

CITY OF ARROYO GRANDE TOW SERVICE AGREEMENT

This AGREEMENT is made and entered into this 22nd day of August, 2023 by and between the CITY OF ARROYO GRANDE, (hereinafter referred to as "CITY") and College Towing South, whose address is 94 Atlantic City Ave., Grover Beach, CA 93420 (hereinafter referred to as "Operator"), and is made with reference to the following:

I. RECITALS

- A. The City of Arroyo Grande Police Department ("AGPD") has established a Towing Program in order to provide for the designation of a specific company as the police tow service provider. The AGPD desires to ensure the availability of prompt, efficient and reliable police towing services in emergency or arrest situations and in the removal of vehicles that are abandoned, involved in an accident, or constitute an obstruction to traffic because of mechanical failure within the CITY.
- B. In accordance with the AGPD Towing Program, it is the purpose of this Agreement to provide a fair and impartial means of reviewing competitive bids for police towing services from qualified Operators and to ensure that such service is prompt and reasonably priced and in the best interests of the public as well as the interest of efficient policing operations for the removal of vehicles from public property.
- C. The Chief of Police of the Arroyo Grande Police Department has selected College Towing South to operate as the AGPD's exclusive tow service company to provide light-duty tow service at the request of the Police Department throughout the CITY.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the undersigned parties agree as follows:

II. TERM

- A. The term of this Agreement shall be for two (2) years, and shall commence on the 11th day of September, 2023, and shall terminate on the 12th day of September, 2025, unless terminated earlier as set forth herein.

III. SERVICES TO BE PERFORMED BY OPERATOR

- A. The Operator agrees to operate as the AGPD's exclusive light-duty police tow service company pursuant to the terms of this Agreement.
- B. All services of the Operator shall be performed in accordance with the AGPD Towing Program requirements, a copy of which is attached hereto as Exhibit "A," and made a part of this Agreement as if fully set forth at this point.

IV. RATES AND FEES

- A. The Operator shall charge the rates and fees for services in accordance with the AGPD Towing Program requirements and Operator's proposal attached hereto as Exhibit "B" and made a part of this Agreement as it falls set forth at this point.
- B. ***In accordance with this Agreement, the Operator shall pay to the CITY a fee of \$62 for each vehicle provided tow service at the request of the AGPD for which a CHP 180 Form is completed.*** The parties agree that based upon the analysis contained in the Staff Report dated January 12, 2010 from the Chief of Police to the Arroyo Grande City Council, this fee represents an amount necessary for the CITY to recover its actual and reasonable costs incurred in connection with its towing service program, consistent with the requirements of Vehicle Code Section 12110(b).
 - 1. Fee payments shall be made on a quarterly basis to the Director of Administrative Services for the CITY, payable no later than the 15th calendar day of the month following the close of each preceding quarter.

V. INDEPENDENT CONTRACTOR

- A. The parties of this Agreement intend that the relationship between them created by this Agreement is that of CITY-independent contractor. The manner and means of conducting the work are under the control of the Operator, except to the extent limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of the Operator's services. None of the benefits provided by the CITY or the AGPD to its employees, including but not limited to unemployment insurance, workers' compensation insurance, retirement and deferred compensation plans, vacation and sick leave, are available from the CITY to the Operator, its employees or agents.

VI. HOLD HARMLESS

- A. The Operator shall indemnify, defend and hold harmless the CITY, its City Council, boards and commissions, officers, agents, servants and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses (including attorney's fees) for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, property damages, or any other claims arising from any and all negligent acts or omissions of the Operator, its employees, agents or subcontractors which arise out of or result from, or occur in connection with the Operator's performance of services pursuant to this Agreement. This hold harmless and indemnification provision shall survive termination of this Agreement.

VII. INSURANCE

- A. Without limiting the indemnification provided in Section VI above, the Operator shall obtain and maintain throughout the term of this Agreement, at the Operator's sole cost and expense, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services provided by the Operator under this Agreement. On or before the commencement of the term of this Agreement, the Operator shall furnish the CITY with certificates showing the type, amount, class or operations covered by such insurance, and the effective dates and dates of expiration of such insurance policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after thirty (30) days written notice has been received by the CITY."
- B. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact the business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Bests Key Rating Guide, unless otherwise approved by the CITY Director of Administrative Services. The policies required are as follows:
1. Commercial Liability: The Operator shall obtain and maintain at all times during the term of this Agreement comprehensive general commercial liability insurance covering third-party liability risks in a minimum amount of \$2 million combined single limit per occurrence for bodily injury, personal injury and property damage.
 2. Automobile Liability: Commercial automobile liability and property insurance covering any vehicles owned, leased,

hired or borrowed by the Operator in a minimum amount of \$2 million combined single limit per occurrence for bodily injury and property damage, and shall include sudden and accidental coverage.

3. Workers' Compensation: The Operator shall maintain full Worker's Compensation Insurance for all persons for whom it employs in accordance with the requirements of the most current and applicable State Workers' Compensation Insurance laws in effect
 4. Subrogation Waiver: The Operator agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, the Operator shall look solely to its insurance for recovery. The Operator hereby grants to the CITY, on behalf of any insurer providing insurance to either the Operator or the CITY with respect to the services of the Operator herein, a waiver of any right of subrogation that any such insurer of said the Operator may acquire against the CITY by virtue of the payment of any loss under such insurance.
 5. Additional Insured: The CITY, its City Council, boards and commissions, officers, agents, servants and employees shall be named as an additional insured on all policies of insurance required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured and an additional insured named herein shall not be held liable for any premium or expense of any nature on this policy or extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Proceeds from any such policy or policies shall be payable to the CITY primarily, and to the Operator secondarily, if necessary.
- C. The Operator agrees that if any policy of insurance required by this Agreement is not maintained in full force and effect, the Chief of Police or his/her designee may, in his/her sole discretion, suspend this Agreement, immediately, until such time as the required insurance is in effect and the required certificates and endorsements are delivered to the CITY.

XVII. PROHIBITION AGAINST TRANSFER

- A. The Operator shall not assign, sublease, hypothecate or transfer this Agreement or any interest therein directly or indirectly, by operation of law or otherwise, without the prior written consent of the CITY. Any attempt to do so without the consent of the CITY shall be null and void, and any assignee, subleasee, hypothecatee or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecate or transfer.
- B. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of the Operator, or of the interest of any general partner or joint venture or syndicate member or cotenant, which shall result in change in the control of the Operator, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation, partnership, joint venture, syndicate, or co-tenancy.

XVIII. PERMITS AND LICENSES

- A. The Operator, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses and certificates that may be required in connection with the performance of services provided hereunder including, but not limited to CITY zoning and business license requirements and the appropriate display of the business license on a tow vehicle or business location.

XIX. NOTICES

- A. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on the second business day after deposit in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests or approvals from the Operator to the CITY shall be addressed to the Arroyo Grande Police Department at:

Arroyo Grande Police Department
200 North Halcyon Road
Arroyo Grande, California 93420
Attention: Chief of Police

All notices, demands, requests or approvals from the CITY to the Operator shall be addressed to Operator at:

94 Atlantic City Ave., Grover Beach, CA 93420

XX. TERMINATION OF AGREEMENT

- A. The grounds for termination of this Agreement include breach of any terms of this Agreement. In the event the Operator has breached the terms of this Agreement or other grounds for termination exist, the CITY shall provide written notice of the nature of the default and the steps necessary to cure the default. If such default is not cured within a period of two (2) days after receipt by the Operator of written notice of default, this Agreement may be terminated by the Chief of Police by giving written notice to the Operator. Notice that the Agreement has been terminated shall state the reasons for termination. Notwithstanding any other term or provision of this Agreement, either party may terminate this Agreement upon 30 days written notice.

XXI. COST OF LITIGATION

- A. If any legal action is necessary to enforce any provisions of this Agreement or for damages by reason of an alleged breach of any provisions of this Agreement, the prevailing party shall be entitled to receive from the losing party all reasonable attorneys' fees and costs.

XXII. COMPLIANCE WITH ALL LAWS

- A. The Operator shall comply with all laws, state or federal, and all ordinances, rules and regulations enacted or issued by the CITY.

XXIII. WAIVER

- A. A waiver by the CITY of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein whether of the same or a different character.

XXIV. INTEGRATED CONTRACT

- A. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the CITY and the Operator.

The CITY hereby reserves every right and power, in the exercise thereof, which is reserved or authorized by any provision of any

lawful ordinance or resolution of the CITY, whether enacted before or after the effective date of this Agreement. Neither the decision to select the Operator as a rotational police tow service provider nor any provision of this Agreement shall constitute a waiver or a bar to the exercise of any governmental right or power of the CITY.

XIV. OPERATOR MEETINGS

- A. As necessary, the Chief of Police or his/her designee will schedule and chair a meeting with the Operator. The purpose of the meeting will be to discuss and, if possible, resolve mutual problems. While attendance is not mandatory, it is strongly encouraged.
- B. The undersigned agrees that as a condition for inclusion in the towing list of the AGPD, he/she will fully comply with the Agreement and all towing service procedures as established by the AGPD. Furthermore, the undersigned agrees that any failure to fully comply with the provisions of this Agreement, by him/her or anyone in his/her employment may be cause for immediate suspension or removal from the towing list and/or termination of the Agreement, upon notification by the Chief of Police.

IN WITNESS THEREOF, the parties hereto have caused the Agreement to be executed the day and year first above written.

CITY OF ARROYO GRANDE

CONTRACTOR

By: _____
Bill Robeson, Interim City Manager

By: _____

Its: _____
(Title)

Attest:

Jessica Matson, City Clerk

Approved As To Form:

Isaac Rosen, City Attorney

College Towing Inc

94 Atlantic City Ave

Grover Beach Ca 93433

805-489-8600

08-02-2023

Arroyo Grande Police Dept. Exclusive Contract Proposal For the next two years

All calls where the CHP 180 form is used \$310.00 per hour 1 hour minimum \$5.17 per minute after the first hour.

Non-CHP 180 form calls \$310.00 per hour ½ hour minimum \$5.17 per minute after the first ½ hour.

Outside storage \$60.00 per day

Inside storage \$100.00 per day