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Title: CONSIDER APPROVAL AND RATIFICATION OF AMENDMENT NO. 4 TO CITY OF CARSON TOWING AND STORAGE NON-EXCLUSIVE FRANCHISE AGREEMENT WITH KAM'S AUTOMOTIVE, INC., DOING BUSINESS AS FALCON TOWING, AND APPROVAL AND RATIFICATION OF AMENDMENT NO. 2 TO THE CITY OF CARSON TOWING AND STORAGE NON-EXCLUSIVE FRANCHISE AGREEMENT WITH KRUGER TOWING, INC. FOR TOWING AND STORAGE SERVICES (CITY COUNCIL)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Amendment No. 4 to Towing Franchise Agreement (Falcon Towing), 2. Amendment No. 2 to Towing Franchise Agreement (Kruger Towing)

| Date | Ver. | Action By | Action | Result |
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Report to Mayor and City Council

Tuesday, February 21, 2023

Consent

SUBJECT:

CONSIDER APPROVAL AND RATIFICATION OF AMENDMENT NO. 4 TO CITY OF CARSON TOWING AND STORAGE NON-EXCLUSIVE FRANCHISE AGREEMENT WITH KAM'S AUTOMOTIVE, INC., DOING BUSINESS AS FALCON TOWING, AND APPROVAL AND RATIFICATION OF AMENDMENT NO. 2 TO THE CITY OF CARSON TOWING AND STORAGE NON-EXCLUSIVE FRANCHISE AGREEMENT WITH KRUGER TOWING, INC. FOR TOWING AND STORAGE SERVICES (CITY COUNCIL)

I. SUMMARY

Staff would like to request City Council to approve and ratify an extension for one (1) month of the two Non-Exclusive Towing and Storage Franchise Agreements, one to Falcon Towing ("Falcon") and the other to Kruger Towing ("Kruger"), to handle City of Carson-initiated towing and storage needs (excluding towing and storage requirements initiated by the Los Angeles County Sheriff's Department Carson Station). Both agreements provided that all non-cancelled tows requested by City will be dispatched on a one-to-one rotating basis between Falcon and Kruger.

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE and RATIFY Amendment No. 4 to City of Carson Towing and Storage Non-Exclusive Franchise Agreement with Kam's Automotive, Inc. doing business as Falcon Towing extending the term to March 31, 2023; AND
2. APPROVE and RATIFY Amendment No.2 to City of Carson Towing and Storage Non-Exclusive Franchise Agreement with Kruger Towing, Inc. for towing and storage services extending the term to March 31, 2023; AND
3. APPROVE, AUTHORIZE and RATIFY execution of Amendment No. 4 and Amendment No. 2 by the City Manager after approval as to form by the City Attorney.

III. ALTERNATIVES

1. TAKE another action the City Council deems appropriate, consistent with the requirements of the law.

IV. BACKGROUND

On November 6, 2017, the City Council awarded two Non-Exclusive Towing and Storage Franchise Agreements, one to Falcon and the other to Kruger, to handle City of Carson-initiated towing and storage needs (excluding towing and storage requirements initiated by the Los Angeles County Sheriff's Department Carson Station). Both agreements provided that all non-cancelled tows requested by City will be dispatched on a one to one rotating basis between Falcon and Kruger. Both agreements were for three-year terms commencing September 2017 with two City options to extend for additional one-year periods. Both agreements required franchisees to pay an annual fee of \$25,000 and both operators made one payment to City in the amount of \$25,000 during the first year of the agreements.

The Falcon agreement, dated September 28, 2017, was to expire August 31, 2020; it was extended once to August 31, 2021 after City exercised its first option to extend. The Kruger agreement was terminated by Kruger a little more than one year into the agreement term. Both Falcon and Kruger were unable to pay the required full amounts of their respective fees owed due to various unforeseen and uncontrollable circumstances causing both operators to operate at a loss, as at that time Falcon was delinquent in the amount of \$75,000 and Kruger was delinquent in the amount of \$25,000.

The City exercised the second of its two options to extend the Falcon agreement for one year, thereby extending the Falcon agreement term to August 31, 2022, and entered into a new agreement with Kruger for a one-year term expiring August 31, 2022. On August 3,

2021, City Council approved the extension of the Falcon agreement and a new agreement with Kruger, to effectuate the same. In both instances, City treated the original 2017 agreements as though the annual franchise fee amount was \$5,000 instead of \$25,000 and in doing so, there was no franchise fee owed by either operator -- for Falcon, for the balance of the one-year term and for Kruger, for the one-year agreement term, as both operators were credited for the \$25,000 payments made in 2017.

On July 19, 2022, the City Council approved extension of both agreements by 6 months, to February 28, 2023, to provide staff more time to explore adoption and implementation of a new tow franchise ordinance that will formally establish City's tow franchise program and provide codified regulations. The City Council adopted such ordinance on January 17, 2023, and the ordinance went into effect February 16, 2023. However, in order to properly transition the City's tow franchise program under the regulations of the new ordinance, staff will need additional time which will necessitate extension of the existing agreements by 30 days, until March 31, 2023. Amendment 4 to the Falcon agreement and Amendment 2 to the Kruger Towing agreement, already signed by Falcon, Kruger and the City Manager, will effectuate such extensions. The City Council is now being asked to approve and ratify the same.

V. FISCAL IMPACT

There is no fiscal impact associated with this item.

VI. EXHIBITS

1. Amendment No. 4 with Falcon Towing

2. Amendment No. 2 with Kruger Towing

Prepared by: Ken McKay, Public Safety Manager