OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

In The Matter of San Francisco City Attorney's Counts and Allegations Seeking Debarment Against Auto Towing LLC (Auto Towing), Administrative Code Chapter 28	**Findings, Decision, and Order of Debarment** Filing Date: August 1, 2023 Hearing Date: June 3, 2024 Submitted for Decision: July 16, 2024

DECISION

Summary

Pursuant to San Francisco Administrative Code, Chapter 28, Hearing Officer Andrea D. McGary, as appointed and authorized by the Office of the Controller of the City and County of San Francisco, grants Petitioner/Charging Official San Francisco City Attorney David Chiu's request for an Order of Debarment of Appellant/Contractor Auto Towing, LLC subject to the findings of fact, conclusions of law, and ordering paragraphs of this decision.

1. Background

Pursuant to San Francisco Administrative Code, Chapter 28,[1] on August 1, 2023, the Office of the San Francisco City Attorney David Chiu (SF City Attorney) initiated debarment proceedings against Auto Towing, LLC by filing of 1) *Counts and Allegations Seeking Debarment Under San Francisco Administrative*

[1] San Francisco Administrative Code, Chapter 28 *Administrative Debarment Procedure* proscribes the standard procedures for the prosecution, determination, and implementation of administrative debarments of Contractors who have failed to deal with the City and County of San Francisco in good faith and proscribes the due process measures required for exclusion of a Contractor from participation in the City's contracting process.

Code Ch. 28, and 2) *Request for Order of Debarment* documents with the Office of The Controller, City and County of San Francisco (SF Controller).

Auto Towing, LLC is a California limited liability company (Auto Towing), which operated under San Francisco Police Department "Tow Car Firm" Permit No. 144310, issued to its President Abiguel T. Fuentes, for the period August 3, 2022 to August 3, 2023.[2] Auto Towing is the Appellant in this proceeding and lists its headquarters as 1229 Underwood Ave., San Francisco, CA 94124. Auto Towing is also a participant in the San Francisco City and County Sourcing Event ID 0000007777 bid process to provide as needed towing services and roadside assistance for San Francisco City-owned vehicles and San Francisco Municipal Transit Authority (SFMTA) buses.[3]

Acting as the Charging Official[4] in this debarment proceeding, the SF City Attorney alleges extensive unauthorized towing activity by Auto Towing between February 2023 and May 2023, primarily at a Bank of West parking lot

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[2] See Petitioner Exhibit S (*Police Department Permit City and County of San Francisco, Permit No. 144310*) [August 3, 2022 to August 3, 2023].

[3] See Petitioner Exhibit A (*Revised Invitation for Bids (Sourcing Event ID 0000007777 / Dept Contract ID 8198R: Towing and Roadside Assistance – SFMTA Buses; ID 68185R: Towing and Roadside Assistance for City-Owned Vehicles; and ID 68120R: As – Needed Towing Services*) [January 30, 2023]. See also Petitioner Exhibit B (*Bidder Questionnaire & References* executed by Abigail Fuentes- President (March 13 and 20, 2023)). See also Petitioner Exhibit U (*Declaration of Sailaja Kurella*) at 2 and its attached Exhibit 1 (*Revised Invitation for Bids (Sourcing Event ID 0000007777 / Dept Contract ID: 8198R and ID 68120R*) and Exhibit 2 (*Auto Towing, LLC's Certification of Minimum Qualifications*).

[4] SF Admin. Code, Section 28.1 defines "Charging Official" as:

> Any City department head or the President of any board or commission authorized to award or execute a contract under the Charter or the Administrative Code, the Mayor, the Controller, the City Administrator, the Director of Administrative Services, or the City Attorney. All Charging Officials are authorized to act on behalf of the City in prosecuting any administrative Debarment proceeding and in issuing an Order of Debarment or issuing an Order of Suspension under this Chapter 28.

Emphasis added.

commonly described as 2675 San Bruno Avenue, San Francisco, California.[5] SF City Attorney's pleadings also assert the following counts against Appellant/Contractor[6] Auto Towing:

Count One: *Failure to Comply with San Francisco's Municipal Code Requiring Permittees to Tow Vehicles in a Duly Authorized Manner*

- San Francisco Municipal Police Code Section 3056(4)[7]
- San Francisco Administrative Code Section 28.3(a)(2)[8]

Count Two: *Failure to Comply with San Francisco's Municipal Code Requiring Permittees to Prevent Violations of Law by Employees in the Course and Scope of Employment*

- San Francisco Municipal Police Code Section 3056(10)
- San Francisco Administrative Code Section 28.3(a)(2).[9]

On August 10, 2023, the SF Controller assigned Andrea D. McGary as the Hearing Officer in this Auto Towing debarment proceeding. The original hearing

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[5] See August 1, 2023 City Attorney David Chiu, City and County of San Francisco *Counts and Allegations Seeking Debarment Under San Francisco Administrative Code Ch. 28* (SF Counts & Allegations) at pp. 4-7.

[6] SF Admin. Code, Section 28.1 defines "Contractor" as:

> Any individual person, business entity, or organization that submits a qualification statement, proposal, bid, or grant request, or that contracts directly or indirectly with the City for the purpose of providing any goods or services or construction work to or for, or applies for or receives a grant from, the City including without limitation any Contractor, subcontractor, consultant, subconsultant or supplier at any tier, or grantee. The term "Contractor" shall include any responsible managing corporate officer, or responsible managing employee, or other owner or officer of a Contractor who has personal involvement and/or responsibility in seeking or obtaining a contract with the City or in supervising and/or performing the work prescribed by the contract or grant.

Emphasis added.

[7] San Francisco Police Code Section 3056 *Grounds For Revocation or Suspension of* [Tow Car Business] *Permit*.

[8] San Francisco Police Code Section 28.3 *Grounds for Debarment and Suspension*.

[9] See SF Counts & Allegations at pp. 9-11.

in this matter was set for October 30, 2023 with pre-hearing filings then due by October 20, 2023.[10]

At the joint October 16, 2023 request of Charging Official SF City Attorney and Appellant Auto Towing to the SF Controller, on October 17, 2023, Hearing Officer McGary vacated the October 30, 2023 Hearing and October 20, 2023 pre-hearing filings dates. The debarment hearing deadlines and administrative matters were continued for at least 120 days to allow resolution of an integrally related criminal proceeding against Auto Towing's President Abigail Fuentes.[11] The Parties also stipulated to a waiver of San Francisco Administrative Code Section 28.9(a)'s 120-day debarment hearing timeline requirement.[12]

A Status Conference was set for February 7, 2024, at 2:00 pm and later continued to February 28, 2024 to allow additional time for Appellant Auto Towing to obtain additional legal representation. A February 20, 2024 deadline was also set for SF City Attorney and Auto Towing to meet and confer and prepare a Joint Status Conference Statement for Hearing Officer review. A solo status conference statement was prepared and served by SF City Attorney on February 20, 2024 and included an update that Appellant Auto Towing was unavailable and/or non-responsive to SF City Attorney's efforts to meet, confer, and prepare the required joint status conference statement.[13]

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[10] See SF Controller *Notice of Request for Hearing Received, Appointment of Hearing Officer* [August 10, 2023]. See also SF Controller *Notice of Pre-Hearing Filings Schedule and Hearing Date* [September 6, 2023].

[11] See October 16, 2023 10:04 a.m. e-mail correspondence from Wade Chow, Esq., Deputy SF City Attorney and Xochitl Carrion, Esq., Counsel for Auto Towing to Claire Stone, Manager SF Controller.

[12] SF Admin. Code Section 28.9(a) provides in pertinent part: "[F]or a Debarment hearing, the hearing must commence within 120 Days of the date the Charging Official served the Counts and Allegations."

[13] See *Petitioner's Status Conference Statement* [February 20, 2024].

The Status Conference commenced on February 28, 2024 but Appellant/Contractor Auto Towing and its owners and officers did not attend. On February 29, 2024 (3:37 p.m.), Auto Towing and its President Abigail Fuentes gave email notice to the SF Controller that it intended to abstain from participation in any meet and confer, scheduling, and other hearings matters in this debarment proceeding.

On April 16, 2024, the debarment hearing was reset for a June 3, 2024 (9:00 a.m.), remote attendance only hearing, with pre-hearing filings due on May 24, 2024.[14] SF City Attorney timely filed *Charging Official City Attorney David Chiu's Prehearing Statement*, and its accompanying Exhibits A through Z, AA, BB, CC, and DD on May 24, 2024. Auto Towing and its owners and officers did not provide the required May 24, 2024 pre-hearing filings.

On May 29, 2024, SF City Attorney made a motion to convert the June 3, 2024 hearing to a document only process in light of Auto Towing's stated intent and continued non-participation in this debarment proceeding. The motion was taken under submission on May 30, 2024.

Hearing Officer McGary delayed the start of the June 3, 2024 hearing for approximately twenty (20) minutes to allow additional time for Appellant/Contractor Auto Towing to appear for the June 3, 2024 (9:00 a.m.) debarment hearing. Appellant did not appear. Thereafter, Petitioner/Charging Official's May 29, 2024 motion to convert the hearing to a document only process was granted on the record during the hearing.

[14] See SF Controller's *Notice of Pre-Hearing Filings Schedule and Hearing Date* [April 16, 2024].

SF City Attorney made an oral motion, pursuant to San Francisco Administrative Code Section 28.7, for an order that Auto Towing and its representatives' failure to appear for the duly noticed June 3, 2024 hearing be deemed an admission by Contractor Auto Towing, LLC to all counts and allegations. The motion was granted in part, allowing relevant witness testimony sought to be entered enter into the record for deliberation and findings of fact to be presented by written declarations and/or written affidavits to received by Hearing Clerk/Manager Claire Stone by July 1, 2024 and simultaneously served on all parties. The remainder of the June 3, 2024 hearing was used to mark Petitioner's Exhibits for identification and enter Hearing Officer rulings on entry of Petitioner's May 24, 2024 served and lodged proposed Exhibits into the evidentiary record. Petitioner Exhibits A through K, Exhibits R through V, Exhibits X through Z, AA, BB, and CC were admitted into evidence during the June 3, 2024 hearing. Petitioner Exhibits L through Q, Exhibit W, and Exhibit DD were tentatively admitted pending supplemental foundation and authentication. Petitioner filed supplemental foundation and authentication materials on June 4, 2024, June 6, 2024, and July 16, 2024, respectively.[15]

2. Submission Date

This record of this debarment matter was submitted for issuance of decision on July 16, 2024, following receipt of Petitioner SF City Attorney's

[15] See *Charging Official David Chiu's Amended Exhibit List* and its incorporated Exhibits A-Z, AA, BB, CC, and DD [June 4, 2024]. See also *Amended Declaration of Eric Wall*, including its accompanying Exhibits 1-4 [June 6, 2024]. See also Amended Exhibit 3 to the *Amended Declaration of Eric Wall* [July 16, 2024].

amendment to Exhibit 3 of the June 6, 2024 *Amended Declaration of Eric Wall* and its admission into evidence.

3. Jurisdiction

Under the San Francisco Administrative Code Chapter 28, "Debarment" is defined as:

> [T]he administrative determination against a Contractor declaring such Contractor irresponsible and disqualified from participating in the procurement process for contracts, or from entering into contracts, directly or indirectly, with or applying for or receiving grants or other benefits from the City for a period specified in the Debarment order."[16]

This Code governs the findings, order of debarment, and other relief sought by SF City Attorney against Auto Towing in this matter.

4. Discussion

As discussed, the relief requested by the SF City Attorney in its August 1, 2023 debarment initiating documents seeks a finding that Auto Towing is an "irresponsible bidder" and for an order disqualifying Auto Towing from participating in the competitive process for contracts and/or entering into direct or indirect contracts with the City and County of San Francisco, California for a period of five (5) years.[17]

In support of its debarment request, the SF City Attorney has produced substantial, credible, persuasive, and undisputed evidence that Auto Towing towed or attempted to tow the vehicles of at least seven (7) individuals between

[16] SF Admin. Code, Ch. 28, Section 28.1.

[17] SF Counts & Allegations at p. 11.

February 2023 and May 2023 from the private parking lot of a Bank of West Branch located at 2675 San Bruno Avenue, San Francisco, California without any authorization, and in at least six (6) instances received improper financial gain.[18] One such instance included Auto Towing's removal of a handicapped person's vehicle from the subject Bank of the West parking lot.[19] With another instance involving a brazen attempt to tow cars from the Bank's parking lot without authorization, while its Branch Manager Yashan Yu challenged their actions in person, took photographs, and warned of his intent to call the police if they did not release the vehicles.[20]

SF City Attorney also presented written witness testimony from a number of victims of Auto Towing's unauthorized tows from the subject Bank of West Branch detailing:

- A February 10, 2023, nighttime tow, of the 2013 Toyota Highlander automobile of Louis Soto Vela from 2675 San Bruno Avenue, San Francisco, California by Auto Towing;[21]
- A March 22, 2023, nighttime tow, of the 2015 Nissan Altima automobile of Raymond Lu from 2675 San Bruno Avenue, San Francisco, California by Auto Towing;[22]

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[18] See Petitioner Exhibit X (*Declaration of Luis Miguel Soto Vela*) [May 24, 2024], Exhibit Y (*Declaration of Raymond Lu*) [May 21, 2024], and Exhibit Z (*Declaration of Yi Sheng Liang*) [May 22, 2024]. See also Petitioner Exhibit AA (*Declaration of Mercedes Ruiz*)[May 15, 2024], Exhibit BB (*Declaration of Jack Lee*) [May 22, 2024], Exhibit CC (*Declaration of Angelica Castillo*) [May 11, 2024], and Exhibit DD (*Declaration of Yashan Yu*) [May 24, 2024].

[19] See Petitioner Exhibit AA (*Declaration of Mercedes Ruiz*) at p. 4 and its Exhibit 1: May 12, 2023 Credit Card Payment in the sum of $562.50 to Auto Towing, LLC.

[20] See Petitioner Exhibit DD (*Declaration of Yashan Yu*) at pp. 2-3 and its Exhibits 2 and 3.

[21] See Petitioner Exhibit X (*Declaration of Luis Miguel Soto Vela*) p. 2 and its Exhibit 1.

[22] See Petitioner Exhibit Y (*Declaration of Raymond Lu*) at p. 2 and its Exhibit 2.

- An April 10, 2023 tow of the 2017 Nissan Rogue automobile of Yi Sheng Liang from 2675 San Bruno Avenue, San Francisco, California by Auto Towing;[23]
- A May 11, 2023, tow of the 2016 Ford Fusion automobile of Mercedes Ruiz, displaying a disabled/handicap placard, from 2675 San Bruno Avenue, San Francisco, California by Auto Towing;[24]
- A May 12, 2023, nighttime tow of the 2021 Toyota Sienna automobile of Jack Lee from 2675 San Bruno Avenue, San Francisco, California by Auto Towing;[25]
- A May 17, 2023, tow of 2023 Honda CRV automobile of Angelica Castillo from 2675 San Bruno Avenue, San Francisco, California by Auto Towing;[26] and
- A May 18, 2023 confrontation between Bank of the West's Branch Manager Yashan Yu and several persons in yellow colored Auto Towing trucks. During the May 18, 2023 confrontation, multiple yellow colored Auto Towing truck drivers attempted to tow automobiles from the Bank of the West parking lot at 2675 San Bruno Avenue, San Francisco, California without request or authorization from Manager Yu or other bank staff and Auto Towing staff's refusal to release the vehicles until Manager Yu began taking photos and advised of his intent to call the police.[27]

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[23] See Petitioner Exhibit Z (*Declaration of Yi Sheng Liang*) at p. 2 and its Exhibit 1.

[24] See Petitioner Exhibit AA (*Declaration of Mercedes Ruiz*) at p. 2 and its Exhibit 1.

[25] See Petitioner Exhibit BB (*Declaration of Jack Lee*) at p. 2 and its Exhibit 1.

[26] See Petitioner Exhibit CC (*Declaration of Angelica Castillo*) at p. 1 and its Exhibit 1.

[27] See Petitioner Exhibit DD (*Declaration of Yashan Yu*) at p. 2 and its Exhibit 1.

Bank of the West Branch Manager Yashan Yu's testimony, presented in Petitioner SF City's Exhibit DD, also confirms that Manager Yu was responsible for authorizing tows between December 2022 and May 2023 and did not call for or authorize any tows by Auto Towing from the Bank of the West, 2675 San Bruno Avenue, San Francisco, California Branch on February 10, 2023, March 22, 2023, April 10, 2023, May 11, 2023, May 12, 2023, May 17, 2023, or May 18, 2023. Declarant Yu further confirmed that the subject Bank of the West had no contracts or agreements with Auto Towing to tow from its private property and did not authorize Auto Tow to post personalized Auto Tow signs found in the bank's parking lot on April 27, 2023.[28]

Appellant's unauthorized towing activities were also investigated by the San Francisco Police Department (SF Police) as part of its review of an August 2, 2023 tow car permit application, filed by Auto Towing for the 2023-2024 period.[29] The SF Police investigated Auto Towing's vehicle towing activities between January 2023 and August 2023 as part of its application due diligence.

After investigation and a September 14, 2023 Hearing, the SF Police ultimately denied Auto Towing's August 2, 2023 tow car permit application citing repeated unauthorized tows from the 2675 San Bruno Avenue, San Francisco, California lot and stating several "basis of denial" including 1) unauthorized tows from private property; 2) failure to make good faith inquiries to ensure compliance with the one-hour waiting period before towing from private property; 3) towing in a manner that was not duly authorized; 4) failure to take steps to prevent law violations by its employees; 5) risking the safety of

[28] See Petitioner Exhibit DD (*Declaration of Yashan Yu*) at p. 3 and its Exhibit 4.

[29] See Petitioner Exhibit R (November 9, 2023 San Francisco Police Department Letter to Auto Towing Re *Permit Denial*). See also Petitioner Exhibit V (*Declaration of Stephen Jonas*) at p. 3 (3:4-16) and its Exhibit 3.

residents and visitors by towing from private property at night; and 6) conducting business outside of permitted locations; and 7) failure to apply for requisite permits.[30]

5. Conclusion

SF City Attorney's Count One: Having considered the evidence presented, as to Count One *(Failure to Comply with San Francisco's Municipal Code Requiring Permittees to Tow Vehicles in a Duly Authorized Manner),* Petitioner/Charging Official has established that Appellant/Contractor's unauthorized towing from Bank of the West, 2675 San Bruno Avenue, San Francisco, California Branch on February 10, 2023, March 22, 2023, April 10, 2023, May 11, 2023, May 12, 2023, May 17, 2023, and May 18, 2023 violated San Francisco Municipal Police Code Section 3056(4) by towing and removing vehicles from "public or private storage in other than a duly authorized manner." Based on the evidence presented, Auto Towing's unauthorized towing constitutes willful conduct, in violation of Police Code Section 3056(4) and warrants issuance of an Order of Debarment pursuant to San Francisco Administrative Code Section 28.3(a)(2).

SF City Attorney's Count Two: Having considered the evidence presented, as to Count Two *(Failure to Comply with San Francisco's Municipal Code Requiring Permittees to Prevent Violations of Law by Employees in the Course and Scope of Employment),* Petitioner/Charging Official has established that Appellant/Contractor's staff unauthorized towing from Bank of the West's, 2675 San Bruno Avenue, San Francisco, California Branch on February 10, 2023, March 22, 2023, April 10, 2023, May 11, 2023, May 12, 2023, May 17, 2023, and May 18,

[30] See Petitioner Exhibit R at pp. 3-10. See also Petitioner Exhibit Q (*Redacted Microsoft Teams contemporaneous voice-to-text automate transcription of Auto Towing's tow permit hearing on September 14, 2023*). See also amended Exhibit 3 to the *Amended Declaration of Eric Wall* [July 16, 2024].

2023 violated San Francisco Municipal Police Code Section 3056(10) by failing to "take reasonable steps to prevent violations of the law by employees in the course and scope of their employment." Based on the evidence presented, Auto Towing's unauthorized towing constitutes willful conduct, in violation of Police Code Section 3056(10) and warrants issuance of an Order of Debarment pursuant to San Francisco Administrative Code Section 28.3(a)(2).

6. Assignment of Proceeding

Andrea D. McGary is the assigned Hearing Officer in this proceeding for the debarment of Auto Towing.

Findings of Fact

1. Auto Towing is a California limited liability company.

2. Auto Towing is engaged in car and vehicle towing services in the City and County of San Francisco.

3. Auto Towing participated in the bid process for San Francisco City and County Sourcing Event ID 0000007777 to provide as needed towing services and roadside assistance for San Francisco City-owned vehicles and SFMTA buses; Dept Contract ID 8198R Towing and Roadside Assistance – SFMTA Buses; ID 68185R Towing and Roadside Assistance for City-Owned Vehicles; and ID 68120R: As – Needed Towing Services.

4. Auto Towing held San Francisco Police Department Permit No. 144310, issued to its President Abiguel T. Fuentes, for the period August 3, 2022 to August 3, 2023, authorizing it to perform services as a "Tow Car Firm" in the City of San Francisco.

5. The branch manager of the Bank of the West located at 2675 San Bruno Avenue, San Francisco, California, between December 2022 and September 2023,

was Yashan Yu and, during that period, was responsible for authorizing tow contracts and tows from the parking lot of the branch.

6. On the February 10, 2023, between the hours of 6:30 p.m. and 11:30 p.m., the 2013 Toyota Highlander automobile of Louis Soto Vela was towed from 2675 San Bruno Avenue, San Francisco, California by Appellant Auto Towing.

7. On the evening of March 22, 2023, between the hours of 7:00 p.m. and 10:00 p.m., the 2015 Nissan Altima automobile of Raymond Lu was towed from 2675 San Bruno Avenue, San Francisco, California by Appellant Auto Towing.

8. On April 10, 2023, the 2017 Nissan Rogue automobile of Yi Sheng Liang was towed from 2675 San Bruno Avenue, San Francisco, California by Appellant Auto Towing.

9. On May 11, 2023, the 2016 Ford Fusion automobile of Mercedes Ruiz, displaying a disabled/handicap placard, was towed from at 2675 San Bruno Avenue, San Francisco, California by Appellant Auto Towing.

10. On the evening of May 12, 2023, between the hours of 10:30 p.m. and 10:45 p.m., the 2021 Toyota Sienna automobile of Jack Lee was towed from 2675 San Bruno Avenue, San Francisco, California by Appellant Auto Towing.

11. On May 17, 2023, the 2023 Honda CRV automobile of Angelica Castillo was towed from 2675 San Bruno Avenue, San Francisco, California by Appellant Auto Towing.

12. On May 18, 2023, Bank of the West Branch Manager Yashan Yu observed, engaged with, and took photos of persons in yellow colored Auto Towing trucks attempting to tow automobiles from the Bank of the West parking lot at 2675 San Bruno Avenue, San Francisco, California without his or other bank staff request for or authorization to tow. The persons in the yellow Auto Towing trucks did

not release the vehicles until Manager Yu advised of his intent to seek police intervention.

13. Bank of the West Branch Manager Yashan Yu did not call for or authorize tows by Auto Towing from the Bank of the West, 2675 San Bruno Avenue, San Francisco, California Branch on February 10, 2023, March 22, 2023, April 10, 2023, May 11, 2023, May 12, 2023, May 17, 2023, and May 18, 2023.

14. Auto Towing does not have a contract or other agreement with the Bank of the West located at 2675 San Bruno Avenue, San Francisco, California for towing services.

15. In April 2023, Auto Towing signs were found posted in the Bank of the West, 2675 San Bruno Avenue, San Francisco, California Branch parking lot without permission, authorization, or agreement by Bank of the West.

16. Auto Towing applied to the San Franciso Police Department for a new tow car firm permit on August 2, 2023.

17. By letter dated November 9, 2023, the San Francisco Police Department denied Auto Towing's August 2, 2023 tow car permit application after an investigation of Auto Towing's towing activities between January 2023 and August 2023, and stating several basis of denial including:

a) unauthorized tows from private property (repeatedly from 2675 San Bruno Avenue, San Francisco, California);
b) failure to make good faith inquiries to ensure compliance with the one-hour waiting period before towing from private property;
c) towing in a manner that was not duly authorized;
d) failure to take steps to prevent law violations by its employees;
e) risking the safety of residents and visitors by towing from private property at night; and

f) conducting business outside of permitted location and failure to apply for requisite permit.

18. Auto Towing has engaged in a pattern and practice of illegal conduct while performing auto towing service within the City and County of San Francisco

19. SF City Attorney David Chiu is the Charging Official and the Petitioner in the underlying debarment proceeding against Auto Towing.

20. The SF City Attorney's Office initiated debarment proceedings against Auto Towing on August 1, 2023.

21. Auto Towing declined to meaningfully participate in required meet and confers with the SF City Attorney regarding debarment proceeding status and as ordered by the assigned hearing officer on February 6, 2024.

22. Auto Towing declined to lodge and serve duly ordered status conference statements with the SF Controller by February 20, 2024 for consideration by the assigned Hearing Office, as ordered on February 6, 2024.

23. Auto Towing failed to appear for a duly noticed Status Conference before the assigned Hearing Officer on February 28, 2024 (2:00 p.m.), as ordered on February 6, 2024.

24. Auto Towing failed to serve the SF City Attorney with a pre-hearing conference statement and failed to lodge a pre-hearing conference statement with the Controller's Office by June 3, 2024 (5:00 pm) for consideration by the assigned Hearing Officer, as ordered on April 16, 2024.

25. Auto Towing failed to appear for the duly noticed Debarment Hearing on June 3, 2026 (9:00 a.m.) before ethe assigned Hearing Officer and as ordered on April 16, 2024.

Conclusions of Law

1. In this debarment proceeding, Auto Towing is a Contractor of the City and County of San Francisco as defined by San Francisco Administrative Code, Chapter 28, Section 28.1.

2. Auto Towing and its representatives failed to appear for the June 3, 2024 (9:00 a.m.) duly noticed hearing in this debarment matter and as such, pursuant to San Francisco Administrative Code Section 28.7, are deemed to have admitted all counts and allegations included in:

- August 1, 2023: *Counts and Allegations Seeking Debarment Under San Francisco Administrative Code Ch. 28*, including its incorporated Exhibits 1-6;
- May 24, 2024 : *Charging Official City Attorney David Chiu's Prehearing Statement*, and its accompanying Exhibits A-Z, AA, BB, CC, and DD;
- June 4, 2024: *Charging Official David Chiu's Amended Exhibit List* and its incorporated Exhibits A-Z, AA, BB, CC, and DD;
- June 6, 2024: *Amended Declaration of Eric Wall*, including its accompanying Exhibits 1-4; and
- July 16, 2024: Amended Exhibit 3 to the Amended Declaration of Eric Wall

3. Auto Towing has knowingly engaged in irresponsible, willful misconduct in the performance of Tow Car Firm services in the City and County of San Francisco in at least seven (7) instances, between February 2023 and May 2023, at or around the address commonly known as 2675 San Bruno Avenue, San Francisco, California.

4. Auto Towing has removed or towed vehicles from public or private storage in other than a duly authorized manner in at least seven (7) instances, between February 2023 and May 2023, at or around the address commonly known as 2675 San Bruno Avenue, San Francisco, California.

5. Auto Towing's unauthorized towing between February 2023 and May 2023, from private property commonly known as 2675 San Bruno Avenue, San Francisco, California, in both daytime and nighttime hours, violated provisions of the San Francisco Municipal Police Code Sections 3056(4) and 3056(10) and warrants Debarment of Contractor Auto Towing pursuant to San Francisco Administrative Code Section 28.3(a)(2).

O R D E R

Having considered the testimony, documents, and evidence put forth by Petitioner/Charging Official the Office of San Francisco City Attorney David Chiu and Appellant/Contractor Auto Towing, LLC in these proceedings, good cause appearing and on proof made to the satisfaction of this Hearing Officer that Debarment of Auto Towing, LLC is warranted,

IT IS ORDERED that:

1. Petitioner/Charging Official Office of San Francisco City Attorney David Chiu's June 3, 2024 motion for an order, pursuant to San Francisco Administrative Code § 28.7, that Appellant/Contractor Auto Towing, LLC and its representatives' failure to appear for the duly noticed June 3, 2024 (9:00 a.m.) hearing be deemed an admission by Contractor Auto Towing, LLC to all Counts and Allegations herein is GRANTED, as to:

- August 1, 2023: *Counts and Allegations Seeking Debarment Under San Francisco Administrative Code Ch. 28*, including its incorporated Exhibits 1 through 6;
- May 24, 2024 : *Charging Official City Attorney David Chiu's Prehearing Statement*, and its accompanying Exhibits A through Z, AA, BB, CC, and DD;

- June 4, 2024: *Charging Official David Chiu's Amended Exhibit List* and its incorporated Exhibits A through Z, AA, BB, CC, and DD;
- June 6, 2024: *Amended Declaration of Eric Wall*, including its accompanying Exhibits 1 through 4; and
- July 16, 2024: Amended Exhibit 3 to the *Amended Declaration of Eric Wall*

2. Petitioner/Charging Official Office of San Francisco City Attorney David Chiu's August 1, 2023 *Request For Order Of Debarment* of Appellant/Contractor Auto Towing, LLC is GRANTED, subject to the terms and conditions in this decision.

3. Having found and concluded that Auto Towing, LLC is an irresponsible Contractor that has engaged in willful misconduct in violation of the San Francisco Municipal Police Code and the San Francisco Administrative Code, Auto Towing, LLC is disqualified from participating in the competitive process for contracts with the City and County of San Francisco, California for a period of five (5) years from the date of issuance of this decision.

4. Auto Towing, LLC is hereby prohibited from entering into direct or indirect contracts with the City and County of San Francisco, California for a period of five (5) years from the date of issuance of this decision.

This decision is effective today.

Dated July 17, 2024, at San Francisco, California.

/s/ Andrea D. McGary

Andrea D. McGary
Hearing Officer