

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Finance and Information Technology

**BRIEF DESCRIPTION:**

Approving the Second Amendment to SFMTA Contract No. 2013-45, the Amended and Restated Towing Agreement with TEGSCO, LLC, dba San Francisco AutoReturn to extend the Agreement for eight months from August 1, 2015 to March 31, 2016; approving the First Amendment to Appendix H of the Agreement, the Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles to extend the License for eight months from August 1, 2015 to March 31, 2016, and to allow the Contractor to deduct \$53,000 from the monthly rent each month of the extension for licensed facility to cover the increased monthly rent assessed by Caltrans for the 7th Street customer service center and primary towed vehicle storage facility; and approving a policy for stolen vehicles of waiving SFMTA administrative towing and storage fees and the Contractor's towing fee, and granting a 72-hour grace period before the Contractor's storage fees begin to accrue.

**SUMMARY:**

- The current towing Agreement and License expires on July 31, 2015. Although a Request for Proposals (RFP) will be released prior to the agreement's expiration, evaluation and negotiation of a new contract and a possible transition between contractors will take up to eight months beyond the expiration date. The contract amendment extends the contract term to March 31, 2016.
- The amendment of the License extends the license of the secondary storage facility at 2650 Bayshore that SFMTA leased to the Contractor to March 31, 2016, and allows the Contractor to deduct \$53,000 from the monthly rent for the Bayshore facility to cover the increased rent assessed for the 7th Street customer service center and primary vehicle storage facility that the Contractor rents directly from Caltrans.
- The Board of Supervisors adopted Resolution No. 432-14 requesting the SFMTA to evaluate the feasibility of waiving or otherwise mitigating towing and storage fees for towed vehicles that have been identified as stolen. Although there would be a \$1 million impact to the operating budget, staff recommends adopting the stolen vehicle waiver policy.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Second Amendment to the Amended and Restated Towing Agreement and First Amendment to Appendix H, the Property Use License.

**APPROVALS:**

**DATE**

DIRECTOR \_\_\_\_\_

6/9/15

SECRETARY \_\_\_\_\_

6/9/15

**ASSIGNED SFMTAB CALENDAR DATE:** June 16, 2015

## **PURPOSE**

The purpose of the item is to approve the Second Amendment to SFMTA Contract No. 2013-45, the Amended and Restated Towing Agreement with TEGSCO, LLC, dba San Francisco AutoReturn to extend the Agreement for eight months from August 1, 2015 to March 31, 2016; approving the First Amendment to Appendix H of the Agreement, the Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles to extend the License for eight months from August 1, 2015 to March 31, 2016, and to allow the Contractor to deduct \$53,000 from the monthly rent each month of the extension for the licensed facility to cover the increased monthly rent assessed by Caltrans for the 7th Street customer service center and primary towed vehicle storage facility; and approving a policy for stolen vehicles of waiving SFMTA administrative towing and storage fees and the Contractor's towing fee, and granting a 72-hour grace period before the Contractor's storage fees begin to accrue.

## **GOAL**

This item supports the following 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

## **DESCRIPTION**

### **Background**

The City, through the SFMTA, is responsible for efficiently controlling and removing illegally parked and abandoned vehicles in order to maximize on-street parking, manage traffic congestion and maintain clean, safe and functional streets for the public's use. The City has contracted out for towing and lien sale support services since 1987.

On July 31, 2005, the SFMTA executed SFMTA Contract No. 2013-45 with San Francisco AutoReturn to manage a network of ten local and Bay Area firms that provide tow truck operators for the SFMTA and the San Francisco Police Department (SFPD) and Appendix C, a license agreement for a long-term storage and auction facility at Pier 70. In addition, the AutoReturn secured a separate license with Caltrans for a primary storage lot at 450 7<sup>th</sup> Street that contains the customer service center where the majority of the public retrieve their vehicles.

The initial term of the agreement was for five years. It was extended for five additional years in 2010, and will expire on July 31, 2015. In 2014, approximately 44,000 vehicles were towed by the SFMTA and the SFPD. The total cost recovery revenue in FY2014 was approximately \$11 million.

In May 2014 the SFMTA Board of Directors and the Board of Supervisors replaced the Pier 70 license agreement (Appendix C of the agreement) with Appendix H, relocating the long-term storage and auction facility from Pier 70 to 2650 Bayshore Blvd.

The SFMTA is in the process of negotiating with Caltrans to transition the 7<sup>th</sup> Street lease from AutoReturn to the SFMTA, and expects to have the new lease in place by the time the new contract is awarded. Retaining the 7<sup>th</sup> Street location provides a place to retrieve vehicles that is centrally located, easily accessed by public transportation, and across the street from the SFPD’s traffic division, which provides the majority of vehicle releases for police holds.

Under AutoReturn, customer service efforts have improved dramatically with the application of technology to streamline the tow dispatch and vehicle inventory process, and a decrease of non-fee related complaints to the SFMTA from approximately 20 per month under the previous vendor to an average of three to four complaints per quarter.

**Reasons for Extension**

In requesting the eight-month extension, the following factors were considered:

- Timeline needed for proposal evaluation, negotiations and contract award.
- Time needed to transfer the lease for the primary storage facility at 7<sup>th</sup> Street from the contractor to the SFMTA.
- Timeline needed for potential change of service between contractors.

**Stolen Vehicles – Proposed Tow Fee Waiver Policy**

In November 2014, the Board of Supervisors adopted Resolution No. 432-14, urging the SFMTA to consider rescinding the policy established in 2005 that required customers whose vehicles were stolen to pay for the contractor’s towing and storage fees and waived city administrative fees for SF residents. This policy has continued since the SFMTA gained the ability to set its own fines, fees and fares in 2008 through Proposition A, but has not been codified in the Transportation Code.

Under the contract extension staff is recommending a new policy, as urged by the Board of Supervisors through its resolution. Under the recommended policy, all individuals (not just San Francisco residents) whose vehicles are stolen and subsequently towed will have SFMTA administrative towing and storage fees and the contractor’s towing fee waived, and will be given a 72-hour grace period before the contractor’s storage fees begin to accrue. The waiver would not apply to vehicles owned by a business.

The table below provides a comparison of the current and recommended policy with regard to stolen vehicles.

Type of Fee	Current Waiver Policy (Established in 2005)	Recommended Waiver Policy
SFMTA Administrative Tow Fee (\$263.00)	Waived for SF Residents whose stolen vehicles were towed in San Francisco.	Waived for all individuals whose stolen vehicles were towed in San Francisco.

Type of Fee	Current Waiver Policy (Established in 2005)	Recommended Waiver Policy
SFMTA Administrative Storage Fee (\$2.75)/day	Waived for SF Residents whose stolen vehicles were towed in San Francisco.	Waived for all individuals whose stolen vehicles were towed in San Francisco.
Contractor’s Towing Fee (\$220.75)	Public is required to pay	Waived for all individuals whose stolen vehicles were towed in San Francisco.
Contractor’s Storage Fees (\$64.00)/day	4-hour grace period before accrual begins.	72-hour grace period before accrual begins.

**PUBLIC OUTREACH**

The SFMTA has received concerns from the public and from policy makers related to number and amount of the fees associated with this program, which are currently based on a cost recovery model. The SFMTA has made a commitment to look at ways to reduce these fees in the new contract. A public hearing was held in November 2014 at the Board of Supervisors related to stolen vehicles, after which the Supervisors approved Resolution No. 432-14, as discussed above.

**ALTERNATIVES CONSIDERED**

The only alternative available is not extending the current agreement, which would leave the City without towing services and is thus unacceptable.

**FUNDING IMPACT**

The following costs will funded by the operating budget.

- Waiving the contractor’s towing and storage fees for individuals whose vehicles have been stolen would result in SFMTA having to reimburse AutoReturn for those expenses. Additionally, the SFMTA would no longer receive the administrative fees currently paid by non-San Francisco residents. The total projected impact would be approximately \$1 million annually.
- The primary storage facility is currently leased by the contractor. In March 2015, Caltrans increased the monthly lease amount from \$36,379 per month to \$90,000 per month. Allowing the contractor to offset \$53,000 per month of the 7<sup>th</sup> Street rent against the Bayshore rent of \$147,985.76 per month during the extension period will result in a \$424,000 impact to the FY2016 operations budget during the eight-month extension of the agreement.

**ENVIRONMENTAL REVIEW**

The proposed amendments are categorically exempt from Environmental Review (Class 1 Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination).

The Planning Department'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 Board of Supervisors must approve the amendments to the Towing and License agreements. Should the stolen vehicle policy be adopted, amendments to the Transportation Code, Division II to codify procedures and qualifications for the waiver will be submitted for Board approval. The City Attorney's Office has reviewed this report.

### **RECOMMENDATION**

The recommendation is to approve the Second Amendment to SFMTA Contract No. 2013-45, the Amended and Restated Towing Agreement with TEGSCO, LLC, dba San Francisco AutoReturn to extend the Agreement for eight months from August 1, 2015 to March 31, 2016; to approve the First Amendment to Appendix H of the Agreement, the Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles to extend the License for eight months from August 1, 2015 to March 31, 2016, and to allow the Contractor to deduct \$53,000 from the monthly rent each month of the extension for licensed facility to cover the increased monthly rent assessed by Caltrans for the 7th Street customer service center and primary towed vehicle storage facility; and approving a policy for stolen vehicles of waiving SFMTA administrative towing and storage fees and the contractor's towing fee, and granting a 72-hour grace period before the contractor's storage fees begin to accrue.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The City, through the SFMTA, is responsible for efficiently controlling and removing illegally parked and abandoned vehicles, in order to maximize the amount of on-street parking, manage traffic congestion and maintain clean, safe and functional streets; and,

WHEREAS, On July 31, 2005, the SFMTA executed SFMTA Contract #2013-45 with San Francisco AutoReturn to manage a network of ten local and Bay Area towing firms that provide towing support for the SFMTA and the San Francisco Police Department (SFPD) and Appendix C, a license agreement for a long-term storage facility at Pier 70; and,

WHEREAS, In addition, the Contractor secured a separate license with Caltrans for the primary storage lot that contains the customer service center where the majority of the public retrieves their vehicles; and,

WHEREAS, The agreement was extended for five years in 2010; and

WHEREAS, In May 2014 Appendix C was replaced with Appendix H when both Boards approved transferring the long-term storage facility from Pier 70 to 2650 Bayshore Blvd.; and,

WHEREAS, The agreement will expire on July 31, 2015; and,

WHEREAS, The SFMTA requires an additional eight months to release the RFP, negotiate the contract and transfer leasing of the primary storage lot from the Contractor to the SFMTA; and,

WHEREAS, In order to pay for an increase to the primary storage facility lease amount from \$36,379 per month to \$90,000 per month the SFMTA will allow the Contractor to offset its rent of \$147,985.76 per month at the Bayshore facility by \$53,000 per month, for a total of \$424,000 during the eight-month extension period; and

WHEREAS, In November 2014, the Board of Supervisors passed Resolution No. 432-14, urging the SFMTA to evaluate the feasibility of waiving or otherwise mitigating towing and storage fees for individual members of the public whose vehicles were towed and identified by the SFPD as stolen; and,

WHEREAS, Waiving the contractor's towing and storage fees for individuals whose vehicles have been stolen will result in the SFMTA having to reimburse AutoReturn; and the SFMTA would no longer receive administrative fees currently paid by non-San Francisco residents whose vehicles were stolen, at a cost of approximately \$1 million annually; and,

WHEREAS, The proposed approval actions are categorically exempt from Environmental Review (Class 1 Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination); now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director or his designee to execute the Second Amendment to San Francisco Municipal Transportation Agency Contract No. 2013-45, the Amended and Restated Towing Agreement with TEGSCO, LLC, dba San Francisco AutoReturn for towing and storage of illegally-parked and abandoned vehicles, to extend the Agreement by eight months to March 31, 2016 at no additional cost to the City, pending Board of Supervisors approval; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the First Amendment to Appendix H of San Francisco Municipal Transportation Agency Contract No. 2013-45, the Property Use License for Towing, Storage and Disposal of Abandoned and Illegally Parked Vehicles, at 2650 Bayshore Blvd, Daly City, CA for long-term storage and lien sales of towed vehicles, to extend the License eight months to March 31, 2016, and to allow San Francisco AutoReturn to deduct \$53,000 from the monthly rent of the Licensed facility to cover the increased monthly rent assessed by Caltrans for the customer service center and primary vehicle storage facility at 7th Street; and be it further

RESOLVED, That the SFMTA Board of Directors approves a policy for stolen vehicles of waiving SFMTA administrative towing and storage fees and the contractor's towing fee, and granting a 72-hour grace period before the contractor's storage fees begin to accrue.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of June 16, 2015.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

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

**Second Amendment to SFMTA Contract #2013-45, the  
Restated and Amended Agreement for  
Towing and Storage of Abandoned and Illegally-Parked Vehicles**

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

**RECITALS**

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

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

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

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

First Amendment, dated May 1, 2014

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

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

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

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

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



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

(a) City Waivers

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

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

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

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

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

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

CITY  
San Francisco  
Municipal Transportation Agency

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

\_\_\_\_\_  
Edward D. Reiskin  
Director of Transportation

\_\_\_\_\_  
John Wicker  
President and CEO

City vendor number: 01-0688299

Approved as to Form:  
Dennis J. Herrera  
City Attorney

By:

\_\_\_\_\_  
Mariam Morley  
Deputy City Attorney

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

\_\_\_\_\_  
Secretary, SFMTA Board of Directors

Board of Supervisors

Resolution No: \_\_\_\_\_  
Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk of the Board

## Appendix H

### LEASE AMENDMENT

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

#### RECITALS

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

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

#### AGREEMENT

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

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

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

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

### **3. Criminal History Inquiries for Employment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

LICENSEE:

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

By: \_\_\_\_\_  
John Wicker, President and CEO

CITY:

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

By: \_\_\_\_\_  
Edward D. Reiskin  
Director of Transportation

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

By: \_\_\_\_\_  
Mariam Morley,  
Deputy City Attorney

San Francisco Municipal Transportation Agency  
Board of Directors

Resolution No: \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary, SFMTA Board of Directors

Board of Supervisors

Resolution No: \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Clerk of the Board