

AGREEMENT BIBLIOGRAPHY

Agreement With:	B & D Towing, Inc. dba Balcaceres and Davalos Towing
Agreement Type:	To provide Police rotational towing and storage services for the City's Police Department on an on-call basis
Date Approved:	02 25 2020
Start Date:	03 01 2020
End Date:	03 01 2025
Contract Amount:	See agreement
Comments	File No. 55 Police Department
Insurance Expiration:	09 17 2020

AWARD OF CONTRACTS TO ACTION SOUTHLAND TOWING AND B&D TOWING TO
PROVIDE ON-CALL TOWING SERVICE (F: ACTION SOUTHLAND TOWING)
(F: B&D TOWING)

It was moved by Council Member K. Nguyen, seconded by Council Member Brietigram that:

Contracts to Action Southland Towing and B&D Towing be awarded for a term of five years commencing on March 1, 2020, to provide on-call rotational towing services for the Police Department; and

The City Manager be authorized to sign the agreements on behalf of the City.

The motion carried by a 7-0 vote as follows:

Ayes: (7) Brietigam, O'Neill, Bui, D. Nguyen, Klopfenstein,
K. Nguyen, Jones
Noes: (0) None



CITY OF GARDEN GROVE OFFICE OF THE CITY CLERK

*Safeguard all official records of the City.
Conduct municipal elections and oversee legislative administration.
Provide reliable, accurate, and timely information to the
City Council, staff, and the general public.*

Steven R. Jones
Mayor

John R. O'Neill
Mayor Pro Tem - District 2

George S. Brietigam
Council Member - District 1

Diedre Thu-Ha Nguyen
Council Member - District 3

Patrick Phat Bui
Council Member - District 4

Stephanie Klopfenstein
Council Member - District 5

Kim B. Nguyen
Council Member - District 6

February 27, 2020

B&D Towing Inc.
dba Balcaceres and Davalos Towing
1502 N. Susan Street
Santa Ana, CA 92703

Attention: Efrain Davalos Jr., President

Enclosed is a copy of the Agreement by and between the City of Garden Grove and B&D Towing Inc., to provide towing and storage services on an on-call basis for the City of Garden Grove Police Department.

The agreement was approved by the City Council at their meeting held on February 25, 2020.

Sincerely,

Teresa Pomeroy, CMC
City Clerk

By: Liz Vasquez
Deputy City Clerk

Enclosure

c: Finance Department
Finance Department/Purchasing
Police Department

Contract for Police Rotational Towing and Storage Services

THIS AGREEMENT is made this 25th day of February, 2020, by the CITY OF GARDEN GROVE, a municipal corporation, ("CITY") and ~~and~~ **B & D Towing Inc., dba Balcaceres and Davalos Towing**, hereinafter referred to as "CONTRACTOR".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove CITY COUNCIL AUTHORIZATION, DATED February 25, 2020.
2. CITY desires to utilize the services of CONTRACTOR to Provide Police Rotational Towing and Storage Services for the City Of Garden Grove On An On-Call Basis.
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to provide such services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term.** The term of the agreement shall be for a period of five (5) years starting March 1, 2020. All service shall be provided in accordance with the Scope of Work, Attachment, "A" which is incorporated herein by reference.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal and Scope of Work. The Proposal is incorporated herein by reference. The Proposal, Scope of Work, and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows: CONTRACTOR may charge vehicle owners the amount(s) not to exceed those charges approved by the City pursuant to the SCOPE OF WORK, attached herein as Attachment "A" and the AUTHORIZED TOWING AND STORAGE FEE SCHEDULE, attached herein as Attachment "B", which are incorporated herein by this reference.
4. **Insurance Requirements.**
 - 4.1 **COMMENCEMENT OF WORK.** CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at

least thirty (30) days in advance, and a **waiver of subrogation, for all policies, waiving subrogation against the City, its officers, officials, agents, employees, and volunteers.** All insurance required by this contract shall remain in **full force and effect** for the **duration** of this agreement.

- 4.2 WORKERS COMPENSATION INSURANCE. For the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by California law, if applicable. The insurer shall waive its rights of subrogation against the CITY, its officers, officials, agents, employees, and volunteers.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain in full force and effect the following insurance for the duration of this Agreement:
- (a) Commercial general liability in an amount not less than \$5,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (b) Automobile liability in an amount not less than \$5,000,000 combined single limit; (claims made and modified occurrence policies are not acceptable); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (c) On-Hook liability in an amount not less than \$200,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (d) Garage keepers legal liability, including Garage keepers extra legal liability/ Garage keepers direct in an amount not less than \$1,000,000 per occurrence; (claims made and modified occurrence policies are not acceptable); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (e) Excess liability coverage, following form to the underlying policies, shall be provided for any underlying policy that does not meet the insurance requirements set forth herein (claims made and modified occurrence policies are not acceptable.) Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.

An Additional Insured Endorsement, ongoing and completed operations, for the policy under section 4.3 (a) Commercial general liability, shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b), Automobile liability, shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (c), On-hook liability, shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement, for the policy under section 4.3 (d), Garage Keepers liability, including Garage keepers extra legal liability/Garage keepers direct, shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR, and storage of vehicles. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

In the event any of CONTRACTOR'S underlying policies do not meet policy limits within the insurance requirements, CONTRACTOR shall provide, under section 4.3(e) Excess liability, the schedule of underlying policies for a follows form excess liability policy, state that the excess policy follows form on the insurance certificate, and an additional insured endorsement for the follows form excess liability policy designating CITY, its officers, officials, employees, agents, and volunteers as additional insureds.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall by excess of the CONTRACTOR's insurance and shall not contribute with it.

- 4.4 If the CONTRACTOR does not keep all of such insurance policies in full force and effect at all times during the term of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.
- 4.5 If the CITY reasonably determines that the amounts of insurance held by the CONTRACTOR pursuant to this Agreement are no longer sufficient, or that additional types of coverage are needed, the CONTRACTOR shall modify the existing coverage or obtain additional policies, as the CITY shall reasonably determine. All new policies shall be on the terms and conditions contained herein.
- 4.6 The CONTRACTOR shall annually within ten (10) days of the anniversary of the effective date of this Agreement and at any other time requested by CITY, provide to the CITY evidence that all insurance required pursuant to this Agreement continues to be in full force and effect.
- 4.7 If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.
5. **Non-Liability of Officials and Employees of the City.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.
6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** In performing services pursuant to this Agreement, CONTRACTOR shall at all times comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government, including the provisions of Chapter 5.52 of the Garden Grove Municipal Code, as such chapter may periodically be amended.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

IF TO CONTRACTOR: B & D Towing Inc., dba
Balcaceres and Davalos Towing
Attention: Efrain Davalos Jr., President
1502 North Susan Street
Santa Ana, CA 92703

IF TO CITY: City Manager
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840

WITH COPY TO: Garden Grove City Attorney
11222 Acacia Parkway
Garden Grove, CA 92840

10. **Contract Documents.** This Agreement shall include the requirements of Chapter 5.52 of the Garden Grove Municipal Code, as such chapter may periodically be amended, the Scope of Work, the CITY's Request for Proposals and the CONTRACTOR'S proposal which are each incorporated herein by reference. In the event of any inconsistency among these documents, the terms of this Agreement, Chapter 5.52 of the Garden Grove Municipal Code, the Scope of Work, the CITY's Request for Proposals and lastly the CONTRACTOR's Proposal shall, in that order, govern.

11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement or otherwise to perform the work. CONTRACTOR shall maintain in effect throughout the term of this Agreement all licenses and permits required to perform the services required by this Agreement.

12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.

13. **Time of Essence.** Time is of the essence in the performance of this Agreement.

14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees are a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services

required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.

15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including but not limited to, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. This obligation shall also include payment of reasonable attorney fees and other litigation costs incurred by CITY. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, shall be due to the sole negligence or intentional wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

17. **Termination.**
 - 17.1 This Agreement may be terminated by the CITY at any time during the term, upon breach of this Agreement or violation of the provisions of Chapter 5.52 of the Garden Grove Municipal Code. In the event of termination for cause by the CITY, the CONTRACTOR shall be compensated for those services that have been fully and adequately completed and accepted by the CITY as of the date of termination. The CONTRACTOR shall provide documentation deemed adequate by the CITY to show the services actually completed by the CONTRACTOR prior to the effective date of termination. Termination of this Agreement for cause may be considered by the CITY in determining whether to enter into future contracts with CONTRACTOR.
 - 17.2 This Agreement may also be terminated by the CITY without cause upon thirty (30) days notice. In the event that the CITY should terminate the Agreement without cause, the CONTRACTOR shall be entitled to payment for services fully and adequately provided hereunder prior to the effective

date of the termination. The CONTRACTOR shall provide documentation deemed adequate by the CITY to show the services actually completed by the CONTRACTOR prior to the effective date of termination.

- 17.3 In the event this Agreement is terminated as provided by this Section 17, the CITY may procure, upon such terms and in such manner as it deems appropriate, services similar to those terminated.
- 17.4 The rights and remedies of the parties provided in this Section 17 are in addition to any other rights and remedies provided by law or under this Agreement.
18. **Insolvency.** The CONTRACTOR shall not, without the prior written consent of CITY, suffer either the appointment of a receiver to take possession of all, or substantially all of the assets of the CONTRACTOR, or make a general assignment of such assets for the benefit of creditors. Any such action taken or suffered by the CONTRACTOR under any insolvency or bankruptcy proceeding constitutes a breach of contract by the CONTRACTOR, and all property assigned by the CITY for safe care shall be "released" by CONTRACTOR to another assigned service provider, as specified by the Chief of Police, with a reimbursement for towing, storage, and related fees, borne by the service provider assuming the new responsibility.
19. **Integration.** This Agreement fully expresses all understandings between the parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written understandings or agreements regarding the matters covered by this Agreement.
20. **Amendments.** No modification, amendment, addition to, deletion or alteration of the terms of this Agreement, whether written or oral, shall be valid unless made in writing and formally approved and executed by all parties.
21. **No Waiver.**
- 21.1 No delay or omission in the exercise of any right or remedy available hereunder shall impair such right or remedy or be construed as a waiver. Any waiver of any default or condition hereunder must be in writing and shall not be construed as a waiver of any other default concerning the same or any other provision of this Agreement.
- 21.2 The waiver by the CITY of any breach by the CONTRACTOR of any of the provisions of this Agreement, shall not constitute a continuing waiver or a waiver of any subsequent breach or default by the CONTRACTOR either of the same or a different provision of this Agreement.

22. **Third Party Beneficiaries.** The terms of this Agreement are intended to confer benefits only on the parties to this Agreement. No rights of action shall accrue to any other persons or entities under this Agreement.
23. **Change of Circumstances.** Each party shall promptly notify the other party of any legal impediment, change of circumstances, pending litigation or any other event or condition that may adversely affect such party's ability to carry out any of its obligations under this Agreement.
24. **Severability.** If any term or condition, paragraph, phrase or word of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
25. **Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.
26. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY

(Agreement Signature Block on Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: 2/26/20

"CITY"
CITY OF GARDEN GROVE

By: [Signature]

ATTESTED:

[Signature]
City Clerk

Date: 2/26/20

"CONTRACTOR"
B & D Towing Inc., dba
Balcaceres and Davalos Towing

By: [Signature]

Name: Efrain Davalos Jr.

Title: President

Date: 2/7/2020

Tax ID No. 03-0435721

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

[Signature]
Garden Grove City Attorney

2-12-2020
Date

ATTACHMENT "A"

RFP No. S-1260

PROVIDE POLICE ROTATIONAL TOWING AND STORAGE SERVICES TO THE CITY OF GARDEN GROVE ON AN ON-CALL BASIS

SCOPE OF WORK

The City of Garden Grove (CITY) is seeking one or more contractors to Provide Police Rotational Towing and Storage Service for the City Of Garden Grove On An On-Call Basis in accordance with the Scope of Work detailed below. The Contractor shall furnish All Labor, Materials, Equipment and incidentals needed to provide towing and storage services on an on-call basis for the City of Garden Grove. The CITY intends to enter into an Agreement(s) for a fixed period(s) of time with options to renew or extend the Agreement(s) for additional terms, exercised one year at a time.

1. SERVICES GENERALLY

- 1.1 The CONTRACTOR has the right to tow, impound, and store vehicles at the direction of the Garden Grove Police Department (hereinafter "Police Department" or "G.G.P.D.") within or out of the jurisdictional boundaries of the CITY, subject to the Police Department's call-for-service system, as it may be amended from time to time, at the Police Department's sole discretion.
- 1.2 Provided, however, that nothing contained herein shall deprive the owner or operator of a vehicle from requesting and receiving towing services from a person or entity other than the CONTRACTOR.
- 1.3 Provided, however, that when, in the opinion of the Police Department, an emergency exists, or where the CONTRACTOR is either unable or unwilling for any reason to provide adequate or timely tow service, the Police Department shall have the right to call other tow services, which may or may not be under contract with the CITY. Under such circumstances, the decision to call another tow service, either under contract or not, shall be at the exclusive discretion of the Police Department.

2. LOCATION

- 2.1 CONTRACTOR shall maintain a physical location with a yard for vehicle storage, along with an office for payment of fees and vehicle releases, which location shall be **within 2.5 miles of the CITY limits**, and from which the business shall be conducted. Such physical location shall be subject to approval by the Chief of Police or his/her designee. A company may establish and maintain an additional location within or outside the CITY as a yard for vehicle storage, subject to the approval by the Chief of Police or his/her designee. Except as otherwise directed by the Police Department, each vehicle towed

pursuant to this Scope of Work shall be stored at a facility, which is located within 2.5 miles of the CITY limits. ***Distance shall be measured by distance straight line, without regard to intervening structures or objects, from the nearest point on the property line of the parcel where the tow service facility is located to the nearest point on the city limit boundary.*** All business offices and storage facilities shall meet all requirements of the contract and the Scope of Work within this RFP document.

- 2.2 All vehicles stored or impounded at the direction of the Police Department shall be towed directly to the CONTRACTOR's impound and storage facilities, unless the Police Department requests that they be taken to some other location. If the vehicle is towed pursuant to a citizen request, then at the request of the citizen the vehicle can be stored at any business location of the owner, which has been approved, by the Chief of Police, or his/her designee.
- 2.3 Any proposed change in the CONTRACTOR's facility locations shall be reported, in writing, to the police department at least sixty (60) days prior to making such change. The CONTRACTOR shall obtain the approval of the Chief of Police or his/her designee for any change of location.

3. PERSONNEL

- 3.1 CONTRACTOR shall comply with, and ensure that each of its tow truck drivers complies with, Garden Grove Municipal Code ("GGMC") Sections 5.52.330 and 5.52.340 (tow truck driver permit requirements). The CITY shall review each application in accordance with Sections 5.52.330 and 5.52.340.
- 3.2 No person employed as a tow truck driver for the CONTRACTOR shall have access to any G.G.P.D. stored or towed vehicle until such time as that person has received written approval from the Chief of Police or his/her designee.
- 3.3 Any tow truck driver permit application obtained by the CONTRACTOR or its driver from the Police Department shall be returned to the Police Department accompanied by a State of California Department of Motor Vehicles ("DMV") printout.
- 3.4 Tow truck operators shall be proficient in the use of the tow truck they are driving and related equipment, including, but not limited to the procedure necessary for the safe towing and recovery of various types of vehicles. It is the responsibility of the tow service company to ensure, its drivers are trained, qualified and competent employees of the business. The drivers shall complete training and have received a certificate of completion through a recognized tow industry association or company specialized in the training of tow drivers. The training shall be hands on and a minimum of 16 hours for light duty class tow trucks and 24 hours for heavy duty class tow trucks. A copy of the certificate of completion for each tow truck operator providing services pursuant to this Agreement shall be provided by CONTRACTOR to the Police Department prior to commencement of each operator's employment.

- 3.5 All CONTRACTOR tow truck operators shall possess valid California Tow Truck Driver certificates and Driver's Licenses in the proper class pursuant to Vehicle Code Sections 13378 and 12804.9(b).
- 3.6 CONTRACTOR shall provide to the Police Department annually (within 10 days of the anniversary of the Agreement) a list of its tow truck operators, including driver's license numbers and a DMV printout for each tow truck operator. Any subsequent employment of a new tow truck operator shall be reported in writing to the police department immediately, including submittal of the above-referenced information.
- 3.7 CONTRACTOR shall notify the Chief of Police or his/her designee in ten (10) days of any change of information on the original application. Failure to notify the Chief of Police in ten (10) days is grounds for revocation of the written approval.
- 3.8 CONTRACTOR shall provide to the Police Department the name of any tow truck operator no longer employed by CONTRACTOR. This notification shall be given to the Traffic Department no later than ten (10) business days following the last date of such operator's employment by CONTRACTOR.
- 3.9 The CONTRACTOR shall have an alcohol and drug program that includes at a minimum, maintaining an alcohol and drug free work environment. Any tow truck operator found working under the influence of alcohol or drugs shall immediately be removed from providing any service to the CITY.
- 3.10 The CONTRACTOR shall participate in the California Department of Motor Vehicles (DMV) Employer Pull Notice Program.
- 3.11 The CONTRACTOR's tow truck operators shall maintain acceptable standards of dress, including uniforms and cleanliness while on duty.
- 3.12 The CONTRACTOR's tow truck operators shall cooperate with and abide by the instructions of the police officers in the field.
- 3.13 Each of CONTRACTOR's tow truck operators shall obtain from the CITY a clip-on identification tag which such operator shall wear at all times when performing services for the CITY in order to allow ease of tow truck operator identification.
- 3.14 If any tow truck operator becomes ineligible to provide tow operator services to the CITY, the CONTRACTOR shall immediately notify the Chief of Police or his/her designee of such ineligibility and the reason(s) therefore.
- 3.15 The CONTRACTOR must have a minimum of three (3) verifiable years for-hire towing experience, as an owner or principal.

- A. An applicant who does not meet the three (3) verifiable years for-hire towing experience may be considered, if a full-time manager who possesses the required tow management experience is employed by the company. The manager shall have the authority to conduct all company business.
- B. If the manager ceases to be employed by the company, the tow Agreement shall be deemed suspended until a new qualified manager is in place. The company will have thirty (30) days to replace the manager to be considered for lifting of the suspension.
- C. An owner or operator who releases vehicles, complete lien sales paperwork, and other tow business related documents for three years in the company, with the qualified manager, will fulfill the three years for-hire-towing experience requirement.

4. TOWING SERVICE DUTIES

After being requested to the scene by the Police Department, the CONTRACTOR's tow truck operator shall comply with all of the following:

- 4.1 Not move or attach a tow truck to any vehicle until instructed to do so by the investigating officer of the Police Department.
- 4.2 Cooperate with the investigating officer of the Police Department in removing unsafely and/or illegally parked vehicles from the street, and in the storing or impounding of such vehicles as requested.
- 4.3 On collision calls, clean up and remove all debris from the accident scene, including but not limited to clean up and removal of all vehicle fluids in the street with absorbent material, as directed by CITY officers and in accordance with Section 27700 of the California Vehicle Code.
- 4.4 Provide the owner or driver of towed vehicles (when present at scene) with a CONTRACTOR's business card indicating where the vehicles will be stored or impounded (including address and telephone number).
- 4.5 Vehicles brought to Police Department or a designated facility from the scene for processing and then towed to the tow yard will incur an additional second tow fee equal to one-half of the regular tow fee. Storage fees will not start until this vehicle is stored at the towing facility.
- 4.6 CONTRACTOR shall be responsible and held accountable for personal property, vehicle accessories and the vehicle upon receipt of the vehicle from G.G.P.D. The City of Garden Grove, its officers, agents or employees shall not be liable for loss of or damage to any vehicle, accessory, equipment or personal property towed or stored upon the tow truck driver acknowledging receipt for the vehicle by his/her signature on the stored vehicle report form.

- 4.7 CONTRACTOR shall not dispose of or otherwise relinquish control of any vehicle stored or impounded by G.G.P.D. without a written approval to do so. The written approval is required for any vehicle stored or impounded by G.G.P.D. and the tow truck driver signs a stored vehicle report form and receives a copy of the stored vehicle report. The G.G.P.D. stored automobile release form will be the normal form for release.
- 4.8 The release of property from a vehicle will be handled in the same manner as a vehicle release. The stored automobile release form will again be used, but a stamp, "property only" will be utilized at the top of the form. The person who authorizes the release of the property will make the modification and will be specific as to description of the property to be released.
- 4.9 Vehicles shall be released during the business hours of 8:00 am to 5:00 pm, Monday - Friday, "excluding holidays and weekends". There will be, however, occasions arising that can require "after hours releases" of certain vehicles. When the circumstances appear to justify an "after hour release" of a vehicle, approval of the release must be secured from the on-duty Police Supervisor. Inoperable vehicles will not be released after hours.
- 4.10 For purposes of clarity, vehicles towed or stored at the request of citizens, for which no stored vehicle report is utilized, will not require a stored automobile release. Citizens requesting the towing of vehicles under their control shall enter into an agreement with the tow service; G.G.P.D. will act as an avenue of communication between the citizen and the tow service.
- 4.11 When a party obtains a G.G.P.D. stored vehicle release and presents it to the tow service, the vehicle and/or property shall be released to that person upon verification of identity and the payment of the fees. The registered owner will be required to pay for "property only" releases at the G.G.P.D. records counter. An after hours fee will be paid to the tow service for "property only" or vehicle releases after the normal business hours of the tow service.
- 4.12 Once the tow service has received the G.G.P.D. stored automobile release, the tow service is no longer obligated to G.G.P.D. for the continued safe storage of the vehicle and/or property taken.
- 4.13 If after a "property only" release is obtained, the registered owner may return to the records counter, produce the paid receipt for the "property only" release and request a vehicle impound release paying the difference.
- 4.14 In the event a vehicle has been stored or impounded by G.G.P.D. due to error or negligence, no charges or fees shall be paid and the vehicle shall be released to the owner or the owner's agent. The City of Garden Grove shall not be liable for any such charges or fees.

- 4.15 If the error is not discovered before charges or fees are paid to CONTRACTOR for the release of vehicle by owner or owner's agents. CONTRACTOR shall issue a refund of such charges or fees, if requested within a period of thirteen (13) days after the vehicle is stored.
- 4.16 If the error is not discovered for a period of thirteen (13) business days after the vehicle is stored and the tow service has initiated lien sale process, as required by C.V.C 22851.8, the tow service shall be entitled to recover actual costs incurred to initiate the lien.
- 4.17 In the event a tow truck driver has hooked up a vehicle at the direction of G.G.P.D. and the vehicle owner or person in control of the vehicle appears, and the officer decides the vehicle can be released at the scene, then a payment of one-half (1/2) of the tow charge may be charged by CONTRACTOR to and be payable by the vehicle owner or person in control of the vehicle prior to the vehicle being dropped. The G.G.P.D. officer will complete the stored vehicle report noting the release and payment. The officer will then give the tow truck driver the copy as though the tow had been completed. A case number will be assigned to the release of the vehicle; no SVS entry will be made.
- 4.18 In the case of a vehicle stored or impounded by G.G.P.D. that is of low value and qualifies as a junk vehicle as described within California Vehicle Code Sections 22670 or 22851.10, the tow service may request D.M.V. Form 462, Public Agency Authorization to dispose of a Vehicle to a Scrap Iron Processor or Dismantler, in lieu of obtaining the stored automobile release to process a lien sale for the vehicle. This form will suffice for final disposition of the vehicle and no other release is necessary. Form #462 cannot be issued for (15) fifteen days from the day the vehicle is first stored at the tow facility.
- 4.19 In addition to the storage yard, the tow service shall maintain a closed building that affords storage of four (4) additional full size vehicles. This enclosure shall be of such size and construction to allow for Forensic Services examination of the cars in a dry environment during inclement weather. Access to this enclosed storage building shall be severely limited by CONTRACTOR, as directed by the investigator assigned to the case for which the vehicle has been impounded.
- 4.20 CONTRACTOR must advise the Police Department Traffic Division in writing within ten (10) business days, if a person picking up a vehicle, complains to the tow service of damage to the vehicle or any missing vehicle accessories or personal property from the vehicle for which the tow service company denies responsibility.
- 4.21 All CONTRACTOR's employees who have access to the storage yard or the personal property which is taken out of any vehicle for storage or safe keeping must provide a complete set of finger prints, complete an application and have written authorization from the Garden Grove Police Chief for such access.

- 4.22 Upon request of (a) the registered owner; (b) the legal owner; (c) the insurance carrier of either (a) or (b) of this section; or (d) the duly authorized agent of any of the foregoing, CONTRACTOR shall furnish an itemized statement upon request and without demanding payment as a condition. The statement shall include the service performed, labor and special equipment used in towing the vehicle.
- 4.23 A vehicle on a thirty-(30) day hold may be signed over to the tow company by the legal owner prior to the expiration of the thirty (30) days. The legal owner must first obtain a vehicle release from the Police Department. The tow company after receiving the vehicle release from the Police Department must apply for a lien release prior to selling the vehicle.
- 4.24 CONTRACTOR may, in the exercise of CITY's discretion, be assigned by the G.G.P.D. to provide service to a portion of the CITY and/or on a rotational basis. The area assigned to the CONTRACTOR will be determined in the sole discretion of the Police Chief. Currently the CITY is divided into two divisions, "East & West." The division of the CITY is determined by the calls for service within these divisions. In the event a need arises to utilize more tow trucks than one division has, the services of the other division may be used.

5. RESPONSE TIME

- 5.1 The CONTRACTOR shall provide a response time of no more than twenty-five (25) minutes. Response time is the difference between the time the CONTRACTOR is notified and the time the tow truck arrives at the required location. Emergency conditions, as verified by local media or traffic enforcement may be acceptable reasons for not meeting the response time requirement. Equipment or personnel shortage, or lack of availability is not an acceptable reason for failure to meet response times.
- 5.2 The CONTRACTOR shall give priority to all of the CITY's requests for service.
- 5.3 The CONTRACTOR's dispatcher shall notify the Police Department when a tow vehicle cannot respond immediately, give the reason for the delay, and an estimated time of arrival. In the event of an additional delay, the CONTRACTOR's dispatcher shall again notify the Police Department and give the new estimated time of arrival. To ensure a timely response, the Police Department, in its sole discretion, may cancel any call-for-service because of a response delay and may request service from another tow service provider.
- 5.4 If the tow truck unit(s) has/have not arrived at the scene within twenty (25) minutes from the time requested, the Police Department, based on the urgency of the field situation, may request a different towing service to respond to the call, whether the different tow service has a contract with the CITY or not since there may be a situation where a contract tow company is not available and/or does not have the equipment to handle the requested task. It will then be

necessary for the Officer to call a tow company not on the CITY's rotational tow list. This decision is at the discretion of the officer on scene.

- 5.5 In the event CONTRACTOR is unable to respond to calls at the request of the Garden Grove Police Department, it shall be understood that the Police Department has the right to call another towing company on the rotation list. The original tow service will be placed on the bottom of the rotation list. It is incumbent upon the tow service to advise the police dispatcher of any problems that may arise to adversely affect response time.
- 5.6 The Police Department, in order to expedite service can request any tow service out of order on the rotation list. The tow service requested will not lose its place on the rotation list.
- 5.7 If, while rendering assistance in response to a CITY call for towing, a second CITY call for towing is generated to the CONTRACTOR, the CONTRACTOR's tow truck operator shall, before responding to the second call, ensure that all vehicles at the first site are sufficiently clear of the roadway so that no obstruction to normal traffic exists. Once the second call is handled to conclusion, the vehicles at the first site may be towed as necessary.

6. EQUIPMENT STANDARDS

- 6.1 All towing equipment, recovery equipment, and carrier ratings are based on structural factors only. Actual towing, carrying, and recovery capacity can be limited by the capacity of the chassis and the optional equipment selected. The criteria to determine the safe towing limits are:
 - (1) The total weight of the truck, including the lifted load, must fall within the Manufacturer's Gross Vehicle Weight Rating (GVWR) and not exceed either the Front or Rear Axle Ratings (FAWR, RAWR).
 - (2) The truck must meet all applicable State and/or Federal standards.
 - (3) A tow driver when towing a vehicle shall not exceed the GVWR and the Axle Weight Rating (AWR) for the tow truck.
 - (4) CONTRACTOR must have a qualified driver for each piece of equipment owned and listed in their proposal.
- 6.2 The CONTRACTOR shall own or have leased to it at least four (4) tow trucks that will be based at its CITY-approved storage facilities and which trucks shall be available to perform towing services at all times during the term of this Agreement. Two trucks shall have a minimum GVWR of 19,000 lbs. The CONTRACTOR shall not use a tow truck with a class rating of less than one ton.

- 6.3 The CONTRACTOR shall have at least three (3) conventional slings or wheel lift type trucks, one (1) rollback car carrier, one (1) 16 ton 35GVW medium duty truck, and one (1) 50 ton 80 GVW heavy duty truck throughout the term of the contract.
- 6.4 The CONTRACTOR's vehicles shall be equipped as tow trucks in compliance with the provisions of the California Vehicle Code including, but not limited to, Sections 615, 24605, 25100, 27700, and 27907. Tow trucks shall be equipped with red flares, lanterns or reflectors, hand tools (required to remove a drive shaft if necessary) crow-bar, rope, broom, shovel, dustpan, absorbent material for clean-up of hazardous materials, fire extinguisher, portable red tail lights and stop lights for towed vehicles, equipment for opening locked vehicles, go jacks and safety chains.
- 6.5 All CONTRACTOR's vehicles shall have available adequate equipment to handle large trucks, trailers, tractors and other heavy vehicle equipment. This includes a set of dollies capable of supporting any passenger vehicle. Notwithstanding the foregoing in Section 6.5, if the CONTRACTOR does not have the necessary equipment to handle large trucks, trailers, tractors or other heavy vehicle equipment, the CONTRACTOR may decline to provide the requested service.
- 6.6 The CONTRACTOR's vehicles shall have a cable winch of sufficient size and capacity to retrieve vehicles that have gone over embankments or off traveled portions of roadways into remote areas or other difficult locations.
- 6.7 Motorcycles that are stored, impounded, or towed from a collision scene at the request of the Police Department shall be hauled by a trailer that is designed to carry motorcycles, or by a flatbed truck.
- 6.8 Any equipment used and maintained by the CONTRACTOR shall be available for inspection by the Police Department upon request. The CONTRACTOR vehicles shall be subject to random inspection by the CITY.
- 6.9 The CONTRACTOR shall be equipped for and have personnel proficient in, unlocking locked vehicles. The CONTRACTOR shall unlock locked vehicles when requested to do so by the Police Department.
- 6.10 Throughout the term of the contract, the CONTRACTOR shall maintain in a neat and clean manner and in good working condition its storage facilities and improvements thereon, all vehicles, facilities, equipment, and materials used by the CONTRACTOR in the performance of the work. Any additions to or deletions from the CONTRACTOR's tow truck fleet shall be reported immediately, in writing, to the Chief of Police or his/her designee.

- 6.11 CONTRACTOR shall maintain four (4) operational tow trucks. If, for any reason, CONTRACTOR has only three (3) operational tow trucks, CONTRACTOR shall be allowed thirty (30) days including holidays and weekends to have four (4) operational tow trucks. If the CONTRACTOR has two (2) or less tow trucks operational, it will be removed from the rotational list, until it has three (3) tow trucks operational. The CONTRACTOR will then be allowed up to an additional fifteen (15) days, including holidays and weekends, to get another tow truck operational, for a total of four (4) operational tow trucks. Failure to comply shall be a breach of the contract. Repeated instances of less than four (4) operational tow trucks shall constitute grounds for termination of the tow services agreement.

7. COMMUNICATIONS EQUIPMENT

- 7.1 The CONTRACTOR during the term of the contract shall maintain, and have approved by the City, a continuous means of communication between the Contractor's dispatcher and each CONTRACTOR tow vehicle. The CONTRACTOR shall also maintain and staff, on a 24-hour basis, a telephone to receive calls from the police department and members of the public.
- 7.2 Use of Citizen's Band Class D radio equipment by the CONTRACTOR is prohibited.
- 7.3 Telephone service maintained by CONTRACTOR shall be adequate to receive police calls without delay. The telephone terminals shall be monitored at all times. Recording machines or similar devices are not allowed. If a call from G.G.P.D. is not answered within six (6) rings or the line is busy after two attempts, or placed on hold for more than a minute, the call will be terminated, the CONTRACTOR will be placed on the bottom of the rotation list and the tow service next in line will be called.
- 7.4 The CONTRACTOR shall provide a list of telephone numbers to be called in order of priority. Changes to contact list shall be provided immediately in writing to the Chief of Police or his/her designee along with the effective date of the change(s)

8. HOURS

- 8.1 The CONTRACTOR shall provide twenty-four (24) hour towing service, seven (7) days a week.
- 8.2 The CONTRACTOR shall ensure that there will be an employee on call twenty-four (24) hours a day, seven (7) days a week and capable of being present or available for releasing impounded or stored vehicles to the public in accordance with Section 4.9 of this Agreement. CONTRACTOR's response time for such releases shall be no longer than one (1) hour.

9. VEHICLE IDENTIFICATION

- 9.1 Each CONTRACTOR vehicle shall display identification signs in compliance with Section 27907 of the California Vehicle Code. The CONTRACTOR shall not display any signs or advertising that indicates that the CONTRACTOR is an official towing service or police garage of the CITY.
- 9.2 The CONTRACTOR shall not, through its advertisements or otherwise, in any way publicize any official or other business connection with the CITY, nor shall the CONTRACTOR advertise any address or telephone number of the CITY as a location or place to call for vehicle towing and storage service.

10. STORAGE SERVICE RESPONSIBILITIES

- 10.1 The CONTRACTOR shall be responsible for all vehicles, accessories and equipment thereon, and all personal property therein, stored by CONTRACTOR. It shall be the Contractor's duty to protect such stored vehicles, accessories, equipment, and property against all loss, damage by fire, theft, or other causes.
- 10.2 The CONTRACTOR shall be responsible for the negligent acts and omissions of its employees and for any property damage caused by CONTRACTOR or its employees to any vehicle under their control.

11. STORAGE FACILITY STANDARDS

The CONTRACTOR shall make adequate provisions for the security of vehicles and property at its storage facilities, which shall at a minimum consist of all of the following:

- 11.1 All vehicles shall be stored in a building, or in an area or areas enclosed by a substantial wall or fence. The storage yard shall be enclosed with a concrete block wall or chain-link type fence of a height of not less than six (6) feet. The top of the fence shall be equipped with two (2) or more strands of barbed wire installed in such a manner as to discourage access by climbing the fence. Concertina type razor wire may be substituted for barbed wire, subject to G.G.P.D. approval.
- 11.2 The bottom edge of the fence shall not rise more than two (2) inches above the finished surface of the parking area of the storage yard. A secure locking system shall be a part of the gate and it shall otherwise meet the same standards for security as described for the fence.
- 11.3 All storage facilities shall be paved and maintained in good working order and secured at all times. Any damage affecting security of vehicles, lighting and/or evidence shall be repaired within twenty-four (24) hours of the damage.

- 11.4 The minimum total capacity of the CONTRACTOR's storage facilities for storage shall be spaces for seventy-five (75) vehicles.
- 11.5 All storage facilities must be approved for security by the Chief of Police, or his/her designee, and available for inspection by the Police Department at all times upon request of the Chief of Police or his/her designee.
- 11.6 In the event of theft from the vehicles stored in the yard, the CONTRACTOR must take additional measures satisfactory to the G.G.P.D. to protect the vehicles and property in the vehicles.
- 11.7 Registered or legal owners, having obtained a vehicle release from the Garden Grove Police Department, shall be allowed to inspect their vehicle without having to pay the storage fees first.
- 11.8 The CONTRACTOR shall not perform any work upon any vehicle without first obtaining written permission from the owner of the vehicle. Notwithstanding the foregoing, all work on impounded vehicles shall be handled pursuant to Section 12 below.
- 11.9 If the CONTRACTOR videotapes or otherwise records images of the storage facility, such videotapes and photographs shall be maintained by the CONTRACTOR for at least ninety-(90) days.

12. *IMPOUNDED VEHICLES & INSIDE STORAGE*

- 12.1 Vehicles that have been impounded by order of the police department shall not be released, lien sold, worked on, altered, or tampered with, without a written release from the Police Department.
- 12.2 The CONTRACTOR shall maintain, without charge to the CITY, separate, fully enclosed, and secure garage storage facilities for a minimum of four (4) vehicles ordered impounded by the Police Department.
- 12.3 The Police Department shall have sole access to such separate impound facilities when vehicles are being held for evidence.
- 12.4 The Police Department shall designate when a vehicle is to be placed into inside impound storage. Vehicles placed into this impound space shall not be removed from such protection until approved and authorized in writing by the investigating officer of the Police Department.
- 12.5 The CONTRACTOR shall notify the Police Department of any vehicles being impounded within the CITY pursuant to private party impound requests immediately prior to commencement of the towing of such vehicles.

13. RELEASE OF VEHICLES

- 13.1 The CONTRACTOR is responsible for the release of all vehicles stored by the Police Department, including impounded vehicles. The CONTRACTOR is hereby granted authority to release to the registered owner, legal owner, or authorized representative, all vehicles that the tow company did not receive a stored vehicle report, (Form 180), from the Officer or CITY employee at the scene.
- 13.2 After obtaining a release from the Garden Grove Police Department, registered or legal owners or an agent of the owner requesting to inspect their vehicles or remove property from their vehicles shall be allowed to do so without having to pay the storage fees first. Such inspections and property removals shall be available only during the CONTRACTOR's regular business hours.

14. RECORDS

- 14.1 The CONTRACTOR shall log, maintain, complete and accurate business records of the tow service including: a description of the vehicle, nature of service, time, location, tow truck driver handling the call and an itemized total charge. These records shall be available for inspection by G.G.P.D., with or without cause, with 24 hours' notice, during normal business hours. These records shall be kept for a minimum period of three (3) years.
- 14.2 Record systems must provide for immediate access, upon inquiry by the Chief of Police or his/her designee, to the following information:
 - 14.2.1 Locate vehicle from the Police Department's report number.
 - 14.2.2 Locate vehicle from license number only.
 - 14.2.3 Locate vehicle from make, color, date and location of impound.
 - 14.2.4 Date of filing of all lien sale documents with DMV.
- 14.3 The CONTRACTOR shall submit a report, by the 10th day of each month, to the Police Department, which shall include all of the following information for the preceding month:
 - 14.3.1 Total CITY impounds and storages.
 - 14.3.2 Number of times dispatched by the Police Department.
 - 14.3.3 Number of calls for service resulting in impounds.
 - 14.3.4 Number of calls for services that resulted in having to spend more than one hour on the call.

15. LIENS AND DISPOSALS

- 15.1 On or before the 10th of each month, the CONTRACTOR shall furnish to the Police Department, a list of all vehicles that have been sold at lien sale during the previous month, and date of the action. This list shall include the vehicle owner's name, address, vehicle make, vehicle model, vehicle year, license number, VIN number, and Police Department record number. Copies of all lien sale documents shall be submitted with each list. The document shall be dated and is to include all charges imposed on each sale.
- 15.2 Prior to a lien sale of any vehicle, CONTRACTOR shall confirm with CITY the amount of any outstanding amounts due with respect to parking citations pertaining to the vehicle and shall cooperate with CITY to recover, the extent feasible, all such outstanding amounts due. Notwithstanding the lien priority established pursuant to subdivision (b) of Vehicle Code Section 22851.1, for all lien sold vehicles that were impounded and not released under, or in connection with, subdivision (i) of Vehicle Code Section 22651, CONTRACTOR shall, within thirty (30) days of the lien sale, remit to CITY the lesser of (i) the total outstanding amount due CITY, or (ii) fifty percent (50%) of the total lien sale price received by CONTRACTOR. For all lien sold vehicles with respect to which outstanding amounts are owed CITY for parking violations, but with respect to which CITY does not have a lien pursuant to Vehicle Code Sections 22651(i) or 22851.1, CONTRACTOR shall, within thirty (30) days of the lien sale, remit to CITY the lesser of (i) the total outstanding amount due CITY, or (ii) fifty percent (50%) of the total lien sale price otherwise due to CONTRACTOR in satisfaction of its lien pursuant to Vehicle Code Section 22851(a). CONTRACTOR shall be responsible for filing of all necessary paperwork related to the lien sale and satisfaction of outstanding amounts owed CITY with respect to parking citations.
- 15.3 The CONTRACTOR shall comply with all State law requirements for the disposal of unclaimed vehicles.

16. INSPECTION

- 16.1 A CHP (California Highway Patrol) inspection of the company's towing equipment, facility or facilities is required.
- 16.2 In addition to the CHP inspection report, the CONTRACTOR's towing equipment, facility or facilities may be inspected at least two (2) times per year (annually) with 24 hours' notice, during normal business hours by the Police Department Traffic Division, and a report filed thereon. The Garden Grove Police Department shall be authorized to perform field inspections of CONTRACTOR's equipment at any time without notice.
- 16.2 The City Building Division and the Fire Department, on request of the Chief of Police, may inspect the premises proposed to be devoted to public automobile storage and make recommendations to the Chief of Police or his/her designee.

- 16.3 CONTRACTOR's towing equipment, facility or facilities may be inspected with or without cause and without notice, during normal business hours by the Police Department Traffic Division, and a report filed thereon. The Police Department may rely on inspections conducted by the CHP.
- 16.4 If any deficiencies or equipment violations are discovered during any Police Department or CHP inspection, the CONTRACTOR will be so advised in writing. The CONTRACTOR will be given ten (10) business days, to rectify the deficiency or violation. Failure to comply will constitute a breach of this agreement.
- 16.5 If in the opinion of the Police Department Traffic Division, the deficiencies or equipment violations which are discovered during any Police Department or CHP inspection prevent a vehicle from being operated in a safe manner, the vehicle will be taken out of service. Failure to comply may result in the CONTRACTOR being removed from the call list.

17. MOTORISTS ASSISTANCE

- 17.1 Whenever a motorist requests tow assistance from the Police Department and does not specify a particular tow company or membership agency, the service shall, in the sole discretion of the Police Department, be assigned to either the CONTRACTOR or another tow service company awarded a contract for tow service by the CITY. All charges arising out of such assistance assigned to the CONTRACTOR shall be the exclusive responsibility of the CONTRACTOR and the requesting motorist. The CITY shall not be liable for any charges whatsoever arising out of a motorist assistance call. The CONTRACTOR shall not charge such motorist more than the rates specified in the contract.

18. ASSUMPTION OF RISK

- 18.1 The CONTRACTOR assumes all risk in the event of damage, theft, fire or otherwise, of the vehicles or any other property towed, impounded, or stored by the CONTRACTOR, its employees or agents.
- 18.2 Notwithstanding any other term or condition herein, in responding to any call from the police department, the CONTRACTOR shall have no claim whatsoever against the CITY or any right to recover from the CITY for the cost of any of the services it renders in the performance of the contract. The CONTRACTOR shall look solely and exclusively to the owner of the vehicle towed, impounded, or stored for payment of the services provided by the CONTRACTOR.
- 18.3 The CONTRACTOR shall assume the entire risk of nonpayment of any service charges incurred pursuant to the Agreement.

19. DRY RUNS

- 19.1 The CITY shall not be liable to pay to the CONTRACTOR any charge whatsoever or fee for a call that does not result in a chargeable service being rendered by the CONTRACTOR (i.e., a "dry run").
- 19.2 In the event the police department errs in impounding or storing vehicle(s), the CONTRACTOR shall cause the release of vehicles upon the direction of the police department without charge for towing or storage.

20. CITY VEHICLE TOWING

- 20.1 The CONTRACTOR shall provide, *without cost to the CITY*, towing of all CITY owned vehicles as requested by the CITY.

21. ADDITIONAL RESOURCES

- 21.1 It shall be the responsibility of the CONTRACTOR to provide equipment and to perform the duties as required by the Police Department. The CONTRACTOR is hereby granted authority to utilize additional resources whenever deemed necessary to perform tow service duties. This may include, but is not limited to, personnel and/or equipment of another tow operator whose employees have approval as provided for in the contract. This, however, shall not relieve the CONTRACTOR of its duties and responsibilities, and any additional cost incurred as a result of utilizing additional resources shall not be charged to the CITY.

22. ABANDONED VEHICLES

- 22.1 Vehicles, or parts thereof, which are disposed of through Abandoned Vehicle Abatement Program by delivery to an authorized automobile dismantler, pursuant to Section 22660 of the California Vehicle Code are excluded from the contract. No charge shall be assessed against the CITY or the owner of any vehicle that is towed, stored, or dismantled under the provisions of the Abandoned Vehicle Abatement Program.

23. CONTRACTOR'S CONDUCT

It shall be grounds for termination of the contract, if CONTRACTOR, or any of its agents or employees or any person(s) connected or associated with the CONTRACTOR as an operator, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the CONTRACTOR has committed any one of the following acts:

- 23.1 Has been convicted of a felony or any crime involving theft, embezzlement, stolen property, fraud or crimes of violence within the last ten (10) years or is so convicted during the term of the Agreement.

- 23.2 Has published, uttered or disseminated any false, deceptive or misleading statements or advertisement in connection with the operation of the towing service.
- 23.3 Has conducted the towing service in a manner contrary to the peace, health, safety, and general welfare of the public.
- 23.4 Has violated or permitted other persons to violate, through an act of omission or commission by the CONTRACTOR, any felony or misdemeanor crime involving sexual offenses or moral turpitude, or a felony involving sale or use of a controlled substance, or any act of dishonesty, fraud, within the last ten (10) years.
- 23.5 Had an inspection or investigation by the City Building Division, Police Department, or Fire Department, which revealed a deficiency, violation, or conduct that endangers the peace, health, safety and general welfare of the public.
- 23.6 Employs tow truck drivers under 18 years of age.
- 23.7 Fails to notify the Garden Grove Police Department Traffic Division in writing of any names, addresses, driver's license number of any newly employed tow truck driver within ten (10) business days of their hire date, or fails to notify the Garden Grove Police Department Traffic Division within ten (10) business days of any tow truck driver who is no longer employed by CONTRACTOR.
- 23.8 Has charged fees in excess of the schedule rates approved by the Police Department for rotational tow services or in excess of any Federal, State, County or City laws or regulations for towing and/or storage of vehicles or any service incidental to towing.
- 23.9 Has allowed the services of a tow service driver with a record of violations of the Vehicle Code which has resulted in the suspension or revocation of their driver's license or a second (2nd) driving under the Influence or reckless driving conviction within the three (3) years preceding the most recent violation, to remain in CONTRACTOR's employment as a driver providing service to the CITY.
- 23.10 Fails to comply with any California Vehicle Code, Federal, State, or County regulations and laws relating to towing and/or storing of vehicles, including the impounding and storing of vehicles from private property.
- 23.11 Fails to maintain control of any personal property, vehicle accessories and vehicles, which have been towed.
- 23.12 Fails to reimburse the legal or registered owner for damage or loss that occurs while the vehicle was in the CONTRACTOR's custody.

- 23.13 Having allowed an unauthorized person access to the storage yard or facilities.
- 23.14 Any other grounds as outlined in the Agreement between the CITY and the CONTRACTOR.
- 23.15 Has knowingly made false, misleading or fraudulent statements of a material fact in a report or record required to be filed with the Garden Grove Police Department.
- 23.16 Has stopped and solicited on any street, highway or other public thoroughfare the rendering of assistance to a person or disabled vehicle without first being requested to do so, except to render emergency aid when there exists an imminent peril to life or property.
- 23.17 Has charged for services not performed, equipment not employed or used, service or equipment not needed, or has otherwise materially misstated the nature of any service performed or equipment used.
- 23.18 Has been denied consideration for placement on another police department tow list or suspended from another police department tow list, within five (5) years of applying to provide tow services to the City of Garden Grove, or during the term of the CONTRACTOR's agreement with CITY.
- 23.19 Obtaining a tow contract from the CITY by use of fraud, trick, dishonesty, or forgery.
- 23.20 Towing a vehicle to a location other than approved by the Police Department as an authorized storage facility without first receiving prior authorization to do so by the Police Department.
- 23.21 After towing a vehicle to the CONTRACTOR's storage facilities, towing the vehicle to another location for storage or impound without authorization from the Police Department.
- 23.22 Defrauding or conspiring to defraud any owner of any vehicle, any insurance company, or any other person financially interested in the towing, storage, or impound of any vehicle.
- 23.23 Moving, tampering with, or removing a vehicle involved in a traffic collision prior to the arrival of law enforcement officers at the scene.
- 23.24 The Police Department receives four (4) or more complaints against the CONTRACTOR during any twelve (12) month period that the Police Department, in its reasonable discretion, determines to be justified, regarding the service, or lack thereof, provided by the CONTRACTOR.

- 23.26 Failing to comply with any provision of the contract between the CONTRACTOR and CITY.
- 23.27 Repeated or flagrant violations of the provisions of the California Vehicle Code.
- 23.28 Demonstrating a pattern or practice of failing to answer calls-for-service, respond promptly to calls, and/or to maintain clean, orderly, and secured storage facilities.
- 23.29 Failing to obtain and maintain a current valid CITY business license.
- 23.30 Commission of any unlawful, false, fraudulent, deceptive, or dangerous act while conducting its towing operation business.
- 23.31 Allowing the insurance coverage required herein to be withdrawn, lapse or otherwise to no longer being in force for any reason.
- 23.32 Dissolution of business or bankruptcy.
- 23.33 Assignment of the Agreement, or any right or interest stated herein, without the prior written consent of Chief of Police of his/her designee.
- 23.34 Any recurring deviation from the Police Department approved charges as specified herein.
- 23.35 Has committed any act constituting dishonesty or fraud.
- 23.36 Has a conviction or a plea of nolo contendere or guilty to a misdemeanor or felony crime involving sexual offenses, theft, embezzlement, stolen property, fraud, crimes of violence or moral turpitude, or a felony involving sales or use of a controlled substance within the last ten years or during the term of the Agreement between the CONTRACTOR and CITY.
- 23.37 Has published, uttered or disseminated any false, deceptive or misleading statements against the Police Department, the City of Garden Grove or its employees.
- 23.38 Has sold or transferred ownership of CONTRACTOR without prior written approval of the Chief of Police and/or in violation of Garden Grove Municipal Code Sections 5.52.160 through 5.52.180. Upon any change in CONTRACTOR's ownership, CITY reserves the right to re-evaluate the new company/owners per the terms of this RFP and may terminate the Agreement at the sole discretion of the CITY. CONTRACTOR shall not be entitled to terminate the Agreement solely as a result of a change in ownership of CONTRACTOR.

24. FEES/CHARGES

- 24.1 CONTRACTOR shall charge rates for all service, including an after hour's release fee, as established by the Chief of Police or his/her designee. The rates for citizen assist calls for services such as service calls or disabled vehicle tows will be established by the Police Department as commercial rates for CONTRACTOR. The Chief of Police or his/her designee prior to the increase will authorize any and all rate increases.
- 24.2 All rates and charges shall be conspicuously posted in the CONTRACTOR's office and in all tow vehicles, and shall be available for review by Police Department and/or persons for whom tow service is provided. All customer bills shall be itemized. It shall be the CONTRACTOR's responsibility to collect payment for services it renders under the Agreement from the vehicle owners, and the CITY shall not be responsible in any way whatsoever for payment of these charges.
- 24.3 Routine clean-up such as sweep up, fluid clean-up and debris removal shall be include in the basic tow charge. However, when clean-up is determined to be excessive (by mutual agreement of the CONTRACTOR and the CITY), the rate shall be the labor rate referenced in CONTRACTOR'S proposal (quoted for "labor").
- 24.4 The CONTRACTOR, as prescribed within California Vehicle Code Section 22651.1, shall accept a valid bankcard, credit card or cash for payment of towing and storage by the registered owner, legal owner, or agent of the owner claiming the vehicle.
- 24.5 Following the completion of the initial three (3) year contract period, the Chief of Police or his/her designee may reevaluate the charges and rates set to ensure that the current rates and charges are reasonable.
- 24.6 Fees for Lien Sale Vehicle Release: A Request Release for Lien Sale-form #439 is required prior to the lien release of any vehicle that has been stored or impounded by the Police Department. The use of this system provides a way to monitor vehicles used or involved in major crimes that may be evidence of the crime, and to prevent their release. An administrative fee of \$12.00 per request release for lien sale form has been established to defray the costs of printing, filing, verifying if the vehicle is needed as evidence, and the postage or delivery of the forms to the CONTRACTOR. The fee will begin upon the inception of this agreement. A check for the accumulative total of request release for lien sale forms will accompany each package submitted.

25. ACTS OR OMISSIONS OF REPRESENTATIVES

- 25.1 It is understood and agreed by the parties that the acts and/or omissions of the owner(s), officers, operators, officials, employees, agents and representatives of the CONTRACTOR in the performance of the services and

obligations under this agreement shall constitute the acts and/or omissions of the CONTRACTOR and not of the CITY.

26. ENVIRONMENTAL REGULATIONS

26.1 It is understood and agreed by the CONTRACTOR that all state and federal regulations regarding the clean-up and disposal of hazardous materials at the site of all accidents, including those involving CITY owned vehicles, are the responsibility of the CONTRACTOR.

26.2 CONTRACTOR is responsible for maintaining all required records and receipts in the event that these documents are requested for proof of compliance. *See guidance documents in APPENDIX C, which do not limit the CONTRACTOR's responsibility for all state and federal regulations regarding hazardous material clean up and disposal.*

27. APPLICATION FEES

27.1 The CONTRACTOR shall be subject to the following fees intended to defray the CITY's costs of processing the Contract:

Tow Application Fee	\$450.00
<i>(must be included with proposal at the time of submittal)</i>	
D.O.J background check	\$32.00 (made payable to D.O.J)
Annual Inspection Fee	\$250.00
Re-Inspection Fee	rate of top step police officer
Tow Driver Permit	\$81.00
Tow Driver Permit Renewal	\$40.00

Live scan forms can be obtained at the Police Department. An appointment must be made with the front desk and please bring payment in the form of cash or check, payable to the City of Garden Grove, at the time of your appointment. The total cost is \$81.00 (D.O.J.-\$32.00, FBI-\$17.00, and Police Department \$25.00).



GARDEN GROVE

**RFP NO. S-1260
ATTACHMENT "B"**

AUTHORIZED TOWING AND STORAGE FEE SCHEDULE

SERVICE	FEE
CLASS A	\$200.00
CLASS B OR FLATBED	\$225.00
CLASS C	\$325.00
CLASS D	\$350.00
Dolly, Go-Jacks or Linkage Fee	\$70.00
Rollover or Winching Fee	\$145.00
Clean-Up Fee (fee to City capped at \$35.00 per occurrence)	\$75.00
Hazmat Fee (per five (5) gallon bucket)	\$125.00
Vehicle Storage Fees (Daily)	
Class A-Outside	\$60.00
Class A-Inside	\$65.00
Class B-Outside	\$65.00
Class B-Inside	\$70.00
Class C or Class D-Outside	\$70.00
Class C or Class D-Inside	\$75.00
After Hours Release	50% of the authorized towing charge
Minimum Service Call or Drop Fee	50% of the authorized towing charge
Lien Sale	As authorized by the California Civil and Vehicle Codes
Mileage (per mile outside the corporate city limits)	\$12.00

TO BE POSTED IN A LOCATION CLEARLY VISIBLE TO THE GENERAL PUBLIC



**City of Garden Grove
Compliance Summary Report**

Vendor Number	Vendor Name	AM Best Rating	Insurance Carrier	Policy #	Eff. Date	Exp. Date	Coverage
90552	B&D TOWING INC	Compliant					
		A+ , X	AmGUARD Insurance Company	K2GP007382	9/17/2019	9/17/2020	Auto Liability
		A- r , IX	GuideOne National Insurance Company	56000162000	9/17/2019	9/17/2020	Excess Liability
		A+ p , X	AmGUARD Insurance Company	K2GP007382	9/17/2019	9/17/2020	Garage Keeper Liability
		A+ p , X	AmGUARD Insurance Company	K2GP007382	9/17/2019	9/17/2020	General Liability
		A , XII	Insurance Company of the West	WVE502471106	10/1/2019	10/1/2020	Workers Comp

Risk Profile : Towing

Required Additional Insured : City of Garden Grove, its officers, officials, agents, employees and volunteers

FINANCIAL IMPACT

There is no impact to the general fund.

RECOMMENDATION

It is recommended that the City Council:

- Award contracts to Action Southland Towing and B&D Towing, for a term of five years commencing March 1, 2020, to provide on-call rotational towing services for the Police Department; and
- Authorize the City Manager to sign the agreements on behalf of the City.

By: Lt. Patrick Gildea

ATTACHMENTS:

Description	Upload Date	Type	File Name
B&D Towing	2/19/2020	Agreement	B_D_Towing__Inc._agreement.pdf
Action Southland	2/19/2020	Agreement	Action_Southland_agreement.pdf