

TOW SERVICE
AGREEMENT BY AND
BETWEEN
THE CITY OF WATSONVILLE
AND

[**INSERT LEGAL NAME OF TOWING COMPANY**]

This TOW SERVICE AGREEMENT (“TSA”) is made and entered into this [] day of [**INSERT MONTH**], 2024 (“Effective Date”) between the City of Watsonville, a California municipal corporation, on behalf of the City of Watsonville Police Department (“City” or “WPD”) and [**INSERT LEGAL NAME OF COMPANY**], a [**INSERT STATE**] [**INSERT TYPE OF COMPANY E.G. CORPORATION, LLC, ETC.**] (“Operator”). City or WPD and Operator may collectively be referred to as “Parties” and individually referred to as “Party.”

RECITALS

WHEREAS, WPD requires the aid and assistance of towing services on a regular basis in the performance of its emergency response and traffic control duties, including response to investigations of vehicular accidents; and

WHEREAS, as a means for providing the necessary towing service, the City desires to retain towing companies to be used on call and on a rotational basis for any police emergency or response situation where the use of a tow truck is required; and

WHEREAS, Operator owns or leases tow trucks and employs personnel that are capable of providing the desired vehicle towing and storage services to WPD pursuant to the terms and conditions contained in this TSA; and

WHEREAS, City desires to retain Operator and Operator desires to be retained by City, as an independent contractor, for purposes of providing police towing and vehicle impound and storage services for City.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the mutual promises, covenants, and conditions contained herein, the Parties agree as follows:

1. SCOPE OF SERVICES

A. To ensure the efficient performance of police towing services for the WPD, Operator hereby agrees to the following service provider requirements, specifications, performance criteria and terms and conditions:

- i. Operator shall perform vehicle towing, impound, and storage services as

directed by the WPD and in addition such other services as provided in this TSA, and shall provide necessary storage facilities, tow services, labor materials, equipment, machinery, and tools.

Operator shall have a minimum of three (3) verifiable years of for-hire towing experience as an owner or principal.

ii. Specific services include but are not limited to: towing abandoned vehicles, improperly parked vehicles, vehicles that obstruct or impede the flow of traffic or emergency lanes, and vehicles that obstruct or impede walkways and handicapped parking spaces; WPD impounds; and seizure of evidence and motor vehicle accidents.

iii. Operator is hereby designated as an authorized tow service provider for City by the Chief of Police. All trucks and equipment used by Operator in the performance of this TSA shall be owned or leased to Operator and shall be subject to all provisions herein.

iv. Operator acknowledges and agrees that this TSA as set forth herein is non-exclusive. City intends to concurrently contract with other tow service providers. City shall utilize the service each Operator provides as City, in its sole discretion, deems appropriate.

v. Operator further acknowledges and agrees that when, in the opinion of the WPD, an emergency exists or where Operator is either unable or unwilling for any reason to provide adequate or timely tow service, then the WPD shall have the right to call other qualified tow services, which may or may not be under contract with the City. Under such circumstances, the decision to call another tow service shall be at the exclusive discretion of the WPD.

B. Notwithstanding the provisions of this TSA, nothing contained herein shall deprive the owner or operator of vehicle from requesting and receiving towing services from a person or entity other than the Operator.

2. TERM

A. This TSA shall remain in effect for three (3) years from the Effective Date. This TSA may be reviewed at the conclusion of the initial three (3) year period and may be extended, at the sole discretion of City, for up to two (2) additional two (2) year periods.

3. TERMINATION

A. Termination Generally. In the event this TSA is terminated, the rights and remedies of the Parties provided in this Section are in addition to any rights and remedies provided by law.

B. Termination for Cause. This TSA may be terminated by City at any time. In the event of termination for cause by City, Operator shall be compensated for those services that have been fully and adequately completed and accepted by WPD as of the date of termination. Termination of this TSA for cause may be considered by City in determining whether to enter into future contracts with Operator.

C. Termination without Cause. This TSA may be terminated without cause upon ninety (90) days written notice provided by either Party. In the event that City should terminate, or suspend Operator's work, Operator shall be entitled to payment for services fully and adequately provided hereunder prior to the effective date of suspension or termination. Operator shall provide documentation deemed adequate by WPD to show the services actually completed by Operator prior to the effective date of termination.

4. SUSPENSION

A. The Chief of Police or his/her designee shall retain discretion regarding the length of any suspension imposed under this TSA.

B. The following breaches may be cause for suspension:

i. Violation of the equipment standards related to safety;

ii. Overcharging the City or a person for the services or result of services identified in this TSA. The period of suspension will remain in effect until the Operator has presented proof to WPD that reimbursement has been made.

iii. Failure to satisfy a court order mandating reimbursement to the vehicle or property owner for the damage or loss which occurred while the vehicle was in the Operator's custody. The period of suspension will remain in effect until the Operator has presented proof to WPD that reimbursement has been made.

iv. Failure of the Operator to comply with the inspection requirements per Section 16.

5. OPERATIONAL STANDARDS; LOCATION OF OPERATOR TOW BUSINESS

A. Operator shall display a sign which clearly identifies it to the public as a tow service. The sign shall have letters which are clearly visible to the public from the street and shall be visible at night.

B. Operator shall post business hours in plain view to the public.

C. Operator shall provide sufficient staffing to allow customers to talk face-to-face with a tow company's owner, manager, or employee during normal business hours.

D. Operator shall maintain records of all tow services furnished at the Operator's primary office. Invoices shall, at a minimum, include a description of each vehicle, nature of service, start time, end time, location of call, itemized costs of towing and storage, the tow truck company's name, and truck used.

E. Operator shall maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, Federal Communication Commission licensing (if applicable), and non-WPD tows.

F. WPD may inspect and make copies of Operator's business records without notice during Operator's normal business hours.

G. Operator shall maintain business records and make them available for inspection for a period of three (3) years.

H. All vehicles stored or impounded at the direction of WPD shall be towed directly to Operator's impound and storage facilities, unless WPD 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 Operator, which has been approved by the Chief of Police, or his/her designee.

I. Vehicles impounded as evidence shall be stored in a secure area that is protected against access by persons not authorized by WPD. WPD shall retain sole custody of the lock mechanism used to prevent unauthorized access to vehicles impounded as evidence. Operator shall take all reasonable precautions required to avoid damage to any evidence in or on vehicle.

J. Any proposed change in the Operator's facility locations shall be reported in writing, to WPD at least sixty (60) days prior to making such change.

6. PERSONNEL

A. No person employed as a tow truck driver for the Operator shall have access to any WPD stored or towed vehicle until such time as that person has received written approval from the Chief of Police or his/her designee.

B. Tow truck drivers 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.

C. It is the responsibility of the Operator to ensure its drivers are trained, qualified, and competent employees of the business per California Vehicle Code Section 12520. Operator shall ensure employees have completed a Tow Service Agreement Advisory Committee ("TSAAC") approved tow truck driver training course within the past five (5) years.

Documentation of a completed tow truck driver training course shall be kept in the company's training file and available for inspection. Tow truck driver training documentation should be for the appropriate class of tow truck (e.g., a Class D driver should have heavy duty tow company's training documentation). A copy of the certificate of completion for each tow truck driver providing services pursuant to this TSA shall be provided by the Operator to WPD prior to commencement of each driver's participation in this TSA.

D. All Operator tow truck drivers shall be required to have a safe driving record, be eighteen (18) years or older, and be subject to driving record and criminal background checks by WPD. No tow truck 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 convictions within three (3) years preceding the most recent violation shall be allowed to provide service to City under this TSA.

E. Operator shall have an alcohol and drug program that includes, at a minimum, a drug-free and alcohol-free workplace policy, and a tow truck driver controlled substance and alcohol testing ("CSAT") program that complies with the U.S. Department of Transportation requirements to the extent allowed by law, including random drug and alcohol testing. Any tow truck driver found working under the influence of drugs or alcohol shall be immediately removed from operating a tow truck and from providing any service pursuant to this TSA. The alcohol and drug program shall meet the following requirements:

i. A contract with a program administrator and authorized lab certified by the U.S. Department of Transportation; and

ii. Procedures and components substantially as in Part 40 of Title 49 of the Code of Federal Regulations for pre-employment; and

iii. Procedures and components substantially as in Part 383 of Title 49 of the Code of Federal Regulations for rehabilitation, return-to-duty and follow up testing; and

iv. Procedures and components for random testing following U.S. Department of Transportation guidelines, and additional tests as required following accidents, rehabilitation, return to service, and other circumstances providing reasonable suspicion to test; and

v. The Operator and program administrator's drug and alcohol program records shall be made available to WPD upon request; and

vi. Drivers must show a valid California driver's license at the time and place of testing; and

vii. All test results are kept confidential except that WPD is authorized to receive copies for its administrative purposes, and except as otherwise authorized or required by law.

F. Operator shall participate and be enrolled in the California Department of Motor Vehicles (“DMV”) Employer Pull Notice (“EPN”) Program. Upon the addition of a new company, the company shall be granted a maximum of thirty (30) days to enroll company employees in the EPN. The EPN shall be kept on file, signed, and dated.

G. Operator shall not employ in the performance of services pursuant to this TSA any tow truck driver convicted of or having pled nolo contendere to a crime involving a stolen vehicle, stolen property, violence, drugs or moral turpitude, fraud related to the towing business, or misdemeanor or felony driving while under the influence of alcohol or drugs, or the crimes listed in Vehicle Code Section 13377. If any tow truck driver is charged with any of the above listed crimes, Operator shall immediately suspend the driver from duties under this TSA pending the disposition of the criminal case.

H. Operator shall employ only capable and competent employees. Each company shall provide the Chief of Police with a current list of employees authorized to perform operations of each tow truck. The Chief of Police may remove a company from the rotation list if the company employs a driver who, within the five (5) years preceding employment, has been convicted of one or more of the following crimes:

- i. Auto theft, burglary, possession of stolen property, grand theft, or any other felony;
- ii. A crime of violence on the person of another; iii. A violation of the Health and Safety Code relating to controlled substances;
- iv. A violation of Sections 4461, 4462b, 4463, or 5017a of Division 3 of the Vehicle Code;
- v. A violation of any provision of Division 4 of the Vehicle Code; or
- vi. A crime relating to illegal acquisition of vehicles or vehicle parts or documents relating to vehicle registration or ownership.

I. Operator tow truck drivers shall fully cooperate with and abide by the instructions of WPD’s officers.

J. If the tow truck driver becomes ineligible to provide services under this TSA, the Operator shall immediately notify WPD in writing of such ineligibility and the reasons therefore within fifteen (15) days.

K. Operator shall provide to WPD the name of any tow truck driver no longer employed by the Operator. This notification shall be given to the WPD Traffic Division no later than ten (10) business days following the last date of such operator’s employment by Operator.

L. Operator shall wear an identifiable uniform displaying the Operator and personnel's names while engaged in WPD rotation tow operations.

M. Operator's personnel shall wear appropriate warning garments (e.g., vests, jackets, shirts, reflective clothing, etc.) for daylight and darkness in accordance with California Code of Regulations, Title 8, Section 1598. If the tow truck driver is working on a Federal-aid highway, the company shall comply with the guidelines contained in the Federal Code of Regulations, Title 23, Highways, Chapter 1, Federal Highway Administration, Department of Transportation, Part 634, Worker Visibility, which requires high-visibility personal protective safety clothing to be worn that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004.

7. OPERATOR TOW SERVICE DUTIES

A. After being requested to the scene by WPD, Operator tow truck drivers shall comply with the following:

i. Not move nor attach a tow truck to any vehicle until instructed to do so by the investigating officer of WPD.

ii. Cooperate with the investigating officer of WPD in removing unsafely and/or illegally parked vehicles from the street, and in the storing or impounding of such vehicles as requested.

iii. On collision calls, clean- up and remove all debris from the accident scene, including but not limited to, clean- up and removal of all hazardous materials/vehicle fluids in the street with absorbent material, as directed by WPD officers and Section 27700 of the California Vehicle Code.

iv. Provide the owner or driver of towed vehicles, when present at scene, with a business card of Operator indicating where vehicle will be stored or impounded (including address and telephone number).

B. Operator shall be responsible and held accountable for personal property, vehicle accessories and the vehicle upon receipt of the vehicle from WPD. City, 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 operator acknowledging receipt for the vehicle by his/her signature on the stored vehicle report form.

C. Operator shall not dispose of or otherwise relinquish control of any vehicle stored or impounded by WPD without a written approval from WPD to do so. The written approval is required for any vehicle stored or impounded by WPD.

D. The release of property from a vehicle will be handled in the same manner as a vehicle release. 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.

E. Vehicles shall be released during the business hours of 8: 00 a.m. to 5: 00 p.m., 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 Watch Commander. Inoperable vehicles will not be released after hours.

F. 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 vehicle release.

G. When a Party obtains a WPD stored vehicle release and presents it to the Operator, the vehicle and/or property shall be released to that person upon verification of identity and the payment of the fees. An After Hours Release Fee will be paid to the Operator for "property only" or vehicle releases after the normal business hours of the Operator.

H. Once the tow service has received the WPD stored automobile release, the Operator is no longer obligated to WPD for the continued safe storage of the vehicle and/ or property taken.

I. Operator must advise the Department's Traffic Division in writing within ten (10) business days, if a person picking up a vehicle complains to Operator of damage to the vehicle or any missing vehicle accessories or personal property from the vehicle for which Operator denies responsibility.

8. RESPONSE TIME

A. Operator shall respond to calls twenty-four (24) hours a day, seven (7) days a week, and respond to the scene within a reasonable time. Reasonable response time shall be twenty (20) minutes.

B. Operator shall respond with a properly equipped tow truck of the class required to tow the vehicle and be in possession of the appropriate class of license and applicable endorsements. Any applicable permits (e.g., load variance, oversize, etc.) shall be valid and maintained in the tow truck.

C. Operator shall advise the Santa Cruz Regional 9-1-1 ("SCR911") at the time of notification, if they are unable to respond within the reasonable response time outlined above. If, after accepting the call, Operator is unable to respond or will be delayed in responding, the company shall immediately notify SCR911.

D. A failure to respond to towing or service calls, and/or repeated failures to meet maximum response time requirements, may result in disciplinary action.

E. If service, other than towing and recovery is canceled by the vehicle's registered owner or agent, no lien shall arise for the service unless the tow company has presented a written statement to the vehicle's registered owner or agent for the signed authorization of services to be performed pursuant to section 3068, subdivision (a) of the Civil Code. Operator shall not attempt

to take possession of a vehicle in order to establish a lien for any non-towing services performed, begun, or subsequently canceled.

F. If two or more companies are called to the same incident, distribution of the vehicles shall be at the sole discretion of WPD.

G. When a company will be temporarily unavailable to provide services due to a preplanned or scheduled activity, the company shall notify WPD at least twenty-four (24) hours prior to the date that services will be unavailable, noting the times and dates of the unavailability.

H. Only tow truck personnel and equipment requested shall respond to a WPD call.

I. A company shall not respond to a WPD call assigned to another company or reassign a call to another company, unless requested to do so by WPD.

i. Nothing would preclude the assigned company from responding to an incident to ascertain if additional assistance or equipment is required.

ii. There shall be no additional charge for any personnel or equipment which is not necessary to perform the required service.

J. There may be times when the company/employee assigned to the initial call may require assistance from an additional company/employee.

i. The assigned company/employee may, with the concurrence of the scene manager, request a specific company for additional assistance.

ii. The company/employee's request shall be routed through WPD.

K. There may be times when a company/employee, who was not called to the scene, comes upon a collision scene where a vehicle or vehicles are blocking a roadway and the onscene officer requests assistance in clearing the roadway.

i. In such a case, the company may be requested by the officer to move a vehicle to a safe location and leave it.

ii. There shall be no charge for this assistance and the assistance provided shall not change the company's place in the rotation.

9. EQUIPMENT STANDARDS

A. Operator shall equip and maintain tow trucks covered under the TSA in accordance with the provisions set forth in the Vehicle Code, Watsonville Municipal Code 411.05, Title 13 of the California Code of Regulations, the specifications contained in this TSA, and in a manner consistent with industry standards and practices.

B. All towing equipment, recovery equipment, and carrier ratings are based on structural factors only. The criteria to determine the safe towing limits are:

i. 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 Weight Ratings (FAWR, RAWR).

ii. The truck must meet all applicable State and/or Federal standards.

iii. A tow truck operator when towing a vehicle shall not exceed the GVWR and the Axle Weight Rating (AWR) for the tow truck.

iv. A violation of the GVWR and/or safe loading requirements of a tow truck may be cause for disciplinary action. This includes exceeding the tow truck's GVWR, FAWR, RAWR, maximum weight tire ratings, or not maintaining fifty percent (50%) of the tow truck's unladen front axle weight on the front axle when towing.

C. Operator 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.

D. Any equipment used and maintained by Operator shall be available for inspection by WPD upon request. Operator vehicles shall be subject to random inspection by WPD.

E. Operator shall be equipped for, and have personnel proficient in, unlocking locked vehicles. Operator shall unlock locked vehicles when requested to do so by WPD.

F. Throughout the term of this TSA, Operator shall maintain in a neat and clean manner and in good working condition its storage facilities and improvements thereon, and all vehicles, facilities, equipment, and materials used by Operator in the performance of the services required under this TSA.

G. It shall be the responsibility of Operator to provide equipment and to perform the duties expressed in this TSA. Operator is hereby granted authority to utilize additional resources whenever deemed necessary to perform its tow service duties. This may include, but is not limited to, personnel and/or equipment of another tow operator. This, however, shall not relieve operator of its duties and responsibilities and any additional cost incurred shall not be charged to City.

H. All tow trucks shall have recovery and wheel lift capabilities meeting the specifications contained in this TSA.

i. Class D tow trucks used exclusively for salvage and recovery operations are not required to possess wheel lift capabilities.

ii. A company who has a car carrier is exempted from the recovery, wheel lift, and boom capability requirements. However, the car carrier must be an additional unit and shall not be used for recovery.

I. Tow truck and car carrier classifications: tow truck and car carrier classifications are based on the truck chassis GVWR and the classification system used by the American Trucking Association (ATA) and truck manufacturers. Tow truck and car carrier classifications shall meet all applicable state and/or federal standards.

J. Identification labels: each piece of towing equipment shall have a label or identification tag permanently affixed to the equipment in a prominent location to identify the manufacturer, serial number, model, and rated capacity.

K. Recovery equipment rating: the basic performance rating of the recovery equipment is the weight of the equipment can lift in a winching mode, when the boom is static at a thirty (30) degree elevation with the load lines vertical and the lifting cables sharing the load equally.

i. The structural design of the recovery equipment must have a higher load capacity than the performance ratings.

ii. Winches shall conform to or exceed the specifications set forth by the Recovery Equipment Rating, Society of Automotive Engineers (SAE) Handbook, and SAE J706.

iii. All ratings for cable and chain assemblies are for the undamaged assembly condition. All cable and chain assemblies should be the same type, construction, and rating as specified by the original equipment manufacturer (OEM) for the equipment.

iv. Control/safety labels: all controls shall be clearly marked to indicate proper operation, as well as any special warnings or cautions.

10. COMMUNICATIONS EQUIPMENT

A. Operator, during the term of this TSA, shall maintain and have approved by the City, a continuous mean of communication between Operator and each Operator tow vehicle.

B. Telephone service maintained by Operator shall be adequate to receive WPD calls without delay. If a call from WPD is not answered by personnel within six (6) rings or the line is busy after two (2) attempts, or placed on hold for more than one (1) minute, the call will be terminated and Operator will be placed at the bottom of the rotation list and the tow service next in line will be called.

C. Operator 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).

11. HOURS

A. Operator shall, at a minimum, maintain business operating hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on the following holidays:

- i. New Year's Day; ii. Martin Luther King Day; iii. Lincoln's Birthday; iv. President's Day;
- v. Memorial Day; vi. Independence Day; vii. Labor Day; viii. Columbus Day; ix. Veteran's Day;
- x. Thanksgiving Day; xi. Day after Thanksgiving; and xii. Christmas.

B. As stated above, Operator shall be available to provide City requested tows twenty-four (24) hours a day, seven (7) days per week, and respond to the scene within a reasonable time. Reasonable response time shall be twenty (20) minutes.

12. VEHICLE IDENTIFICATION

A. Each Operator vehicle shall display identification signs, in compliance with Section 27907 of the California Vehicle Code. Operator shall not display any signs or advertising that indicate the Operator is an official towing service or garage of City.

B. Operator shall not, through their advertisements or otherwise, in any way publicize any official or other business connection with City, nor shall Operator advertise any address or telephone number of City as a location to call for vehicle towing and storage service.

13. IMPOUNDED VEHICLES AND STORAGE YARD

A. Operator shall be responsible for the safekeeping and prevention of vandalism of all vehicles and contents which are stored or impounded by WPD.

- i. Operator shall provide, at a minimum, a six (6) foot securely fenced or

enclosed storage yard capable of protecting stored vehicles and their contents from theft or tampering.

- ii. The yard shall be reasonably screened from public view.
- iii. The yard shall be located within three (3) miles of City limits.

- B. The primary storage yard shall be at the same location as the business address.
- C. Operators shall maintain sufficient storage spaces.

i. A secondary storage yard shall only be utilized if the primary storage yard is full. A secondary storage yard shall be located within one (1) mile of City limits. Operator shall not charge the vehicle's owner/agent for towing a vehicle from a secondary storage yard to the primary storage yard.

D. Storage yards shared by companies, or other business establishments not owned by the company shall be physically separated and secured from each other.

E. Prior to the utilization of new storage yards which were not listed with WPD, a company shall obtain WPD's approval.

14. RELEASE OF VEHICLES

A. During business hours, Operator shall ensure that a company employee is available to conduct business transactions related to towing, storage, and release of vehicles/property.

B. Upon written approval from the Traffic Sergeant or the on-duty Watch Commander, the company shall release personal property from a vehicle which has been stored/impounded by WPD at the request of the vehicle's registered owner or agent. Personal property is considered to be items which are not affixed to the vehicle. A receipt shall be provided for the removed property, with a copy placed in the stored vehicle. This procedure shall also apply to the removal of property by the tow company and/or its employee to a secured area within the business.

C. The requirement to obtain approval from WPD prior to the release or removal of property may be excused if it is determined proper safeguards and procedures are utilized by the company. This requirement may not be waived in cases where a vehicle has been impounded for evidence or investigation.

D. Personal property and/or the vehicle shall be released at the primary storage yard. Personal property or vehicle release from a secondary storage yard shall only be allowed if consented to by the vehicle's registered owner/agent

E. Pursuant to Vehicle Code section 22851, subdivision (b), no fee shall be charged for the release of personal property during normal business hours; the maximum charge for a non-

business hours release shall be one-half the hourly town rate charged, or less, for initially towing the vehicle; and no lien shall attach to any personal property in or on the vehicle.

F. Vehicles stored by shall be released within two (2) hours of the owner's demand, or at such time as mutually agreed upon.

15. RECORD KEEPING AND REPORTING

A. Operator shall keep a written record of every vehicle stored for a period of longer than twelve (12) hours pursuant to Vehicle Code section 10650, subdivision (a). The record shall contain the name and address of the person storing or requesting the tow, the names of the owner and driver of the vehicle, a brief vehicle description (e.g., make, model, license plate number, VIN, and any vehicle damage) pursuant to Vehicle Code section 10650, subdivision (b).

B. Operator shall maintain complete accurate business records of the tow service including: a description of the vehicle, nature of service, time, location, tow truck operator handling the call, and an itemized total charge. These records shall be available for inspection by WPD, with or without cause, with twenty-four (24) hour notice, during normal business hours. These records shall be kept for a minimum period of three (3) years.

C. Operator shall record video surveillance footage of the vehicle storage areas and retain records of the same for a seven (7) day period, and make such records available for inspection by WPD upon request.

D. Record systems must provide for immediate access, upon inquiry by the Chief of Police or his/her designee, to the following information:

i. Locate vehicle from the WPD's report number.

ii. Locate vehicle from license number only. iii. Locate vehicle from make, color, date and location of impound.

iv. Date of filing of all lien sale documents with the California Department of Motor Vehicles.

E. Operator shall comply with all State law requirements for the disposal of unclaimed vehicles.

16. INSPECTION

A. All real property and improvements thereon, and all facilities, equipment, and materials used by Operator in the performance of this TSA shall, upon request by WPD, be open to immediate inspection by the Chief of Police or his/ her designee.

B. WPD reserves the right to conduct at least one (1) annual inspection of all tow trucks utilized on rotation calls. WPD may conduct additional inspections without notice during Operator's business hours. WPD may honor annual inspections performed by the California Highway Patrol area office.

17. TOW COMPLAINTS

A. All WPD related tow service complaints received or initiated by the WPD against a tow company or tow company employee shall be accepted and investigated in a fair and impartial manner. The towing company and their employees shall cooperate with WPD investigators during the course of an investigation.

B. The company shall be notified in writing of the findings within thirty (30) days of the conclusion of any investigation.

C. Should the filing of criminal charges be a possibility, WPD or the designated law enforcement agency shall conduct the investigation to conclusion or assist the lead investigating agency and request prosecution if warranted.

D. Complaints for violations of the law not normally investigated by WPD shall be referred to the agency with investigatory jurisdiction.

E. Alleged violations of the TSA shall be investigated by WPD.

18. COMPLIANCE WITH LAW

A. Operator shall, at all times, comply with federal, state, and local laws.

B. Any conviction of the company involving a stolen or embezzled vehicle, fraud related to the towing business, stolen or embezzled property, a crime of violence, a drug-related offense, felony or misdemeanor driving under the influence of drugs or alcohol, or moral turpitude should be cause for suspension or removal of a company/employee, or denial of an application, or termination of the TSA.

C. Operator's personnel shall neither solicit nor accept gratuities pursuant to Vehicle Code section 12110, subdivision (a).

D. No tow company or their employees shall accept any gratuities from a repair shop for the delivery of a vehicle not owned by the repair shop or tow company, for the purpose of storage or repair pursuant to Vehicle Code section 12110, subdivision (c).

E. Failure of a company to satisfy a court order mandating reimbursement to the vehicle or property owner for the damage or loss which occurred while the vehicle was in the company's custody will result in the company being taken off the rotation list.

F. A company or employee arrested/charged for a violation involving any of the above crimes should be suspended until the case is adjudicated.

19. COMPLIANCE WITH TSA

A. The company agrees, as a condition of inclusion in the tow program, to comply with the terms and conditions of this TSA. Furthermore, the company agrees that failure to comply with these terms and conditions shall be cause for immediate disciplinary action.

B. A violation of the equipment requirements, related to safety, shall be cause for immediate suspension. The suspension shall remain in effect until the suspension period is completed and/or WPD has inspected the equipment and concluded the company is in compliance.

C. A violation of safe loading requirements of a tow truck may be cause for disciplinary action.

D. A violation of intentionally overcharging or a pattern of overcharging shall be cause for immediate suspension. The suspension shall remain in effect until the suspension period is completed or proof or reimbursement to the aggrieved customer has been provided to WPD.

E. Any unsatisfactory terminal evaluation rating issued by the Motor Carrier Safety Unit (MCSU) shall be cause for suspension. The suspension shall remain in effect until proof of a satisfactory compliance rating from the MCSU has been provided to WPD.

F. Allowing an incompetent tow truck driver to respond to a WPD call may be cause for disciplinary action on the Operator.

G. A company's tow truck driver responding to a WPD call, for whom the following information has not been submitted and approved by WPD shall be cause for disciplinary action:

- i. A valid City of Watsonville business license for the tow truck company.
- ii. Documentation indicating completion of a TSAAC approved tow truck driver training program within the past five (5) years.
- iii. Enrollment in an annual random drug testing program and EPN program.
- iv. Valid tow company permit issued by the City of Watsonville.

H. Tow companies shall not record (i.e., videotape, photograph, etc.) a scene unless it is for official use by the tow company for business-related reasons.

- i. The on-scene investigating officer or incident commander shall make the determination when a tow company may record a scene for tow related business reasons.
- ii. In the event a tow company is determined to be in violation of this

provision, the Operator shall immediately surrender any such recording device to WPD or the designated law enforcement agency.

20. DISCIPLINARY ACTION

A. The Chief of Police shall take disciplinary action against a company for violations investigated and sustained. The Chief of Police shall retain discretion regarding the length of any suspension imposed pursuant to the terms and conditions of this TSA.

B. Nothing shall preclude WPD from taking the appropriate enforcement or administrative action for any violations of law.

C. Nothing contained herein shall be deemed to prohibit WPD from immediately suspending, terminating, or denying an application of any company or employee whose conduct, in the sole discretion of the Chief of Police, is deemed to be a danger to the public or who has engaged in conduct constituting a flagrant violation of the TSA (e.g., registered sex offender). D. Records of violations shall be retained by WPD for thirty-six (36) months.

21. TERMS OF DISCIPLINARY ACTION

A. Violations of the terms and conditions of the TSA may be cause for disciplinary action in the following manner:

i. First violation within a twelve (12) month period – suspension until violation has been corrected.

ii. Second violation within a twelve (12) month period – one (1) to thirty (30) day suspension.

iii. Third violation within a twelve (12) month period – sixty (60) to ninety (90) day suspension.

iv. Fourth violation within a twelve (12) month period – termination of the TSA.

B. Violations of the terms and conditions of the TSA, which, in the opinion of the Chief of Police, are categorized as major violations may be cause for immediate termination.

C. A suspended or terminated company shall not be eligible for a rotation listing for the duration of the suspension or termination.

D. Any company serving a suspension shall be required to have complied with all terms and conditions of the current TSA at the time of reinstatement.

E. A company shall comply with all the terms of the suspension (i.e., restitution to victims, court orders) prior to reinstatement or re-application.

22. HEARING AND APPEAL

A. A hearing shall be granted, upon a company's request, within ten (10) calendar days of notification of a disciplinary action. The hearing shall be conducted by the Chief of Police or designee, and the company shall be entitled to present all relevant facts and circumstances in support of the company's position. Operator shall be entitled to present testimony of at least one qualified person. Operator shall be notified in writing of the Chief of Police or designee's decision (s) within ten (10) days of the date of completion of the hearing.

B. Operator may appeal the Chief of Police or designee's decision(s) by submitting a written request to the City Manager within ten (10) calendar days after receipt of the Chief of Police or designee's decision(s). The appeal shall be conducted by the City Manager or designee and shall be held as soon as practicable. Operator shall be entitled to: reasonable notice of the time and place of the hearing, representation by an attorney, call witnesses, and examine responsible personnel and all witnesses called in support of the Chief of Police or designee's decision(s). The appeal shall not be governed by the traditional rules of evidence. The decision of the City Manager or designee shall be final. Disciplinary action shall not take effect until the hearing and appeal process has been exhausted, with the exception of conduct deemed to be a danger to the motoring public.

23. RISK AND LIABILITY

A. Operator assumes all risk in the event of damage, theft, fire, or otherwise, of the vehicles or any other property towed, impounded, or stored by Operator, its employees or agents.

B. Notwithstanding any other term or condition herein, in responding to a call from the WPD, Operator shall have no claim whatsoever against City or any right to recover from City for the cost of any of the services it renders in the performance of this TSA. Operator shall look solely and exclusively to the owner of the vehicle towed, impounded, or stored for payment of the services provided by the Operator.

C. Operator shall assume the entire risk of nonpayment of any service charges incurred by a citizen pursuant to this TSA.

D. In the event a vehicle has been stored or impounded by WPD 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. City shall not be liable for any such charges or fees. If the error is not discovered for a period of five (5) business days after the vehicle is stored and Operator has initiated lien sale process, as required by California Vehicle Code Section 22851.8, Operator shall be entitled to recover actual costs incurred to initiate the lien.

E. 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 Operator in the performance of the services and obligations under this TSA shall constitute the acts and/or omissions of Operator and not the City.

24. SUCCESSORS AND ASSIGNS

A. Each of the terms and conditions of this TSA shall inure to the benefit of and shall bind, as the case may be, not only the Parties hereto, but each and every one of the heirs, executors, administrators, successors, assignees, and legal representatives of the Parties.

B. Operator shall not assign its rights or delegate or otherwise transfer its obligations under this TSA to any other person or entity without the prior written consent of City. Any such assignment without the prior consent of City shall be void and the attempted assignment shall constitute a material breach of this TSA.

C. If Operator is permitted to subcontract any part of this TSA, Operator shall be responsible to City for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this TSA shall create any contractual relationship between any subcontractor and City. All persons engaged in the work will be considered employees of Operator. City will deal directly with and will make all payments to Operator.

25. INDEMNITY

A. The WPD, City of Watsonville, its City Council, officers, employees, and agents shall not be responsible for any loss or damages arising from towing and storage of vehicles or the performance of any requirements imposed by this TSA. Operator shall protect, defend, indemnify, and hold harmless City, its Council Members, officers, employees and agents, against, without limitation, any and all claims, demands, debts, obligations, liabilities, judgments, actions, penalties, fines, costs, expenses, and attorneys' fees of every kind and description arising out of or connected in any way with Operator's performance under this TSA, including but not limited to: (1) any claim or action relating to the preparation of vehicles for towing; (2) any claim or action relating to the towing of vehicles; (3) any claim or action relating to the storage, impound, and maintenance activities; (4) any claim or action relating to the sale or disposal of vehicles pursuant to this TSA; and (5) workers' compensation.

B. This hold harmless provision 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 Operator.

26. INSURANCE

Operator, at its sole cost and expense, shall purchase and maintain throughout the terms of this TSA the following insurance policies. Coverage shall state that Vendor insurance shall apply separately to each insured against whom a claim is made, or a suit is brought, except concerning

the limits of the insurer's liability. The Operator shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

A. Commercial General Liability

i. Operator shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than five million dollars (\$5,000,000.00) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Vendor's general liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent).

B. Worker's Compensation

Operator shall carry and pay for workers' compensation insurance as is required to fully protect Operator and its employees under California Workers' Compensation law.

C. Garage Liability

i. Includes premises and operations. Coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000). If the Garage Liability is a provision of the General Liability coverage and meets the minimum requirements stated above, then a separate Garage Liability policy is not required. The minimum required limits for Garage Liability must be provided in either the General Liability or a separate Garage Liability policy.

D. Garage Keepers Liability and On-Hook Coverage

i. This shall be the same minimum as on-hook coverage for vehicles in the care, custody, and control of the Tow Service in the storage yard. On-hook coverage shall be set at a minimum of:

- a. Class A tow truck: \$200,000
- b. Class B tow truck: \$200,000
- c. Class C tow truck: \$200,000

E. Automobile Liability

i. The Operator shall furnish to WPD a valid certificate of automobile liability insurance, at no expense to the City or the state, and shall maintain or cause to be maintained and in effect, at all times during the term of the agreement, a policy of no less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage liability combined. The Contractor removing a vehicle from a hazardous materials incident to the nearest reasonable and safe stopping location will be considered transporting property, subject to normal minimum insurance requirements of Section 34631.5 of the California Vehicle Code.

F. Endorsements

i. The City, its officers, officials, employees, agents, and volunteers are to be named as additional insured concerning liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the Operator.

a. For any claims related to the TSA, the Operator's insurance coverage shall be the primary insurance concerning the City, its officers, officials, employees, agents, and volunteers shall be an excess of the Operator's insurance and shall not contribute with it.

b. Written notice shall be given to the City of Watsonville not less than thirty (30) days before the expiration or cancellation of any insurance required by the TSA. Policy expiration dates and any notice of cancellation shall be forwarded to the WPD. Without insurance, a company shall be removed from rotation.

27. NO IMPLIED WAIVER OF BREACH

A. 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 breach or condition hereunder must be in writing and shall not be construed as a waiver of any other breach concerning the same or any other provision of this TSA.

28. INDEPENDENT CONTRACTOR

A. The Parties hereto in the performance of this TSA shall be acting in an independent capacity and not as agents, employees, partners, or joint ventures with one another. Operator and its employees are not employees of City and are not entitled to any of the rights, benefits, or privileges of City's employees including, but not limited to, medical, unemployment, or workers' compensation insurance.

B. Neither City or its officers, Council Members, agents, or employees shall have any control over the conduct of Operator employees except as set forth herein. Operator agrees not to represent that it or its agents, servants, or employees are in any manner agents, servants, or employees of City, it being understood Operator, its agents, servants, and employees are as to City

wholly independent contractors and that Operator's obligations to City are solely those prescribed by this TSA. The Parties further acknowledge and agree that City shall have no responsibility for salary, health benefits, retirement benefits, taxes, or any other benefits that may be due to Operator's employees.

29. EXCEPTION – ABANDONED VEHICLES

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

- i. Oversized abandoned vehicles. [Reserved.]

30. BREACH OF CONTRACT

It shall be grounds for suspension or termination of this TSA, if Operator, or any of its agents or employees or any person(s) connected or associated with the Operator has done any one of the following:

A. Has failed to remit timely payment to City of franchise fees and has been delinquent for a period in excess of ninety (90) days.

B. 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 this TSA.

C. Has published, uttered, or disseminated any false, deceptive, or misleading statements or advertisement in connection with the operation of the towing service.

D. Has conducted the towing service in a manner contrary to the peace, health, safety, and general welfare of the public.

E. Has violated or permitted other persons to violate, through an act of omission or commission by the Operator, 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.

F. Had an inspection or investigation by the City which revealed a deficiency, violation, or conduct that endangers the peace, health, safety and general welfare of the public. G. Employs tow truck operators under eighteen (18) years of age.

H. Fails to notify the WPD in writing of any names, addresses, driver's license numbers of any newly employed tow truck operators within ten (10) business days of their hire date, or fails

to notify the WPD within ten (10) business days of any tow truck operator who is no longer employed by Operator.

I. Has charged fees in excess of the rates approved by the City 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.

J. Has allowed the services of a tow truck operator 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 Operator's employment as a tow truck driver providing service to Operator.

K. 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.

L. Having allowed an unauthorized person access to the storage yard or facilities.

M. Any other grounds as outlined in this TSA, or failing to comply with any provision of this TSA.

N. Has knowingly made false, misleading or fraudulent statements of a material fact in a report or record required to be filed with the WPD.

O. 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.

P. 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.

Q. Has been suspended from another police department tow list, within five (5) years of applying to provide tow services to the City, or during the term of the Operator's agreement with City.

R. Towing a vehicle to a location other than approved by the WPD as an authorized storage facility without first receiving prior authorization to do so by the WPD.

S. 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.

T. Moving, tampering with, or removing a vehicle involved in a traffic collision prior to the arrival of law enforcement officers at the scene.

U. WPD receives four (4) or more complaints against the Operator during any twelve (12) month period that the WPD, in its reasonable discretion, determines to be justified, regarding the service, or lack thereof, provided by the Operator.

V. Repeated or flagrant violations of the provisions of the California Vehicle Code.

W. 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.

X. Allowing the insurance coverage required herein to be withdrawn, lapse or otherwise to no longer being in force for any reason.

Y. Dissolution of business or bankruptcy.

Z. Assignment of the TSA, or any right or interest stated herein, without the prior written consent of Chief of Police of his/her designee.

31. RATES

A. Fees charged for calls originating from WPD shall be reasonable, valid, and not in excess of those rates charged for similar services provided in response to requests initiated by a public agency or private person. Reasonableness shall be determined as compared to other similar service rates.

i. The City Council shall by resolution establish the maximum chargeable rates for normal rotation requests.

ii. The City Council shall by resolution, establish the City Towing Service Fee.

B. Rate requirements represent the maximum a company may charge on a WPD call. A company is not precluded from charge less when deemed appropriate by the company. This shall not be construed as requiring a charge if a company would not normally charge for such service.

C. Any company who charges rates above the submitted rates for a WPD call shall be subject to disciplinary action.

D. In any effort to remain competitive in the open market, the company may lower rates at any time by notifying WPD. When a company lowers the rate, the retail rate becomes the company's new approved rate.

E. A valid bank credit card or cash payment shall be accepted for payment of storage and/or towing when a vehicle is stored pursuant to Section 22651 of the Vehicle Code.

F. No company or employee shall refer to any rate as a required or "WPD rate."

G. The approved schedule of rates charged by the company shall be available in the tow truck, and shall be presented upon demand to the vehicle owner/agent for whom the tow service was provided or any WPD officer at the scene.

H. There shall be no additional charge for moving a stored vehicle form inside a tow company's storage yard to the front of the business establishment.

I. Companies may only raise rates after approval by the Watsonville City Council.

J. The rate for towing shall be computed from portal to portal when a vehicle is towed to the operator's storage yard. Portal to portal shall be defined as follows: Time shall start from either the point of dispatch (must be within the city limits) or upon departure from the place of business, whichever is closer to the location of the call, and shall end at the estimated time of return to the place of business or completion of the call.

K. Tow Rates. Time expended for towing a vehicle back to the company's storage yard should be charged at a rate not to exceed the hourly rate. Time expended in excess of the hourly rate shall be calculated in no more than one (1) minute increments. There shall be no additional charges for mileage. Towing charges shall be based on the class of the vehicle being towed, regardless of the class of truck used.

L. Service Calls. Operator may charge up to a thirty (30) minute minimum per call for any service which is performed when the vehicle company or agent is present and the vehicle is not stored at the direction of an officer or remitted to the company's storage yard. Rates for a service call (e.g., jumpstart, out-of-gas, lockouts, tire changes, towing and recovery, etc.) should be from portal to end of service. Time expended in excess of the thirty (30) minute minimum may be charged in no more than one (1) minute increments. Fuel charges for gasoline dispensed on out-of-gas service calls shall be at the prevailing market rate.

M. Evidence Tows. [Reserved.]

N. Fee for Special Operations. Fees shall be reasonable and consistent with industry standards for similar operations.

i. Hourly rates shall be established for the following: auxiliary and contracted equipment (e.g., airbags, converter gear/dolly, additional trailers, forklift, front loaders, etc.)

ii. If Operator performs a service which requires rental equipment and specialized labor, the Operator shall only be entitled to charge for the actual costs of that service plus a markup rate not to exceed ten percent (10%). O. Storage Fees.

i. A vehicle stored twenty-four (24) hours or less shall be charged not more than one (1) day of storage pursuant to section 3068.1, subdivision (a) of the Civil Code. If the vehicle is released from storage after twenty-four (24) hours has lapsed, charges may be allowed

on a full, calendar-day basis for each day of storage, or part thereof pursuant to section 3068.1, subdivision (a) of the Civil Code.

ii. Storage of vehicles in combination should be charged a per vehicle rate except for dollies, con-gear, vehicle on a car carrier/trailer, etc. Dollies and con-gear, not in combination, may be charged a storage rate not to exceed Class A storage fees.

iii. Inside storage fees shall only be charged when inside storage is requested by WPD; when requested by registered owner, legal owner, insurance company; or when the inside storage can be justified by the tow company and notice of the same is provided to WPD. iv. Operator shall display in plain view at all cashiers stations, a sign disclosing all storage fees and charges, including, but not limited to the maximum storage rate pursuant to section 3070, subdivision (d)(2)(E).

P. Manner of Payment for Service Calls and Evidence Tows

i. WPD shall pay Operator for the service calls and evidence tows identified above at the times and in the manner set forth. Invoices for service calls and evidence tows shall be submitted to WPD on the first of the month for the previous month's TSA services. Payments to Operator shall be made within thirty (30) days of receipt of Operator's invoice. Operator shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to satisfaction of the Chief of Police.

ii. All invoices shall contain the following information:

- a. Job/Case Name;
- b. City or WPD Purchase Order Number;
- c. Operator's Invoice Number;
- d. Date of Invoice Issuance;
- e. Work Order Number (if applicable);
- f. WPD representative identified on the Purchase Order;
- g. Operator's remit address for payment;
- h. Description of services billed under Invoice;
- i. Amount of Invoice – itemize all Reimbursable Expenses; and
- j. Total billed to date under TSA.

iii. Items on invoices shall be separated into services and expenses. Invoices

that do not follow the format outlined above shall be returned to the Operator for correction. WPD shall not be responsible for delays in payment to Operator resulting from Operator's failure to comply with the TSA.

Q. After Business Hours Releases

i. Fees for after-business-hour releases (gate fee) shall only be charged for vehicles released between 5:00 p.m. and 8:00 a.m. on normal business days or for vehicles released when the business is not otherwise opened.

ii. The fee charged shall be no more than one-half the hourly rate or tow rate approved by the chief of police.

R. The Operator shall display in plain view at all cashier stations a sign described in section 3070 of the Civil Code, disclosing all fees in force.

S. The Operator or its employees(s) shall not charge the registered owner, legal owner, or innocent third party, who is the victim of any crime, any fees associated with the impounding of their vehicle when it has been impounded for an investigation under California Vehicle Code Section 22655.5. The Operator may charge the city all reasonable fees related to the towing and storage of the impounded vehicle. In all cases where the city is required to pay an impound fee, the city will seek restitution from the perpetrator through the courts and per California Vehicle Code Section 22655.5. Under no circumstances shall a perpetrator's impound fees be paid by the City.

32. COLLUSION

A. A company and/or applicant shall not conspire, attempt to conspire, or commit any other act of collusion with any other company or applicant for the purpose of secretly, or otherwise, establishing an understanding regarding rates or conditions to the TSA that would bring about any unfair condition which could be prejudicial to WPD, the motoring public, or other companies.

B. A finding by WPD that any company and/or applicant has been involved in collusion shall be cause for denial of an application or shall nullify the TSA. Any company or applicant found to be involved in any act, or attempted act of collusion, shall be disqualified from participation in WPD rotation lists for the current term, plus three (3) years.

33. NOTICES

A. Any notices required or permitted under this TSA shall be in writing and shall be delivered personally or sent by U.S. Mail, first class, postage prepaid, return receipt requested, addressed as follows:

CITY: City of Watsonville
City Clerk's Office
275 Main Street, 4th Floor
Watsonville, CA 95076

Copy to: Watsonville Police Department
Community Services Division
Attn: R. Mish Radich, Captain
215 Union Street
Watsonville, CA 95076

OPERATOR: [***INSERT OPERATOR NAME***]
Attn: [***INSERT POINT OF CONTACT***]
[***ADDRESS LINE 1***]
[***ADDRESS LINE 2***]

34. ATTORNEYS' FEES

A. If a Party to his TSA brings an action, including an action for declaratory relief, to enforce or interpret the provision of this TSA, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

35. VENUE

A. In the event either Party brings any action against the other under this TSA, the Parties agree that trial of such action shall be vested exclusively in the County of Santa Cruz.

36. SEVERABILITY

A. If a court of competent jurisdiction finds or rules that any provision of this TSA is invalid, void or unenforceable, the provision of this TSA not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this TSA shall not void or affect the validity of any other provision of this TSA.

37. CONFLICT OF INTEREST

A. Operator may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Operator in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

B. Operator shall not employ any City official in the work performed pursuant to this TSA. No officer or employee of City shall have any financial interest in this TSA that would violate California Government Code Sections 1090 et seq. Operator hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If

Operator was an employee, agent, appointee, or official of the City in the previous twelve months, Operator warrants that it did not participate in any manner in the forming of this TSA. Operator understands that, if this TSA is made in violation of Government Code § 1090 et seq., the entire TSA is void and Operator will not be entitled to any compensation for services performed pursuant to this TSA, including reimbursement of expenses, and Operator will be required to reimburse the City for any sums paid to Operator. Operator understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code Section 1090 and, if applicable, will be disqualified from holding public office in the State of California.

38. CONTRACT ADMINISTRATION

A. This TSA shall be administered by the Chief of Police or his designee, who shall act as the City's representative.

39. ENTIRE AGREEMENT

A. The persons executing this TSA hereby represent and warrant that the execution of this TSA and the performance of the terms and conditions of this TSA have been authorized by all requisite corporation, Federal, State, municipal, or other entity requirements and that the undersigned have the right, power, legal capacity and authority to execute and enter into this TSA.

40. COUNTERPARTS

A. This TSA may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF WATSONVILLE:

Tamara Vides, Interim City Manager

Date: _____

ATTEST:

Irwin I. Ortiz, City Clerk

Date: _____

APPROVED AS TO FORM:

Samantha W. Zutler, City Attorney

Date: _____

OPERATOR:

Date: _____