFMTA Board of Directors reviewed the Operating Baseline Budget for FY 2017 and FY 2018 that included a \$13.5 million shortfall for FY 2017 and a \$14.3 million shortfall for FY 2018, based on projections as of early February 2014. The Operating Baseline Budget for FY 2017 and FY 2018 are summarized below.

## REVENUES (\$ million)

<b>Revenue Category</b>	<b>FY 2017 Baseline Budget</b>	<b>FY 2018 Baseline Budget</b>
Transit Fares	205.9	207.9
Operating Grants	144.8	147.1
Parking and Traffic Fees & Fines	324.2	331.4
Other (Advertising, Interest, Inter-departmental Recovery, Taxi)	49.0	50.4
General Fund Transfer	282.6	294.1
Capital Projects (Development Fees, Population Based General Fund Allocation)	52.5	43.8
Use of Reserves	TBD	TBD
<b>TOTAL</b>	<b>\$1,059.0</b>	<b>\$1,074.7</b>

## EXPENDITURES (\$ million)

<b>Expenditure Category</b>	<b>FY 2017 Baseline Budget</b>	<b>FY 2018 Baseline Budget</b>
Salaries & Benefits	649.6	673.4
Contracts and Other Services	140.7	140.9
Materials & Supplies	76.0	76.0
Equipment & Maintenance	10.6	10.6
Rent & Building	11.8	12.8



Insurance, Claims & Payments to Other Agencies	66.0	66.0
Work Orders	65.3	65.5
Transfer to Capital Projects	52.5	43.8
<b>TOTAL</b>	<b>\$1,072.5</b>	<b>\$1,089.0</b>

The Baseline Operating Budget includes the following:

- Continuation of Free Muni for Low and Moderate Income Youth, Seniors and Disabled Riders
- Implementation of the SFMTA Board's approved Automatic Indexing Policy and Cost Recovery calculations for various fares, fees, fines, rates and charges subject to the California Vehicle Code
- Population General Fund Baseline (for Capital use only)
- Development Fees (for Capital use only)
- Low Carbon Transit Operations Program (State Cap & Trade funds) to fund the increase transit service
- Current estimates from the Controller's Office on the General Fund Baseline transfers
- Current estimates from MTC on the state and regional operating grants
- Positions added during FY 2015 & FY 2016
- Pension Increases
- Wage increases in executed labor contracts in FY 2017, CPI estimate for FY 2018 (2.54%)
- Several new contracts approved by the board during FY 2015 and FY 2016 (Paratransit Contract Extension, Clipper, Taxi Driver Testing, Safety Management)
- Service recommendations identified in the Muni Equity Strategy (the proposals identified in the Equity Strategy are included in the baseline as they would be implemented either through a 2% service increase or by identifying efficiency opportunities, such as eliminating or reducing unproductive service)
- The following items were absorbed in the baseline budget since the February 16, 2016 Board meeting by realigning expenditures:

- Debt Service for new Revenue Bonds
- Lease for new Training Facility
- Increased Worker Compensation costs

The Baseline Operating Budget does not include the following (see Encl. 2 for further details):

- Any changes to fares beyond the indexing amounts outlined in Exhibit 1
- Additional costs above CPI arising from new collective bargaining agreements effective July 1, 2017
- Caltrain Operating Contribution Increase
- Transit Service Increases – 2% excluding Muni Equity Strategy service changes
- Use of Reserve Funds
- Additional expenditures requested by divisions as outlined below in Enc. 2
- New Proposals on Revenues and Expenditures are listed in Enc. 2

#### TOWING FEES

On February 16, 2016 the SFMTA Board of Directors authorized the Director of Transportation to execute an agreement with TEGSCO, LLC., dba San Francisco AutoReturn, for the Towing, Storage and Disposal of Abandoned and Illegally-Parked Vehicles (Towing Agreement) contingent on Board of Supervisors approval. The Board of Directors also amended Transportation Code Division II, Section 305 to incorporate customer fees for vehicle towing, storage, sale and release, and extend San Francisco resident waiver provisions to non-residents. Because expenditures under the Towing Agreement will exceed \$10 million, the Agreement required approval by the Board of Supervisors. During their deliberations, the Board of Supervisors requested the SFMTA to reconsider the administrative fee and establish a program to provide discounts for low income vehicle owners. Therefore, staff recommends changes to the towing-related fees as follows.

- Reduce the SFMTA's Administrative Fee to \$172 (from \$261) for first time tows
- For low income car owners with some verification of participation in a low income program, there will be an additional \$86 reduction to the Administrative Fee for first time tows. In addition, 48 hours of storage fees will be waived (similar to stolen vehicles) for low income vehicle owners who have their vehicles towed for the first time. In order to qualify for these discounts the low income car owner must request the low income waiver within 48 hours

of receiving actual or constructive notice of the tow (including the Notice of Storage).

- For each subsequent tow beyond the first tow, the SFMTA's administrative fee will be \$261 for everyone.

The financial impact to the SFMTA of these changes is projected to be \$3.5 million annually.

Staff also recommends inclusion of a second lien fee in the amount of \$35 for vehicles valued at \$4,000 or less and \$50 for vehicles valued at more than \$4,000. The California Vehicle Code authorizes an initial lien fee to be imposed at the start of the lien process and a second fee to be imposed when the lien process has been completed. The second lien fee was not included in the Feb. 16 legislation.

Additionally, after the SFMTA Board of Directors approved amendments to the Transportation Code related to the Towing Agreement on February 16, 2016, staff discovered that certain technical, non-substantive clarifications had been inadvertently omitted. Therefore, staff also recommends amendments to Section 305 to rectify those omissions.

#### PUBLISHED NOTICE

An advertisement ran regarding the proposed fares, fees, fines, rates and charges in the San Francisco Chronicle for a five-day period beginning February 22, 2016.

#### TITLE VI

Before the SFMTA Board can approve the Agency's Operating Budget, a Title VI analysis for proposed fare changes must be approved by the SFMTA Board in accordance with the Federal Transit Administration's (FTA) Circular 4702.1B. Service changes that meet the SFMTA's definition of a major service change must also prepare a Title VI analysis for the SFMTA Board's approval in accordance with the Federal Transit Administration's (FTA) Circular 4702.1B.

In accordance with Title VI and FTA requirements, SFMTA performed a Title VI analysis for all proposed TEP service changes meeting the SFMTA's definition of a Major Service Change as required by the Federal Transit Administration's (FTA) Circular 4702.1B, "Title VI and Title VI-Dependent Guidelines." Service changes were evaluated to determine if the proposed changes had a disparate impact on minority populations or a disproportionate burden on low-income populations. The Title VI analysis for these service changes was approved by the Board on March 28, 2014 and is available at this link: <https://www.sfmta.com/sites/default/files/agendaitems/3-28-14%20Item%207%20TEP%20Title%20VI%20Analysis.pdf>.

The SFMTA Board will be asked to appropriate funding for future service increases as part of the agency's FY17-18 Operating Budget; however, specific service changes will be brought back to the SFMTA Board for approval at a later date. It is likely that most of these future service changes will fall within the March 28, 2014 Title VI analysis. For those services that meet the definition of a major service change and do not fall within the previous analysis, a separate Title VI analysis will be presented prior to SFMTA Board approval of those proposed service changes.

The TEP Service Changes Title VI Analysis results are as follows:

- **Service Frequency Increases:** Service frequency increases were proposed on 41 out of Muni's 75 transit lines. Based on customer survey data, 58% of the Muni customers who will benefit from the proposed service frequency increase self-identify as a minority and 51% stated that they live in low income households. This matches the Muni average systemwide average for minority customers of 58% and the systemwide average for low-income customers at 51%. As a result, no disparate impact or disproportionate burden is found on the proposed service increases to minority and low-income customers.
- **Service Frequency Decreases:** Service frequency decreases were proposed on only four Muni lines. Based on customer survey data, 49% of the Muni customers impacted by these decreases self-identified as a minority and 42% reported living in low-income households. The impacted lines are less minority and higher income than the system as a whole and as a result, no disparate impact or disproportionate burden is found on the proposed service frequency decreases.
- **Route Segment Additions:** Because the collected customer survey data was not statistically valid on a route segment level, U.S. Census data was used to analyze route segment changes. Based on U.S. Census data, 58% of San Francisco residents self-identify as minority and 31% live in low-income households. Analyzing the route segment additions, 63% of the population benefiting from route additions/extensions identifies as a minority and 29% identify as living in a low-income household. As a result, the proposed route additions/extensions provide a higher benefit to minority populations than the Citywide minority average of 58% and a slightly lower benefit to low-income populations than the Citywide low income household average but still within the SFMTA Board's adopted disproportionate burden threshold of 8%. As a result, no disparate impact or disproportionate burden is found.
- **Route Segment Eliminations:** Based on the analysis of U.S. Census data, 54% of the population impacted by the proposed route segment eliminations self-identified as a minority and 27% identify as living in a low-income household. As a result, fewer minority residents are impacted by the route segment eliminations than the Citywide average and fewer low income households are impacted than the citywide average and no disparate impact or disproportionate burden is found.

A preliminary Title VI Analysis addressing potential fare changes is attached. It includes a cumulative analysis of all proposed fare increases and a cumulative

analysis of all proposed fare decreases. Based on this analysis, the proposed fare increases do not lead to a disparate impact on customers who self-identify as minority, nor did the analysis find a disproportionate burden for customers from low-income households. Additionally, the fare decreases benefit low-income and minority customers and therefore also do not result in disparate impacts or disproportionate burdens.

The most significant fare decrease would be provided to populations receiving tokens and passes from social service agencies. No disparate impact or disproportionate burden was found, as the primary beneficiaries of this change are minorities and people from low income households. No data was available to evaluate the special event fares or increasing the age of the youth pass. The 2013 Systemwide On-Board Survey grouped 18 year olds with 18 to 34 year olds.

When taken collectively, the proposed fare increases would impact most SFMTA customers (approximately 95 percent) regardless of their ethnicity or income status. Approximately 660,000 to 670,000 of the 700,000 weekday boardings would be impacted by the fare increases in one way or another. Thus, there would be no disparate impact or disproportionate burden effects.

While there are no disparate impacts or disproportionate burden effects on the fare increase packages taken as a whole, the analysis did show that customers who self-identify as minority and customers from low-income households were more likely to pay with cash than the Muni ridership as a whole.

The policy benefits of this fare differential would be to incentivize customers to prepay fares before boarding, thus speeding customer boardings and reducing dwell times. This proposal would reduce farebox transactions and maintenance. The Lifeline Pass program for adults earning less than twice the Federal Poverty Level, as well as the Free Muni pass programs for low and moderate-income youth, seniors and people with disabilities, provides alternatives to cash payment for customers whose income qualifies them for these programs.

A final Title VI Analysis will be presented to the Board for approval when the FY17/ FY18 Operating Budget is presented.

#### PUBLIC OUTREACH

The following schedule summarizes the major outreach efforts:

Action	Date
SFMTA Board Workshop Equity Program	January 26, 2016
CAC Meeting	February 4, 2016
1st Public Hearing at SFMTA Board	February 16, 2016
CAC Meeting	March 3, 2016
2nd Public Hearing at SFMTA Board	March 15, 2016

Budget Webinar	March 21, 2016
Budget Open House	March 23, 2016
Budget Open House	March 26, 2016
CAC Meeting – Budget Action	March 24, 2016

In addition to the outreach efforts identified above, individual meetings are being scheduled with various stakeholders between January and March 2016.

#### ALTERNATIVES CONSIDERED

The SFMTA Board considered various options at the January 26, 2016 Workshop and the February 16, 2016 SFMTA Board meeting including those summarized in various enclosures summarizes revenue up and expenditure options for the SFMTA Board’s consideration. The SFMTA Board heard public comments at the February 16, 2016 SFMTA Board meeting on these options.

#### FUNDING IMPACT

Input from this public hearing will assist the SFMTA Board in their deliberations of the FY 2017 and FY 2018 Operating and Capital Budget. Following Board input on March 15, staff will finalize a budget for presentation at the April 5 Board meeting.

#### ENVIROMENTAL REVIEW

Public hearings do not constitute a project under the California Environmental Quality Act (CEQA), Public Resources Code section 21065 and Title 14 of the California Code of Regulations, (CEQA Guidelines) Section 15378 and no environmental review is necessary.

The proposed changes to changes to towing related fees and all related changes to Transportation Code Section 305 are subject to the California Environmental Quality Act (CEQA). CEQA provides a statutory exemption from environmental review for the establishment, modification, structuring, restructuring or approval of rates, tolls, and other charges pursuant to California Public Resources Code Section 21080(b)(8) and Title 14 of the California Code of Regulations, (CEQA Guidelines) Section 15273, if these rates, tolls, and other charges will be used to meet operating expenses, including employee wage rates and fringe benefits, or purchase or lease supplies, equipment, or materials.

The SFMTA, under authority delegated by the Planning Department, determined that the proposed changes to towing related fees and all related changes to Transportation Code Section 305 are statutorily exempt from environmental review under Section 15273 of the CEQA Guidelines because the anticipated revenues will be used to meet SFMTA operating expenses, including employee wage rates and fringe benefits, or to purchase or lease supplies, equipment, or materials. The SFMTA’s determination is on file with the Secretary to the SFMTA Board of Directors. The proposed action is the Approval Action as defined by the S. F.

Administrative Code Chapter 31.

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The SFMTA Board must approve a balanced Budget for FY 2017 and FY 2018 for submittal to the Mayor and the Board of Supervisors by May 1, 2016.

The City Attorney has reviewed this report. No other approvals are required.

**RECOMMENDATION**

Staff recommends that the Board hold a public hearing to discuss the FY 2017 and FY 2018 Operating Budget, including possible modifications to various fares, fees, fines, rates and charges; possible new revenue sources and new expenditures; and revenue and expenditure reductions; discussion of the FY 2017 and FY 2018 Capital funding through development fees and Population-based General Fund allocation included in the FY 2017 and FY 2018 Operating Budget and approve changes to towing related fees, including a discount program for low income vehicle owners and adding a new fee for vehicle liens, and amend the Transportation Code Division II to reflect these changes and rectify other non-substantive omissions.

*Appendix C*

THIS PRINT COVERS CALENDAR ITEM NO. : 10.4

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Finance and Information Technology

**BRIEF DESCRIPTION:**

Amend Transportation Code, Division II, Section 305 to establish conditions for waiving and/or reimbursing individuals for SFMTA towing and storage fees.

**SUMMARY:**

- The current tow waiver and reimbursement policy currently resides in Administrative Code Chapter 10.C.
- The City Charter grants authority to the SFMTA Board of Directors for SFMTA fees and fines; therefore, all provisions under Chapter 10C of the Administrative Code, except provisions governing San Francisco Police Department tow fees, must be transferred Division II of the Transportation Code.
- On June 16, 2015, the SFMTA Board of Directors approved the extension of the towing contract and a policy for stolen vehicle waivers in response to a November 2014 Board of Supervisors Resolution urging the SFMTA to modify current two fee waiver conditions.

- The tow extension was approved by the Board of Supervisors on July 14, 2015. However, further discussion with the Board of Supervisors resulted in modifications to the stolen vehicle waiver policy that are included in the proposed Transportation Code amendment.
- The modifications will go into effect on December 1, 2015.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Transportation Code Amendment

**APPROVALS:**

	DATE
DIRECTOR _____	8/10/15
SECRETARY _____	<u>8/10/15</u>

**ASSIGNED SFMTAB CALENDAR DATE:** August 18, 2015

**PURPOSE**

The purpose of this item is to amend Transportation Code, Division II, Section 305 to establish conditions for waiving and/or reimbursing individuals for SFMTA towing and storage fees.

**GOAL**

Approval of the Transportation Code amendment will support the following SFMTA Strategic goal and objective:

Goal #2 – Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel.

Objective 2.1 – improve customer service and communications.

**DESCRIPTION**

The current tow waiver and reimbursement policy currently resides in Administrative Code Chapter

10.C. However, the City Charter grants authority to the SFMTA Board of Directors to set SFMTA fees and fines. Therefore, tow waiver and reimbursement policies, except provisions governing San Francisco Police Department's administrative tow fee, should be transferred to Division II of the Transportation Code.

On June 16, 2015, the SFMTA Board of Directors authorized the extension of the towing contract and a new policy for stolen vehicle waivers in response to a November 2014 Board of Supervisors Resolution urging the SFMTA to review existing tow fee waiver conditions. The policy stated that contractor's towing and SFMTA administrative fees for both San Francisco residents and non-residents would be 100% waived, and provide a 72-hour grace period after storage before contractor's and administrative storage fees begin to accrue. The tow contract extension was approved by the Board of Supervisors on July 14, 2015; however, further discussion with the Board of Supervisors resulted in modifications to the policy, summarized below:



For a vehicle reported stolen prior to being towed or when the SFPD otherwise determined that the vehicle was stolen the SFMTA will 1) waive all contractor towing fees; 2) waive 100% of the SFMTA administrative tow fee for San Francisco residents and 50% of this fee for non-residents;

3) waive 100% of SFMTA administrative storage fees and 4) provide a 48-hour grace period after storage begins for San Francisco residents and a 24-hour grace period for non-residents before contractor's tow fees begin to accrue. These provisions will go into effect on December 1, 2015.

#### PUBLIC OUTREACH

Both the public and the Board of Supervisors have provided consistent feedback that paying for towing and storage fees for stolen vehicles is burdensome, and that some relief from this expense would mitigate the impact to victims of this crime. Feedback from the San Francisco Police Department (SFPD) indicated that their main concern in granting waivers for towing and storage fees is false reporting of stolen vehicles, and requested that the waiver only apply if the vehicle was reported stolen prior to being recovered, or if the SFPD otherwise determined that the vehicle was stolen.

Pursuant to Charter Section 16.112 and the Rules of Order of the Board of Directors, advertisements were placed in the City's official newspaper to provide notice that the Board of Directors will hold a public hearing on August 18, 2015 to consider the above modifications. In compliance with these requirements, the advertisement ran in the San Francisco Examiner for a five-day period beginning July 27, 2015.

#### ALTERNATIVES CONSIDERED

The alternative would be to not waive or reimburse towing and storage fees. However, there are instances when a car was towed as a result of administrative error or when the vehicle owner is not at fault for the tow so the option of waiving the fees is appropriate.

#### FUNDING IMPACT

Should the proposed waiver policy be adopted, the impact to the FY 2016 operating budget would be approximately \$226,000 because under the current towing agreement the SFMTA would have to reimburse the towing contractor for waiving its towing and storage fees. Stolen vehicle waiver costs under the new agreement will be calculated after successful completion of the current competitive procurement process, and submission of costs for services provided by the chosen contractor.

#### ENVIRONMENTAL REVIEW

Modifications to fares are subject to the California Environmental Quality Act (CEQA). The CEQA implementing guidelines provide an exemption from environmental review for the establishment, modification, structuring, restructuring or approval of rates, tolls, and other charges, if these rates, tolls, and other charges will be used to meet operating expenses, including employee wage rates and fringe benefits, or purchase or lease of supplies, equipment, or materials. (Cal. Code Regs.,

tit. 14, § 15273.)

The SFMTA, under authority delegated by the Planning Department, has determined that the proposed amendments to Transportation Code Section 305 are statutorily exempt from environmental review under Section 15273 of the CEQA guidelines. The SFMTA's determination is on file with the Secretary to the SFMTA Board of Directors. The proposed action is the Approval Action as defined by the S. F. Administrative Code Chapter 31.

#### OTHER APPROVALS RECEIVED OR STILL REQUIRED

The City Attorney's Office has reviewed this report.

#### RECOMMENDATION

The recommendation is to amend Transportation Code, Division II, Section 305 to establish conditions for waiving and/or reimbursing individuals for towing and storage fees.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS  
RESOLUTION No. \_\_\_\_\_

WHEREAS, The current tow waiver and reimbursement policy resides in Administrative Code Chapter 10.C while the City Charter grants the SFMTA Board of Directors authority over SFMTA fees and fines; therefore tow waiver and reimbursement provisions except provisions governing San Francisco Police Department's administrative tow fee, should be transferred to Division II of the Transportation Code; and,

WHEREAS, On June 16, 2015, the SFMTA Board of Directors authorized the extension of the towing contract and a new policy for stolen vehicle waivers in response to a November 2014 Board of Supervisors Resolution urging the SFMTA to review existing tow fee waiver conditions; and,

WHEREAS, The policy stated that contractor's towing and SFMTA administrative fees for both San Francisco residents and non-residents would be 100% waived, and provide a 72- hour grace period after storage before contractor's and administrative storage fees begin to accrue; and,

WHEREAS, The tow contract extension was approved by the Board of Supervisors on July 14, 2015; however, further discussion with the Board of Supervisors resulted in modifications to the stolen vehicle waiver policy; and

WHEREAS, The new conditions for stolen vehicle waivers are as follows: For a vehicle reported stolen prior to being towed or when the SFPD otherwise determined that the vehicle was stolen the SFMTA would 1) waive all contractor towing fees; 2) waive 100% of the SFMTA administrative tow fee for San Francisco residents and 50% of that fee for non-residents; 3) waive 100% of SFMTA administrative storage fees and 4) provide a 48-hour grace period after storage begins for SF residents and a 24-hour grace period for non-SF residents; and,

WHEREAS, The Transportation Code modifications will go into effect December 1, 2015; and,

WHEREAS, Modifications to fares are subject to the California Environmental Quality Act (CEQA); the CEQA implementing guidelines provide an

exemption from environmental review for the establishment, modification, structuring, restructuring or approval of rates, tolls, and other charges, if these rates, tolls, and other charges will be used to meet operating expenses, including employee wage rates and fringe benefits, or purchase or lease of supplies, equipment, or materials. (Cal. Code Regs., tit. 14, § 15273.); and,

WHEREAS, The SFMTA, under authority delegated by the Planning Department, has determined that the proposed amendments to Transportation Code Section 305 are statutorily exempt from environmental review under Section 15273 of the CEQA guidelines; the proposed action is the Approval Action as defined by the S. F. Administrative Code Chapter 31; and

WHEREAS, Pursuant to Charter Section 16.112 and the Rules of Order of the Board of Directors, advertisements were placed in the City's official newspaper, the San Francisco Examiner, for a five-day period beginning July 27, 2015 to provide notice that the Board of Directors will hold a public hearing on August 18, 2015 to consider the above modifications; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends Transportation Code, Division II, Section 305 to establish conditions for waiving and/or reimbursing individuals for SFMTA towing and storage fees.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of August 18, 2015.

Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

#### RESOLUTION NO.

[Transportation Code - Reimbursement and Waiver of Towing and Storage Fees]

**Resolution amending the Transportation Code to authorize the waiver or reimbursement of fees related to towing and storage of vehicles when the vehicle was towed to inspect it for evidence of a crime; the vehicle was mistakenly towed; the vehicle tow was incorrectly reported, filed or recorded; the vehicle was towed for the removal of component parts; or the vehicle was a stolen vehicle that was recovered in San Francisco.**

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 amended by revising Section 305, to read as follows:

#### **SEC. 305. TOWING AND STORAGE ~~ADMINISTRATIVE FEES.~~**

- a) Fees. The SFMTA shall charge the owner of a towed vehicle a fee in the amount of \$263.00 effective July 1, 2014, and \$266.00 effective July 1, 2015, to reimburse the

City for administrative costs related to the removal, impound, or release of vehicles towed from the public right-of-way. 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 ~~S~~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 ~~S~~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 ~~S~~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 fees imposed or authorized by the SFMTA in connection with the 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, the SFMTA shall waive, if the vehicle owner is an individual:

(A) All of its administrative fee related to the removal, impound, or release of the vehicle (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

(D) The City Contractor's storage fees that would otherwise accrue during the first 48 hours that the vehicle is stored 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 anon-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 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, 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

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 December 1, 2015.

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 August 18, 2015.

Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

*Appendix D*

**VEHICLE CODE - VEH**

**DIVISION 11. RULES OF THE ROAD [21000 - 23336]** (*Division 11 enacted by Stats. 1959, Ch. 3.*)

**CHAPTER 10. Removal of Parked and Abandoned Vehicles [22650 - 22856]** (*Chapter 10 enacted by Stats. 1959, Ch. 3.*)

**ARTICLE 2. Vehicle Disposition [22850 - 22856]** (*Heading of Article 2 renumbered from Article 3 by Stats. 1980, Ch. 1111, Sec. 28.*)

**22850.5.**

(a) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution establishing procedures for the release of properly impounded vehicles to the registered owner or the agent of the registered owner and for the imposition of a charge equal to its administrative costs relating to the removal, impound, storage, or release of the vehicles to the registered owner or to the agent of the registered owner. Those administrative costs may be waived by the local or state authority upon verifiable proof that the vehicle was reported stolen at the time the vehicle was removed, **and shall be reduced or waived for registered owners or their agents pursuant to paragraphs (5) and (6) of subsection (b).**

(b) The following apply to any charges imposed for administrative costs pursuant to subdivision (a):

(1) The charges shall only be imposed on the registered owner or the agents of that owner and shall not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive, of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs.

(2) Any charges shall be collected by the local or state authority only from the registered owner or an agent of the registered owner.

(3) The charges shall be in addition to any other charges authorized or imposed pursuant to this code.

(4) No charge may be imposed for any hearing or appeal relating to the removal, impound, storage, or release of a vehicle unless that hearing or appeal was requested in writing by the registered or legal owner of the vehicle or an agent of that registered or legal owner. In addition, the charge may be imposed only upon the person requesting that hearing or appeal.

No administrative costs authorized under subdivision (a) shall be charged to the legal owner who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. No city, county, city and county, or state agency shall require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent.

The impounding agency, or any person acting on behalf of the agency, shall not require the legal owner or the legal owner's agent to produce any documents other than those specified in paragraph (3) of subdivision (f) of Section 14602.6 or paragraph (3) of subdivision (e) of Section 14602.7. The impounding agency, or any person acting on behalf of the agency, shall not require any documents to be notarized.

(5) If a vehicle has not previously been towed by the local or state authority while registered to its current owner in the last five years, and the registered owner is not a business, including but not limited to a partnership, for-profit corporation, or non-profit corporation, any charges imposed for administrative costs relating to the release of the vehicle shall not exceed 65% of the charge equal to the administrative costs relating to the vehicle's release.

(6) The local or state authority shall waive any charges imposed for administrative costs relating to the vehicle's release, and waive any charges imposed for administrative costs relating to the vehicle's storage that would otherwise accrue during the first 24 hours and two consecutive calendar days thereafter, upon verifiable proof that the registered owner or the agent of the registered owner:

(A) is not a business, including but not limited to a partnership, for-profit corporation, or non-profit corporation, and

(B) is a participant in an eligible program for low income families or individuals, or has an annual household income that meets or is less than the "low income" category for households in that county, pursuant to Title 25, Section 6932 of the California Code of Regulations.

(C) The Department of Motor Vehicles shall publish the list of eligible programs for low income families or individuals on its website.

*(Amended by Stats. 2015, Ch. 740, Sec. 17. (AB 281) Effective January 1, 2016.)*

#### *Appendix E*

### **VEHICLE CODE - VEH**

**DIVISION 11. RULES OF THE ROAD [21000 - 23336] ( Division 11 enacted by Stats. 1959,**

**Ch. 3. )**

**CHAPTER 10. Removal of Parked and Abandoned Vehicles [22650 - 22856] ( Chapter 10 enacted by Stats. 1959, Ch. 3. )**

**ARTICLE 1. Authority to Remove Vehicles [22650 - 22711] ( Article 1 enacted by Stats. 1959,**

**Ch. 3. )**

#### **22651.07.**

(a) A person, including a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or an impounding yard, that charges for towing or storage, or both, shall do all of the following:

(1) (A) Except as provided in subparagraph (B), post in the office area of the storage



facility, in plain view of the public, the Towing and Storage Fees and Access Notice and have copies readily available to the public.

(B) An automotive repair dealer, registered pursuant to Article 3 (commencing with Section 9884) of Chapter 20.3 of Division 3 of the Business and Professions Code, that does not provide towing services is exempt from the requirements to post the Towing and Storage Fees and Access Notice in the office area.

(2) Provide, upon request, a copy of the Towing and Storage Fees and Access Notice to any owner or operator of a towed or stored vehicle.

(3) Provide a distinct notice on an itemized invoice for any towing or storage, or both, charges stating: "Upon request, you are entitled to receive a copy of the Towing and Storage Fees and Access Notice." This notice shall be contained within a bordered text box, printed in no less than 10-point type.

(b) Prior to receiving payment for any towing, recovery, or storage-related fees, a facility that charges for towing or storage, or both, shall provide an itemized invoice of actual charges to the vehicle owner or his or her agent. If an automotive repair dealer, registered pursuant to Article 3 (commencing with Section 9884) of Chapter

20.3 of Division 3 of the Business and Professions Code, did not provide the tow, and passes along, from the tower to the consumer, any of the information required on the itemized invoice, pursuant to subdivision (g) the automotive repair dealer shall not be responsible for the accuracy of those items of information that remain unaltered.

(c) Prior to paying any towing, recovery, or storage-related fees, a vehicle owner or his or her agent or a licensed reposessor shall, at any facility where the vehicle is being stored, have the right to all of the following:

(1) Receive his or her personal property, at no charge, during normal business hours. Normal business hours for releasing collateral and personal property are Monday through Friday from 8:00 a.m. to 5:00 p.m., inclusive, except state holidays.

(2) Retrieve his or her vehicle during the first 72 hours of storage and not pay a lienfee.

(3) (A) Inspect the vehicle without paying a fee.

(B) Have his or her insurer inspect the vehicle at the storage facility, at no charge, during normal business hours. However, the storage facility may limit the inspection to increments of 45 consecutive minutes in order to provide service to any other waiting customer, after which the insurer may resume the inspection for additional increments of 45 consecutive minutes, as necessary.

(4) Request a copy of the Towing and Storage Fees and Access Notice.

(5) Be permitted to pay by cash, insurer's check, or a valid bank credit card. Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when agreeing with a towing or storage provider on rates.

(d) A storage facility shall be open and accessible during normal business hours, as defined in subdivision (c). Outside of normal business hours, the facility shall provide a telephone number that permits the caller to leave a message. Calls to this number shall be returned no later than six business hours after a message has been left.

(e) The Towing and Storage Fees and Access Notice shall be a standardized document plainly printed in no less than 10-point type. A person may distribute the form using its own letterhead, but the language of the Towing and Storage Fees and Access Notice shall read as follows:

Towing and Storage Fees and Access Notice
Note: The following information is intended to serve as a general summary of some of the laws that provide vehicle owners certain rights when their vehicle is towed. It is not intended to summarize all of the laws that may be applicable nor is it intended to fully and completely state the entire law in any area listed. Please review the applicable California code for a definitive statement of the law in your particular situation.
How much can a towing company charge?
Rates for public tows and storage are generally established by an agreement between the law enforcement agency requesting the tow and the towing company (to confirm the approved rates, you may contact the law enforcement agency that initiated the tow; additionally, these rates are required to be posted at the storage facility).
Rates for private property tows and storage cannot exceed the approved rates for the law enforcement agency that has primary jurisdiction for the property from which the vehicle was removed or the towing company's approved CHP rate.
Rates for owner's request tows and storage are generally established by mutual agreement between the requestor and the towing company, but may be dictated by agreements established between the requestor's motor club and motor club service provider.
Is this your first public tow by the enforcement agency within the last 5 years?
Pursuant to Section 22850.5 of the Vehicle Code, you may be eligible for a release fee reduction if in the last 5 years, your vehicle has not been towed by the local or state authority while registered under your name.
Are you a low-income individual? Or receive California State Medi-Cal, Electronic Benefits Transfer (EBT), or housing or other assistance?
<p>Pursuant to Section 22850.5 of the Vehicle Code, you may be eligible for a</p> <ul style="list-style-type: none"> <li>• release fee waiver</li> <li>• and, a waiver of storage fees covering the first 24 hours and two consecutive calendar days after the tow</li> </ul> <p>If you participate in an eligible program for low income families or individuals, or have an annual household income that meets or is less than the "low income" category for households in your county, pursuant to Title 25, Section 6932 of the</p>

<p>california code of regulations.  For more information for establishing low-income eligibility visit the The Department of Motor Vehicles website, <a href="http://www.dmv.ca.gov">www.dmv.ca.gov</a>.</p>
<p>Where can you complain about a towing company?</p>
<p>For public tows: Contact the law enforcement agency initiating the tow.</p>
<p>Your rights if your vehicle is towed:</p>
<p>Generally, prior to paying any towing and storage-related fees you have the right to:</p>
<ul style="list-style-type: none"> <li>• Receive an itemized invoice of actual charges.</li> </ul>
<ul style="list-style-type: none"> <li>• Receive your personal property, at no charge, during normal business hours.</li> </ul>
<ul style="list-style-type: none"> <li>• Retrieve your vehicle during the first 72 hours of storage and not pay a lien fee.</li> </ul>
<ul style="list-style-type: none"> <li>• Request a copy of the Towing and Storage Fees and Access Notice.</li> </ul>
<ul style="list-style-type: none"> <li>• Pay by cash, valid bank credit card, or a check issued by your insurer.</li> </ul>
<ul style="list-style-type: none"> <li>• Inspect your vehicle.</li> <li>• Have your insurer inspect your vehicle at the storage facility, at no charge, during normal business hours. However, the storage facility may limit the inspection to increments of 45 consecutive minutes in order to provide service to any other waiting customer, after which the insurer may resume the inspection for additional increments of 45 consecutive minutes, as necessary.</li> </ul>
<p>You and your insurance company or the insurance company representative have the right to have the vehicle released immediately upon (1) payment of all towing and storage-related fees, (2) presentation of a valid photo identification, (3) presentation of reliable documentation showing that you are the owner, insured, or insurer of the vehicle or that the owner has authorized you to take possession of the vehicle, and (4), if applicable, in the case of a fatality or crime, presentation of any required police or law enforcement release documents.</p>
<ul style="list-style-type: none"> <li>• Prior to your vehicle being repaired:</li> </ul>

<ul style="list-style-type: none"> <li>You have the right to choose the repair facility and to have no repairs made to your vehicle unless you authorize them in writing.</li> </ul>
Any authorization you sign for towing and any authorization you sign for repair must be on separate forms.
What if I do not pay the towing and storage-related fees or abandon my vehicle at the towing company?
Pursuant to Sections 3068.1 to 3074, inclusive, of the Civil Code, a towing company may sell your vehicle and any moneys received will be applied to towing and storage-related fees that have accumulated against your vehicle.
You are responsible for paying the towing company any outstanding balance due on any of these fees once the sale is complete.
Who is liable if my vehicle was damaged during towing or storage?
Generally the owner of a vehicle may recover for any damage to the vehicle resulting from any intentional or negligent act of a person causing the removal of, or removing, the vehicle.
What happens if a towing company violates the law?
If a tow company does not satisfactorily meet certain requirements detailed in this notice, you may bring a lawsuit in court, generally in small claims court. The tower may be civilly liable for damages up to two times the amount charged, not to exceed \$500, and possibly more for certain violations.

(f) “Insurer,” as used in this section, means either a first-party insurer or third-party insurer.

(g) “Itemized invoice,” as used in this section, means a written document that contains the following information. Any document that substantially complies with this subdivision shall be deemed an “itemized invoice” for purposes of this section:

(1) The name, address, telephone number, and carrier identification number as required by subdivision (a) of Section 34507.5 of the person that is charging for towing and storage.

(2) If ascertainable, the registered owner or operator’s name, address, and telephone number.

(3) The date service was initiated.

(4) The location of the vehicle at the time service was initiated, including either the address or nearest intersecting roadways.

(5) A vehicle description that includes, if ascertainable, the vehicle year, make, model, odometer reading, license plate number, or if a license plate number is unavailable, the

vehicle identification number (VIN).

(6) The service dispatch time, the service arrival time of the tow truck, and the service completion time.

(7) A clear, itemized, and detailed explanation of any additional services that caused the total towing-related service time to exceed one hour between service dispatch time and service completion time.

(8) The hourly rate or per item rate used to calculate the total towing and recovery-related fees. These fees shall be listed as separate line items.

(9) If subject to storage fees, the daily storage rate and the total number of days stored. The storage fees shall be listed as a separate line item. Storage rates shall comply with the requirements of subdivision (c) of Section 22524.5.

(10) If subject to a gate fee, the date and time the vehicle was released after normal business hours. Normal business hours are Monday through Friday from 8:00 a.m. to 5:00 p.m., inclusive, except state holidays. A gate fee shall be listed as a separate line item. A gate fee shall comply with the requirements in subdivision (c) of Section 22524.5.

(11) A description of the method of towing.

(12) If the tow was not requested by the vehicle's owner or driver, the identity of the person or governmental agency that directed the tow. This paragraph shall not apply to information otherwise required to be redacted under Section 22658.

(13) A clear, itemized, and detailed explanation of any additional services or fees.

(h) "Person," as used in this section, includes those entities described in subdivision (a) and has the same meaning as described in Section 470.

(i) An insurer, insurer's agent, or tow hauler, shall be permitted to pay for towing and storage charges by a valid bank credit card, insurer's check, or bank draft.

(j) Except as otherwise exempted in this section, the requirements of this section apply to any facility that charges for the storage of a vehicle, including, but not limited to, a vehicle repair garage or service station, but not including a new motor vehicle dealer.

(k) A person who violates this section is civilly liable to a registered or legal owner of the vehicle, or a registered owner's insurer, for up to two times the amount charged. Liability in any action brought under this section shall not exceed five hundred dollars (\$500) per vehicle.

(l) A suspected violation of this section may be reported by any person, including, without limitation, the legal or registered owner of a vehicle or his or her insurer.

(m) This section shall not apply to the towing or storage of a repossessed vehicle by any person subject to, or exempt from, the Collateral Recovery Act (Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code).

(n) This section does not relieve a person from the obligation to comply with any other law.

(o) Notwithstanding this section, an insurer shall comply with all of its obligations under Section 2695.8 of Chapter 5 of Title 10 of the California Code of Regulations.

*(Amended by Stats. 2018, Ch. 434, Sec. 3. (AB 2392) Effective January 1, 2019.)*