



City Council Staff Report

DATE: June 20, 2012

CONSENT CALENDAR

SUBJECT: APPROVE RFP FOR ROTATIONAL TOW PROGRAM

FROM: David H. Ready, City Manager

BY: Chief of Police

SUMMARY

Request approval of the solicitation document for "as needed tow services" and authorize its release, as required under Chapter 11.82 of the Palm Springs Municipal Code. The recommended action would also authorize an extension of the existing tow services agreements to October 31, 2012, allowing continued services during completion of the RFP process.

RECOMMENDATION:

1. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING THE REQUEST FOR PROPOSALS/QUALIFICATIONS FOR THE ROTATIONAL TOW PROGRAM AND AUTHORIZE STAFF TO ADVERTISE AND SOLICIT RESPONSES."
2. Approve an extension of the existing tow services agreements with A & A Towing, Dave's Towing, and Mohica Towing to October 31, 2012, and authorize the City Manager to execute the necessary documents in a form approved by the City Attorney.

STAFF ANALYSIS:

From time to time, the Police Department is required to remove vehicles which have been abandoned, involved in an accident, or which constitute an obstruction to traffic, from public streets and parking lots. The City's Police Tow Services Ordinance in Chapter 11.82 of the Palm Springs Municipal Codes sets forth a process by which tow companies are selected to serve as official police tow companies to provide as needed vehicle towing and storage services requested by the Palm Springs Police Department.

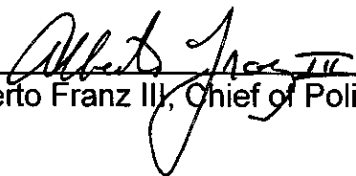
ITEM NO. 26

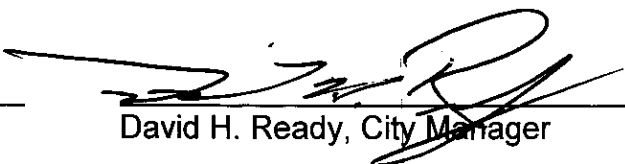
The City currently has tow service agreements with A & A Towing, Dave's Towing, and Mohica Towing. Staff has created a new request for proposal/qualifications document in accordance with the structure set forth in the ordinance. The ordinance requires that the City Council adopt the solicitation document and authorize the staff to advertise and release the document to prospective respondents. At the end of the RFP process, the selected vendor's contracts will return to the Council for final approval.

Staff also recommends an extension of the current tow services agreements to allow tow services to continue during the completion of the request for proposals.

FISCAL IMPACT:

This is a "no cost" contract – and produces revenues through the vehicle towing administrative cost recovery fee (VTACR), to cover the City's costs associated with towing functions.


Alberto Franz III, Chief of Police


David H. Ready, City Manager

Attachments:

1. Resolution
2. Request for Proposals

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALM SPRINGS APPROVING AND ADOPTING THE
REQUEST FOR PROPOSALS, AND AUTHORIZING THE
CITY CLERK TO ADVERTISE FOR PROPOSALS

WHEREAS, the City Council adopted Ordinance 1686 in order to provide the public and the City's Police Department with prompt, safe, reliable, and responsive vehicle towing and storage services; and

WHEREAS, the ordinance establishes that the City Council shall adopt the request for proposals and authorize the City Clerk to advertise for proposals; and

WHEREAS, the request for proposals has been prepared by staff,

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE
AS FOLLOWS:

SECTION 1. That the request for proposals for police tow services is hereby adopted.

SECTION 2. That the City Clerk is hereby authorized to advertise for proposals.

ADOPTED THIS 20th day of June, 2012.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CITY OF PALM SPRINGS
OFFICIAL POLICE TOW SERVICE AGREEMENT

Contractor: _____

Effective Date: _____

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**CITY OF PALM SPRINGS
OFFICIAL POLICE TOW SERVICE AGREEMENT**

THIS OFFICIAL POLICE TOW SERVICE AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2012 by and between the CITY OF PALM SPRINGS, a California municipal corporation (hereinafter referred to as "CITY"), and _____ (hereinafter referred to as "OFFICIAL TOW SERVICE"). Any reference in this Agreement to the "Department" shall be deemed to refer to the Palm Springs Police Department.

RECITALS

A. CITY's Police Department 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 and investigation of vehicular accidents.

B. As a means for providing the necessary towing service, CITY has approved the use of certain towing service companies who have agreed to contract with CITY to provide the requisite towing service pursuant to the requirements and performance criteria established by the CITY's Police Department, as set forth in the terms and conditions contained herein and in the City of Palm Springs Request for Proposals/Statements of Qualifications (RFP 14-12) for Towing and Storage of Vehicles as Requested by the Palm Springs Police Department.

C. Official Tow Service means a towing company selected by the Department 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.

D. In order for a towing service company to perform as an Official Tow Service for CITY, the towing service company must enter into a contractual agreement with CITY and must be designated by CITY as an Official Tow Service.

E. OFFICIAL TOW SERVICE owns or leases tow trucks and employs personnel that are capable of providing the desired vehicle towing and storage services to CITY.

F. CITY desires to designate OFFICIAL TOW SERVICE and OFFICIAL TOW SERVICE desires to accept and be designated by CITY, as an independent contractor, for purposes of providing police towing and vehicle impound and storage services for CITY, pursuant to the terms and conditions set forth in this 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:

AGREEMENT

The Agreement between the parties hereto shall consist of the following: (1) this Agreement; (2) the City of Palm Springs Request for Proposals/Statements of Qualifications (RFP 14-12) for Towing and Storage of Vehicles as Requested by the Palm Springs Police Department (including Addendum No. 1 thereto) ("RFP"); and, (3) the signed, original Proposal/Statement of Qualifications submitted by the OFFICIAL TOW SERVICE in response to the RFP ("Proposal"), which shall all be referred to collectively hereinafter as the "Contract Documents." The RFP and the Proposal are both hereby incorporated by reference and are made part of this Agreement as though fully set forth herein. All provisions of the RFP and the Proposal shall be binding on the parties. Should any inconsistency or ambiguity occur or exist in the Contract Documents, the provisions of the Agreement, then the provisions of the RFP, then the provisions of the Proposal shall control. To ensure the efficient performance of police towing services for the Department, OFFICIAL TOW SERVICE hereby agrees to the following service provider requirements, specifications, performance criteria, and terms and conditions:

1.0 SCOPE OF SERVICES

- 1.1 OFFICIAL TOW SERVICE shall perform vehicle towing, impound, and storage services as directed by the Department and in addition such other services as provided in this Agreement, and shall provide necessary storage facilities, tow services, labor, materials, equipment, machinery, and tools.
- 1.2 OFFICIAL TOW SERVICE shall comply with all federal, state, and local laws, ordinances, rules, and regulations that regulate tow units and the impound, towing, storage, selling, or junking of vehicles. Specific services include, but are not limited to, towing and storage of vehicles involved in accidents or disabled for other causes (when alternate towing is either not appropriate or is not requested by the owner or operator of the vehicle) and towing and storing of vehicles which for other reasons are within the jurisdiction of the Palm Springs Police Department, including impounded/forfeited vehicles under the provisions of California Vehicle Code 14602.6 and 14607.6. OFFICIAL TOW SERVICE shall be able to properly conduct a lien sale as outlined in Division 11, Chapter 10, Article 2, beginning with Section 22851 of the California Vehicle Code.
- 1.3 OFFICIAL TOW SERVICE shall also provide the following special services to the CITY, at no charge to CITY:

1.3.1 Towing services necessary to support the City's Thursday night Villagefest. On a weekly rotation, OFFICIAL TOW SERVICE shall remove

cars from areas within the Villagefest boundaries, coordinating with Villagefest staff and the Department.

1.3.2 CITY vehicle towing, as further described in Section 36.0 hereof.

1.3.3 As-needed abatement of vehicles from private property at the direction of the CITY's Code Enforcement Officers in accordance with the CITY's Abandoned Vehicle Abatement Program, as further described in Section 38.0 hereof.

1.4 OFFICIAL TOW SERVICE is hereby designated as an authorized police tow service provider for CITY by the Chief of Police. All trucks, personnel, and equipment used by OFFICIAL TOW SERVICE in the performance of this Agreement shall be owned by or leased to OFFICIAL TOW SERVICE and shall be subject to all provisions and performance standards set forth herein.

1.5 The OFFICIAL TOW SERVICE acknowledges and agrees that this Agreement to provide tow services as set forth herein is non-exclusive. CITY intends to concurrently contract with other designated tow service providers. CITY shall utilize the services of each tow service provider as CITY, in its sole discretion, deems necessary and appropriate.

2.0 CONSIDERATION

In consideration of OFFICIAL TOW SERVICE's agreement to perform the services provided for herein, CITY agrees that throughout the term of this Agreement, OFFICIAL TOW SERVICE shall have:

2.1 The right to tow, impound, and store vehicles at the direction of the Department within the jurisdictional boundaries of CITY, subject to the Department's rotational call-for-service system, as it may be amended from time to time, at the Department's sole discretion, and the right to identify itself as an official police tow service provider for CITY.

2.2 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 OFFICIAL TOW SERVICE.

2.3 Provided, however, that when, in the opinion of the Department, an emergency exists or where OFFICIAL TOW SERVICE is either unable or unwilling for any reason to provide adequate or timely tow service, then the Department shall have the right to call other qualified tow services. Under such circumstances, the decision to call another tow service shall be at the exclusive discretion of the Department.

3.0 VTACR FEE

- 3.1 In accordance with Sections 11.82.090 and 11.82.100 of the Palm Springs Municipal Code, on or before the Effective Date of this Agreement, and or before each annual anniversary of the Effective Date, OFFICIAL TOW SERVICE shall pay CITY a vehicle towing administrative cost recovery fee for the CITY's administering this Agreement and operating a vehicle towing program ("VTACR fee"), in an amount established by the City Council and/or the Chief of Police pursuant to Palm Springs Municipal Code Section 11.82.100, as it may be amended from time to time. In lieu of an annual payment as required under this Section, the annual fee may be divided into four quarterly installments with the first payment being due and payable on or before January 1, 2013 and with each successive installment being due and payable on the first day of each successive quarter, commencing on March 1, 2013.
- 3.2 When OFFICIAL TOW SERVICE fails, neglects, or refuses to pay or remit the VTACR fee under this Chapter, or otherwise pays the VTACR fee but later cancels or stops payment on it, and in either situation that fee's payment or remittance is lawfully due or owing, the entire amount of the unpaid or non-remitted VTACR fee constitutes a debt to the City by OFFICIAL TOW SERVICE, from whom the City may recover in a civil action. The failure to timely pay the VTACR shall also be deemed a material breach of this Agreement and the CITY may terminate the Agreement as provided for herein.

4.0 TERM AND TERMINATION

- 4.1 This Agreement shall remain in effect for three (3) years from the Effective Date. This Agreement may be reviewed at the conclusion of the initial three (3) year period and extended for up to two (2) one (1) year periods by mutual written agreement of the parties.
- 4.2 Subject to the requirements of Palm Springs Municipal Code Section 11.82.150, as it may be amended from time to time, this Agreement may be cancelled, revoked, and/or suspended by CITY at any time during the three (3) year term, or the subsequent one (1) year terms if extended, upon OFFICIAL TOW SERVICE's breach of this Agreement. In the event of termination for cause by CITY, OFFICIAL TOW SERVICE shall be compensated for those services that have been fully and adequately completed and accepted by the Department as of the date of termination. Termination of this Agreement for cause may be considered by CITY in determining whether to enter into future contracts with OFFICIAL TOW SERVICE.
- 4.3 This Agreement may also be cancelled without cause upon sixty (60) days written notice provided by either party. In the event that CITY should cancel, revoke, or suspend OFFICIAL TOW SERVICE's work pursuant to this Section 4.3, OFFICIAL TOW SERVICE shall be entitled to payment for services fully and adequately provided hereunder prior to the effective date of the cancellation,

revocation, or suspension and shall further be entitled to reimbursement of any portion of the VTACR fee that reflects OFFICIAL TOW SERVICE payment of the VTACR fee for any portion of the term cancelled, revoked, or suspended by the City. OFFICIAL TOW SERVICE shall provide documentation deemed adequate by the Department to show the services actually completed by OFFICIAL TOW SERVICE prior to the effective date of termination. OFFICIAL TOW SERVICE'S sole remedy for CITY'S cancellation, revocation, or suspension of work pursuant to this Section 4.3 shall be the payment of funds as expressly provided in this Section 4.3.

- 4.4 In the event this Agreement is terminated, in whole or in part, as provided by this Section, CITY may procure, upon such terms and in such manner as it deems appropriate, services similar to those terminated.
- 4.5 The rights and remedies of the parties provided in this section are in addition to any other rights and remedies provided by law or under this Agreement, including, but not limited to, those rights and remedies set forth in Palm Springs Municipal Code Section 11.82.150, as it may be amended.

5.0 LOCATION

- 5.1 All storage facilities that are utilized to store police-stored or impounded vehicles by OFFICIAL TOW SERVICE shall be located within the corporate city limits of the City of Palm Springs.
- 5.2 All vehicles stored or impounded at the direction of the Department shall be towed, without delay, directly to OFFICIAL TOW SERVICES's impound and storage facilities, unless the Department or other person legally in charge of the vehicle requests that it be taken to some other location.
- 5.3 Any change in OFFICIAL TOW SERVICE's operating/facility locations shall be reported, in writing, to the Department at least thirty (30) days prior to making such change.

6.0 PERSONNEL

- 6.1 OFFICIAL TOW SERVICE shall ensure that its employees and tow truck operators are qualified and competent employees of the company and are sufficiently trained and capable to ensure the safe and proper discharge of their service responsibilities. All tow truck operators shall be trained and proficient in the use of the tow truck and related equipment, including, but not limited to, the procedures necessary for the safe towing and recovery of the various types of vehicles serviced through the Department rotation program. OFFICIAL TOW SERVICE shall ensure that each tow truck operator and employee providing dispatch services for OFFICIAL TOW SERVICE participate in one (1) customer service training offered by, but not limited to, a local community college or tow industry association, at least once every two years.

- 6.2 All OFFICIAL TOW SERVICE tow truck operators shall be required to have all necessary certificates required by the State of California to operate a tow truck, including a valid California Tow Truck Driver Certification and California Driver's Licenses in the proper class pursuant to Vehicle Code Sections 12520 and 12804.9(b). Within ten (10) days of the Effective Date of this Agreement, and annually thereafter (within ten (10) days of the anniversary of the Effective Date of this Agreement), OFFICIAL TOW SERVICE shall provide a list of its tow truck operators and a CHP Form 234F (Tow Operator/Driver Information) for each tow truck operator and such other executed releases and authorizations as the CITY may require to allow the Department to conduct a background check, including, but not limited to a Department a State of California Department of Motor Vehicles ("DMV") printout, and fingerprints for each tow truck operator to be utilized in Department tow program. Any subsequent employment of a new tow truck operator shall be reported in writing to the Department immediately, including submittal of the above-referenced materials.
- 6.3 All OFFICIAL TOW SERVICE tow truck operators shall be required to have a safe driving record, be 18 years of age or older, and be subject to driving record and criminal background checks by the Department.
- 6.4 The OFFICIAL TOW SERVICE shall have an alcohol and drug program that includes, at a minimum, an alcohol and drug free workplace policy, and a tow truck operator alcohol/drug-testing program that complies with the U.S. Department of Transportation requirements to the extent allowed by law, including random alcohol and drug testing. Any tow truck operator found working under the influence of alcohol or drugs shall be immediately removed from operating a tow truck and from providing any further services pursuant to this Agreement. The alcohol and drug program shall meet the following requirements:
- 6.4.1 A contract with a program administrator and authorized lab certified by the U.S. Department of Transportation; and
- 6.4.2 Procedures and components substantially as in Part 40 of Title 49 of the Code of Federal Regulations for pre-employment; and
- 6.4.3 Procedures and components substantially as in Part 382 of Title 49 of the Code of Federal Regulations for rehabilitation, return-to-duty and follow up testing; and
- 6.4.4 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

- 6.4.5 Monthly reports of the random testing component shall be filed with the DEPARTMENT by the program administrator no later than the 10th day following the end of the previous monthly reporting period; and
 - 6.4.6 The OFFICIAL TOW SERVICE and program administrator's alcohol and drug program records shall be made available to the DEPARTMENT upon request; and
 - 6.4.7 Drivers must show a valid California driver's license at the time and place of testing; and
 - 6.4.8 All test results are kept confidential except that the DEPARTMENT is authorized to receive copies for its administrative purposes, and except as otherwise authorized or required by law.
- 6.5 OFFICIAL TOW SERVICE shall participate in the California Department of Motor Vehicles (DMV) Employer Pull Notice Program, or any similar program as may be approved by the Department.
 - 6.6 OFFICIAL TOW SERVICE shall not employ in the performance of services pursuant to this Agreement any tow truck operator 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, a violation of any of the provisions of Vehicle Code Section 22658, 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 operator is charged with any of the above-listed crimes, OFFICIAL TOW SERVICE shall immediately suspend that operator from duties under this Agreement pending the outcome of the criminal case.
 - 6.7 OFFICIAL TOW SERVICE tow truck operators shall maintain acceptable standards of dress, including uniforms, and cleanliness while on duty in the community.
 - 6.8 OFFICIAL TOW SERVICE tow truck operators shall fully cooperate with and abide by the instructions of the Department's officers.
 - 6.9 If any tow truck operator becomes ineligible to provide operator services under this Agreement, the OFFICIAL TOW SERVICE shall immediately notify the Department in writing of such ineligibility and the reason(s) therefore.
 - 6.10 If requested by the Department, all OFFICIAL TOW SERVICE tow truck operators shall obtain from the Department a clip-on identification tag, which such operator shall wear at all times when performing services pursuant to this Agreement in order to allow ease of tow truck operator identification.

- 6.11 While involved in the Department rotation tow operations or related business, OFFICIAL TOW SERVICE and its employees shall refrain from any act(s) of misconduct, including but not limited to, any of the following enumerated acts. At the sole discretion of the Police Chief or his/her designee, non-compliance with this section may constitute grounds for disciplinary action.
- 6.11.1 Rude or discourteous behavior.
 - 6.11.2 Lack of service, selective service, or refusal to provide service which OFFICIAL TOW SERVICE should be capable of performing.
 - 6.11.3 Any act of sexual harassment or sexual impropriety.
 - 6.11.4 Unsafe driving practices.
 - 6.11.5 Exhibiting any objective symptoms of alcohol and/or drug use.
 - 6.11.6 Appearing at the scene of a Department rotation tow call with the odor of an alcoholic beverage emitting from his/her breath. Tow truck operators shall submit to a preliminary alcohol screening test upon demand of the Department.

7.0 TOW SERVICE DUTIES

After being dispatched to the scene by the Department, OFFICIAL TOW SERVICE tow truck operators shall comply with the following:

- 7.1 Not move nor attach a tow truck to any vehicle until instructed to do so by the investigating officer of the Department;
- 7.2 Cooperate with the investigating officer of the Department in removing hazards and/or illegally parked vehicles, and in the storing or impounding of such vehicles as requested. It is the duty of the police officers to determine when a vehicle should be impounded or moved, and the tow truck attendant shall abide by their decisions;
- 7.3 On collision calls, clean-up and remove all debris from the accident scene, including but not limited to, clean-up and removal of all hazardous materials/vehicle fluids in the street with absorbent material, as directed by Department officers and Section 27700 of the California Vehicle Code;
- 7.4 Provide the owner or driver of towed vehicles (when present at scene) with an OFFICIAL TOW SERVICE business card indicating where vehicle will be stored or impounded (including address and telephone number); and

7.5 Deliver upon request all personal property located within stored or impounded vehicles upon: (a) presentation of proper identification; and (b) in the case of impounded vehicles, written authorization by the Department.

8.0 RESPONSE TO CALLS AND RESPONSE TIME

8.1 All official police tow service providers, including OFFICIAL TOW SERVICE, shall be placed on a "rotation list" in an initial order to be determined by the Police Chief. The rotation list shall be used whenever a driver or owner of a disabled vehicle is unable to specify a particular garage or tow service, or whenever a Department employee stores or impounds a vehicle and the driver or owner is not present or is not consulted.

8.2 OFFICIAL TOW SERVICE shall be called in response to a Department request upon the occurrence of its turn in rotation. Whenever OFFICIAL TOW SERVICE cannot, for any reason, respond with any equipment needed to accomplish the requested service within the response time specified herein, it shall be passed over and the next official police tow service provider on the list will be called. OFFICIAL TOW SERVICE shall become eligible to provide service again only in its next turn in rotation. Whenever a Department employee determines that an emergency exists because OFFICIAL TOW SERVICE is unable, for any reason, to provide adequate tow service, the Department employee shall have the right to have such services performed by any other means available. In the event a Department employee cancels a rotation tow due to no fault on the part of the official police tow service provider, that provider shall be placed on the top of the rotation list for the next requested tow.

8.3 When OFFICIAL TOW SERVICE will be temporarily unavailable to provide services due to a preplanned/scheduled activity (i.e., vacations, maintenance, medical leave, etc.), OFFICIAL TOW SERVICE shall notify the Department at least twenty-four (24) hours prior to the date that services will be unavailable, noting times and dates of the unavailability.

8.4 When responding to a Department call, OFFICIAL TOW SERVICE shall perform the towing or service required for which it was called. This requirement may be waived by the Department officer in charge, if the requested equipment is inadequate for the service to be performed; provided, however, if OFFICIAL TOW SERVICE supplies the wrong equipment, it shall be placed upon the bottom of the Department rotation list.

8.5 OFFICIAL TOW SERVICE shall not respond to a Department call assigned to another official police tow service provider unless requested to do so by the Department. If the OFFICIAL TOW SERVICE tow truck operator responding to a Department call requires the assistance of an additional tow truck at the scene, OFFICIAL TOW SERVICE may, subject to the prior approval of the Department officer in charge, request the official police tow service provider next on the Department rotation list to assist it.

- 8.6 OFFICIAL TOW SERVICE dispatcher shall notify the 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, OFFICIAL TOW SERVICE dispatcher shall again notify the Department and give the new estimated time of arrival. To ensure a timely response, the Department, in its sole discretion, may cancel any call-for-service because of a response delay and may request service from the next official police tow service in the rotation.
- 8.7 If the OFFICIAL TOW SERVICE telephone or radio is not promptly answered, or if the line is busy when called by the Department after two (2) attempts, the OFFICIAL TOW SERVICE being called will be bypassed and the Department shall select the next tow service in the rotation.
- 8.8 If, while rendering assistance in response to a DEPARTMENT call for towing, a second Department call for towing is generated to the OFFICIAL TOW SERVICE, the OFFICIAL TOW SERVICE 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.
- 8.9 OFFICIAL TOW SERVICE agrees that, for any thirty day period, the average response time pursuant to requests for tow service by the Department, shall not exceed fifteen minutes. OFFICIAL TOW SERVICE also agrees that the maximum response time for any single request for tow service by the Department shall not exceed twenty minutes. Response time is defined as the elapsed time between the relaying of the tow service request to the tow service provider and arrival of the tow vehicle on the scene.
- 9.0 EQUIPMENT STANDARDS**
- 9.1 OFFICIAL TOW SERVICE shall provide towing equipment capable of providing for the following services:
- 9.1.1 Recovery trucks with an adjustable boom with at least eight ton lifting capacity.
- 9.1.2 Wheel lift towing.
- 9.1.3 Roll back/flatbed towing.
- 9.1.4 Towing in parking garages.
- 9.1.5 Towing from off-road areas.
- 9.1.6 Towing of large and oversized vehicles.

9.1.7 Towing of motorcycles without causing additional damage.

- 9.2 OFFICIAL TOW SERVICE shall own or have leased to it at least three (3) tow trucks that will be based at its storage facilities and will be available to perform official towing services at all times during the term of this Agreement. Each of these tow trucks must have a minimum capacity of 14,000 GVW. At least one of these tow trucks must be a flatbed tow truck. At least one of these tow trucks shall have a lifting capacity of eight (8) tons.
- 9.3 OFFICIAL TOW SERVICE 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, 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, and safety chains.
- 9.4 Any equipment used and maintained by OFFICIAL TOW SERVICE shall be available for inspection by the Department upon request. OFFICIAL TOW SERVICE vehicles shall be subject to random inspection by the department.
- 9.5 Throughout the term of this Agreement, OFFICIAL TOW SERVICE 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 OFFICIAL TOW SERVICE in the performance of the services required under this Agreement. Any deletions from the OFFICIAL TOW SERVICE tow truck fleet shall be immediately reported, in writing, to the Department.

10.0 COMMUNICATIONS REQUIREMENTS

- 10.1 OFFICIAL TOW SERVICE shall maintain a twenty-four (24) hour per day telephone answering service to receive calls from the public and the Department.
- 10.2 OFFICIAL TOW SERVICE shall require its telephone answering service to retain data and records relating to the CITY's requests for towing services on premises for the term of this Agreement.
- 10.3 OFFICIAL TOW SERVICE shall require its answering service to promptly accept and relay requests for towing services made by the CITY. Failure or refusal to promptly relay the CITY's requests for towing services shall constitute failure to comply the requirements, terms and conditions of this Agreement and may result in suspension or termination of the Agreement.
- 10.4 OFFICIAL TOW SERVICE shall install and maintain, to the satisfaction of CITY, at all times during the term of this Agreement, radio or cellular telephone transmission and reception contact between the OFFICIAL TOW SERVICE

dispatcher and each OFFICIAL TOW SERVICE tow vehicle. Such communication contact shall be maintained twenty-four (24) hours a day, seven (7) days a week.

- 10.5 OFFICIAL TOW SERVICE shall provide to the Department a list of telephone numbers to be called in order of priority, and immediately upon any change in such telephone numbers or in the priority thereof shall notify the Department in writing with the effective date of such change.

11.0 HOURS

- 11.1 OFFICIAL TOW SERVICE's business office shall be located within its storage yard and attended at all times for servicing the public and the CITY from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for the holidays of January 1, known as New Years Day; third Monday in January, known as Dr. Martin Luther King Jr.'s Birthday; third Monday in February, known as Washington's Birthday/President's Day; last Monday in May, known as Memorial Day; July 4, known as Independence Day; first Monday in September, known as Labor Day; the second Monday in October, known as Columbus Day; November 11, known as Veteran's Day; fourth Thursday in November, known as Thanksgiving Day; and December 25, known as Christmas Day. If January 1, July 4, November 11 or December 25 fall upon a Sunday, the Monday following is a holiday and if they fall upon Saturday, the preceding Friday is a holiday. OFFICIAL TOW SERVICE may make an additional charge for after normal business hours release of vehicles consistent with the guidelines or provisions of the City Council resolution establishing fees and charges for tow services.

- 11.2 OFFICIAL TOW SERVICE shall provide twenty-four (24) hour towing service, seven (7) days a week, during the term of this Agreement.

- 11.3 OFFICIAL TOW SERVICE shall ensure that there will be an employee on call capable of being present or available for releasing impounded or stored vehicles to the public twenty-four (24) hours a day, seven (7) days a week.

12.0 VEHICLE IDENTIFICATION

- 12.1 Each OFFICIAL TOW SERVICE vehicle shall display identification signs, in compliance with Section 27907 of the California Vehicle Code. OFFICIAL TOW SERVICE shall not display any signs or advertising that indicate the OFFICIAL TOW SERVICE is an official towing service or police garage of the CITY.

- 12.2 OFFICIAL TOW SERVICE shall not, through their advertisements or otherwise, in any way publicize any official or other business connection with CITY, nor shall OFFICIAL TOW SERVICE advertise any address or telephone number of the CITY as a location to call for vehicle towing and storage service.

13.0 STORAGE SERVICE RESPONSIBILITIES

- 13.1 OFFICIAL TOW SERVICE shall be responsible for all vehicles, accessories, and equipment thereon, and all personal property therein, stored by it. It shall be OFFICIAL TOW SERVICE's duty to protect such stored vehicles, accessories, equipment, and property against all loss, damage by fire, theft, or other causes. In the event of loss or damage to a stored vehicle, its accessories or equipment, or personal property contained in the vehicle, OFFICIAL TOW SERVICE shall be responsible to the owner for all losses or damages.
- 13.2 OFFICIAL TOW SERVICE shall be responsible for the acts and omissions of its employees while on duty. OFFICIAL TOW SERVICE shall be responsible for any property damage caused by the active or passive negligence of OFFICIAL TOW SERVICE or its employees.
- 13.3 OFFICIAL TOW SERVICE shall abide by all federal, state, and local laws pertaining to the disposal of unclaimed vehicles and shall not use any vehicle stored or impounded as a result of tow ordered by the Department for any purpose except as expressly authorized under this Agreement.
- 13.4 All vehicles stored or impounded by OFFICIAL TOW SERVICE as a result of a tow ordered by the Department shall be towed directly to an official storage lot, unless the Department or other person legally in charge of the vehicle requests that it be taken to some other location. Vehicle release fees shall be limited to those established by resolution of the City Council of the City of Palm Springs.
- 13.5 OFFICIAL TOW SERVICE shall release vehicles stored or impounded by the Department pursuant to authorization provided by appropriate employees of the Department. Such authorization shall be in writing on a form provided by the Department or may be given verbally by employees authorized by the Department to provide verbal releases.
- 13.6 All vehicles stored or impounded as a result of a tow ordered by the Department shall be made available during business hours to the owner of the vehicle or his representative, or any authorized insurance agent, insurance adjuster, or any body shop or car dealer, for the purpose of estimating or appraising damages, except vehicles with a "police hold."
- 13.7 Personal property in vehicles stored by OFFICIAL TOW SERVICE shall not be disposed of to defray any charges for the towing or storage of a vehicle; and, if not called for by the owner within thirty (30) days after date of notice by the Department of impound or storage, all such property shall be disposed of in accordance with all State, County and Municipal laws, statutes, ordinances and regulations, including without limitation, Vehicle Code Section 10652 (reporting storage of vehicles over thirty days).

- 13.8 OFFICIAL TOW SERVICE shall take all reasonable precautions required by the Department to avoid damage to any evidence, such as fingerprints or stains.
- 13.9 OFFICIAL TOW SERVICE shall take whatever actions and precautions necessary to protect the engines, trunks and interior areas of all stored or impounded vehicles against the elements by rolling up windows, closing doors, trunk lids and hoods, and, if necessary, covering the vehicle or parts thereof exposed to the weather with plastic, canvas or other waterproof covering.
- 13.10 OFFICIAL TOW SERVICE shall park all stored or impounded vehicles in such a manner as to prevent any damage while other vehicles are being moved or parked in the vicinity of said vehicles.

14.0 STORAGE FACILITY STANDARDS

- 14.1 OFFICIAL TOW SERVICE shall provide a secure and environmentally safe vehicle storage facility with a minimum of fifteen thousand (15,000) usable square feet.
- 14.2 The vehicle storage facility must be located within the corporate City limits of the City of Palm Springs.
- 14.3 The vehicle storage facility must be completely enclosed by a six foot high wall or fence with no holes, gaps or other unsecured openings, and a gate. The wall or fence shall have two or more strands of barbed wire installed in such a manner as to discourage access over the top of the wall or fence, or the wall shall be a minimum of eight feet in height without barbed wire. All gates into the storage yard shall meet the same standards required of the wall or fence. Any damage to walls, fences or gates which allows unauthorized access must be repaired within twenty-four hours.
- 14.4 The vehicle storage facility shall have adequate lighting, and comply with all applicable building codes, zoning regulations, environmental laws and regulations, and any and all the applicable laws, rules and regulations established by federal, state, county and/or city governments.
- 14.5 OFFICIAL TOW SERVICE shall not perform any work in the vehicle storage facility upon any vehicle stored or impounded by the Department without first obtaining authorization from the Department and the registered owner of the vehicle.
- 14.6 OFFICIAL TOW SERVICE shall not dispose of any impounded vehicle, through any process whatsoever, without first obtaining authorization from the Department. Nothing herein shall be deemed to prevent or prohibit OFFICIAL TOW SERVICE from commencing the lien sale process on any such impounded vehicle.

- 14.7 If OFFICIAL TOW SERVICE videotapes or otherwise records images of the storage facility, such videotape and photographs shall be maintained by the OFFICIAL TOW SERVICE for at least thirty (30) days.
- 14.8 Throughout the term of this Agreement, OFFICIAL TOW SERVICE shall maintain all offices, storage facilities and equipment in a neat, clean and organized manner.
- 14.9 All OFFICIAL TOW SERVICE's records, equipment, and storage facilities will be subject to periodic checks by the Department or other CITY investigators during normal business hours. OFFICIAL TOW SERVICE shall provide access to employees of CITY at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this Agreement are being fulfilled.

15.0 IMPOUND VEHICLES

- 15.1 Vehicles that have been impounded by order of the Department shall not be released, lien sold, worked on, altered, or tampered with, without a written release from the Department.
- 15.2 OFFICIAL TOW SERVICE shall maintain its facilities and equipment in the manner described in the Proposal.
- 15.3 The Department shall have sole access to such separate impound facilities when vehicles are being held for evidence.
- 15.4 The 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 Department.
- 15.5 OFFICIAL TOW SERVICE shall notify the Department of any vehicles being stored within the CITY pursuant to private party storage requests immediately prior to commencement of the towing of such vehicles.

16.0 RECORD KEEPING & REPORTING

- 16.1 OFFICIAL TOW SERVICE shall record and log the time each call is received, the time of dispatch, the time of arrival, and the time in or of the end of service on every tow truck assignment. Such records shall be available and open to CITY examination.
- 16.2 OFFICIAL TOW SERVICE shall maintain at its place of business, complete and accurate records of all tow services furnished under this Agreement, including a description of all vehicles towed, impounded, or stored at the request of the Department, the nature of services performed with respect to each tow

assignment, the start time, end time, location of, and name of the tow truck driver for each towing assignment, and the itemized charges accrued on each vehicle for towing and storage.

16.3 Record systems must provide for immediate access, upon inquiry by the Department, to the following information:

16.3.1 Locate vehicle from the Department record number.

16.3.2 Locate vehicle from license number only.

16.3.3 Locate vehicle from make, color, date, and location of impound.

16.3.4. Date of filing all lien sale documents with DMV.

16.4 OFFICIAL TOW SERVICE shall also maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, FCC licensing, and non-Department tows.

16.5 The Department, or other CITY staff as may be designated by the Police Chief, may inspect all OFFICIAL TOW SERVICE records required to be maintained pursuant to this section without notice during normal business hours. OFFICIAL TOW SERVICE shall permit the Department to make copies of business records at its place of business, or to remove business records for the purpose of reproduction. The Department shall provide a receipt for any original records removed from OFFICIAL TOW SERVICE's place of business.

16.6 All records required to be maintained by OFFICIAL TOW SERVICE pursuant to this section shall be maintained and available for inspection for a period of two years beyond the expiration date of the original Agreement and any extension(s) thereof.

16.7 OFFICIAL TOW SERVICE shall submit a monthly report to the Chief of Police and Finance Director, which shall include the following information:

16.4.1 Total Department impounds and storages;

16.4.2 Number of times dispatched by the Department;

16.4.3 Number of calls for service resulting in impounds;

16.4.4 Number of vehicles sold on lien sale under authority of Civil Code Section 3072, as may be amended from time to time;

- 16.4.5 Number of vehicles sold under authority of Civil Code Section 3073, as may be amended from time to time;
- 16.4.6 Certification of (a) the availability of the names and addresses of buyers and description of vehicles when sold and (b) that such names, addresses, and descriptions are available for inspection by the Chief of Police and the Finance Director; and
- 16.4.7 Number of calls for service answered in which time beyond one hour was required to handle.

17.0 LIENS AND DISPOSALS

- 17.1 OFFICIAL TOW SERVICE shall provide the Department with a list of unclaimed vehicles thirty (30) days before they are scheduled to be disposed of or sold. On or before the 10th of each month, OFFICIAL TOW SERVICE shall furnish to the Department a list of all vehicles that have been sold at lien sales during the previous month, and date of the action. The list shall include the vehicle owner's name, address, vehicle make, year and model, license number, VIN number, and Department record number. Copies of all lien sale documents shall be resubmitted with such list. The documents shall be dated and include all charges imposed on each sale.
- 17.2 OFFICIAL TOW SERVICE shall abide by all federal, state, and local laws pertaining to the disposal of unclaimed vehicles and shall not use any vehicle stored or impounded as a result of tow ordered by the Department for any purpose except as expressly authorized under this Agreement.

18.0 PERFORMANCE

- 18.1 OFFICIAL TOW SERVICE shall perform the services required under this Agreement in an ethical, professional, and orderly manner and shall endeavor to obtain and keep the confidence of the motoring public.
- 18.2 OFFICIAL TOW SERVICE's performance of all terms and conditions set forth herein shall be monitored and verified by the Supervisor or Sergeant of the Department's Traffic Division.
- 18.3 OFFICIAL TOW SERVICE acknowledges and agrees that the minimum performance standards required under this Agreement shall include the performance standards described in the RFP, but not be limited to, the following:
 - 18.3.1 Timely payment to CITY of VTACR Fee.
 - 18.3.2 Timely submission of all required monthly reports.

- 18.3.3 No more than three (3) "passes" on tow assignments within a single calendar month.
- 18.3.4 The ability to maintain an average response time of fifteen (15) minutes or less.
- 18.3.5 Successful re-inspection of equipment and facilities.
- 18.3.6 Maintenance of an error rate of less than ten (10) percent on tow invoices, as determined by a random audit of thirty (30) tow invoices.
- 18.3.7 A complaint ratio involving incidents of misconduct as provided in Section 6.11 of this Agreement of not more than one (1) percent of all tow requests.

19.0 INSPECTION

- 19.1 All real property and improvements thereon, and all facilities, equipment, and materials used by OFFICIAL TOW SERVICE in the performance of this Agreement shall upon request by the Department be open to immediate inspection by the Chief of Police or his or her designee.

20.0 MOTORISTS ASSISTANCE

- 20.1 Whenever a motorist requests tow assistance and does not specify a particular tow company or membership agency, the service shall be assigned to the OFFICIAL TOW SERVICE in accordance with the Department's adopted rotational call-for-service system. All charges arising out of such assistance assigned to the OFFICIAL TOW SERVICE shall be the exclusive responsibility of OFFICIAL TOW SERVICE and the requesting motorist. The Department shall not be liable for any charges whatsoever arising out of a motorist assistance call. OFFICIAL TOW SERVICE shall not charge such motorist more than the rates specified in this Agreement.

21.0 RISK

- 21.1 OFFICIAL TOW SERVICE assumes all risk in the event of damage, theft, fire, or otherwise, of the vehicles or any other property towed, impounded, or stored by OFFICIAL TOW SERVICE, its employees or agents.
- 21.2 Notwithstanding any other term or condition herein, in responding to a call from the Department, OFFICIAL TOW SERVICE 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 Agreement. OFFICIAL TOW SERVICE shall look solely and exclusively to the owner of the vehicle, towed, impounded, or stored for payment of the services provided by the OFFICIAL TOW SERVICE.

21.3 OFFICIAL TOW SERVICE shall assume the entire risk of nonpayment of any service charges incurred pursuant to this Agreement.

22.0 INSOLVENCY

22.1 OFFICIAL TOW SERVICE shall not, without the prior written consent of the Chief of Police, suffer either the appointment of a receiver to take possession of all or substantially all of the assets of OFFICIAL TOW SERVICE or make a general assignment of such assets for the benefit of creditors. Any such action taken or suffered by OFFICIAL TOW SERVICE under any insolvency or bankruptcy proceeding constitutes a breach of contract by OFFICIAL TOW SERVICE and all property assigned by CITY for safe care shall be "released" to another assigned service provider, as specified by the Chief of Police or his or her designee, with a reimbursement for towing, storage, and related fees borne by the service provider assuming the new responsibility.

23.0 SUCCESSORS

23.1 Each of the terms and conditions of this Agreement 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.

24.0 INDEMNITY

24.1 OFFICIAL TOW SERVICE shall protect, defend, indemnify, and hold harmless CITY, its Council Members, officials, 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 OFFICIAL TOW SERVICE's performance under this Agreement, 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 Agreement; and (5) workers' compensation.

25.0 ASSIGNMENT

25.1 OFFICIAL TOW SERVICE shall not assign its rights or delegate or otherwise transfer its obligations under this Agreement to any other person or entity without the prior written consent of CITY, which consent shall not be unreasonably withheld. Any such assignment without the prior consent of CITY shall be void and the attempted assignment shall constitute a material breach of this Agreement.

26.0 INSURANCE

26.1 OFFICIAL TOW SERVICE, at its sole cost and expense, shall purchase and maintain in full force and effect throughout the term of this Agreement the following minimum levels of insurance, in a form and content satisfactory to the CITY:

26.1.1 Commercial Business Automobile Liability, as required by Vehicle Code Section 16500.5. Such coverage shall include bodily injury and property damage, with a combined single limit of not less than \$750,000 per occurrence for Class A tow trucks, and \$1,000,000.00 for Class B, C, and/or D tow trucks. These minimum standards are to include non-owned and hired auto coverage.

26.1.2 Uninsured Motorist, with a combined single limit of not less than the legal minimum.

26.1.3 On-Hook Coverage / Garage Keepers Legal Liability insuring the vehicle in tow, with not less than the following limits based on the size of the tow truck:

A.	Class A tow truck	\$50,000
B.	Class B tow truck	\$75,000
C.	Class C tow truck	\$150,000
D.	Class D tow truck	\$150,000

26.1.4 Garage Liability Insurance, including premises and operations coverage for bodily injury and property damage with a combined single limit of not less than \$500,000.

26.1.5 Workers' Compensation Insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both OFFICIAL TOW SERVICE and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by OFFICIAL TOW SERVICE in the course of carrying out the work or services contemplated in this Agreement.

26.1.6 Garage Keepers Liability in an amount not less than the amounts required for On-Hook coverage for vehicles in the care, custody, and control of OFFICIAL TOW SERVICE in the storage yard.

26.2 All insurance required pursuant to this section shall be issued by a company authorized by the Insurance Department of the State of California and rated A-VII or better by the latest edition of Best's Key Rating Guide, except that CITY will accept workers' compensation insurance rated B, VII or better or from the State

Compensation Fund. All policies of insurance shall be primary, and any other policies maintained by or providing protection for CITY shall be excess or secondary but noncontributing. Each insurer shall waive all rights of subrogation and contribution it may have against the City, its representatives, officers, employees, and agents and their respective insurers. Each insurance policy shall provide that it shall not be cancelled or modified for any reason except after thirty (30) days written prior notice by registered mail to CITY.

- 26.3 Upon execution of this Agreement, OFFICIAL TOW SERVICE shall provide to CITY certificates of insurance or appropriate insurance binders and endorsements evidencing the policies fulfilling the requirements of this Section. If self-insured for workers' compensation, OFFICIAL TOW SERVICE shall submit to CITY a copy of its certification of self-insurance issued by the Department of Industrial Relations. No work or services under this Agreement shall commence until OFFICIAL TOW SERVICE has provided the CITY with all required certificates of insurance, binders, endorsements, and/or certificates.
- 26.4 The insurance policies specified in this Section, except for the workers' compensation policies, shall name CITY and its officers, Council Members, agents, and employees as additional insureds by endorsement to the policies, in accordance with standard ISO additional insured endorsement forms.
- 26.5 If OFFICIAL TOW SERVICE does not keep all of such insurance policies in full force and effect at all times during the term of this Agreement, 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.
- 26.6 If CITY reasonably determines that the amounts of insurance held by the OFFICIAL TOW SERVICE pursuant to this Agreement are no longer sufficient, or that additional types of coverage are needed, OFFICIAL TOW SERVICE shall modify the existing coverage or obtain additional policies, as CITY shall reasonably determine. All new policies shall be on the terms and conditions contained herein.
- 26.7 The OFFICIAL TOW SERVICE shall annually within ten (10) days of the anniversary of the Effective Date of this Agreement, provide to the CITY evidence that all insurance required pursuant to this Agreement continues to be in full force and effect.
- 26.8 Those tow truck operators removing a vehicle from a hazardous materials incident to the nearest reasonable and safe stopping location will be considered to be transporting property subject to normal minimum insurance requirements of Section 34631.5 of the Vehicle Code.

27.0 INTEGRATION

27.1 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 agreement regarding the matters covered by this Agreement.

28.0 AMENDMENT

28.1 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.

29.0 NO WAIVER

29.1 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.

29.2 The waiver by CITY of any breach by OFFICIAL TOW SERVICE of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach or default by OFFICIAL TOW SERVICE either of the same or a different provision of this Agreement.

30.0 THIRD PARTY BENEFICIARIES

30.1 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.

31.0 INDEPENDENT CONTRACTOR

31.1 Both parties hereto in the performance of this Agreement shall be acting in an independent capacity and not as agents, employees, partners or joint ventures with one another. OFFICIAL TOW SERVICE 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.

32.0 CONTROL

32.1 Neither CITY or its officers, Council Members, agents, or employees shall have any control over the conduct of OFFICIAL TOW SERVICE employees except as set forth herein. OFFICIAL TOW SERVICE agrees not to represent that either it

or its agents, servants, or employees are in any manner agents, servants, or employees of CITY, it being understood OFFICIAL TOW SERVICE, its agents, servants, and employees are as to CITY wholly independent contractors and that OFFICIAL TOW SERVICE's obligations to CITY are solely those prescribed by this Agreement. CITY and OFFICIAL TOW SERVICE 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 OFFICIAL TOW SERVICE's employees.

33.0 WORKERS' COMPENSATION

33.1 OFFICIAL TOW SERVICE shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar state and federal acts or laws applicable; and shall indemnify, defend, and hold harmless CITY and its Council Members, officers, employees, and agents from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including attorneys' fees and costs incurred by CITY or presented, brought, or recovered against CITY, its Council Members, officers, employees, and agents, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by OFFICIAL TOW SERVICE under this Agreement.

34.0 EXECUTION OF AGREEMENT

34.1 The persons executing this Agreement hereby represent and warrant that the execution of this Agreement and the performance of the terms and conditions of this Agreement 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 Agreement.

35.0 DRY RUNS

35.1 CITY shall not be liable to pay OFFICIAL TOW SERVICE any charge whatsoever or fee for a call that does not result in a chargeable service being rendered by OFFICIAL TOW SERVICE (i.e., a "dry run").

35.2 In the event CITY errs in impounding a vehicle, OFFICIAL TOW SERVICE shall cause the release of the vehicle, upon the direction of the Department, without charge for towing or storage.

36.0 CITY VEHICLE TOWING

36.1 OFFICIAL TOW SERVICE shall provide, without cost to the CITY, towing of CITY vehicles and related services as requested by CITY. CITY requests for such free tows shall be limited to ten (10) such free tows per contract year and shall be

limited to the Coachella Valley area only. OFFICIAL TOW SERVICE may charge Department for additional service over the services provided in this Section 36.1 in amount to exceed the rates and charges established pursuant to Section 41.1 of this Agreement.

37.0 RESPONSIBILITY

37.1 It shall be the responsibility of OFFICIAL TOW SERVICE to provide equipment and to perform the duties expressed in this Agreement. OFFICIAL TOW SERVICE 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 OFFICIAL TOW SERVICE of its duties and responsibilities and any additional cost incurred shall not be charged to CITY.

38.0 TOWING PURSUANT TO ABANDONED VEHICLE ABATEMENT PROGRAM

38.1 OFFICIAL TOW SERVICE shall provide towing services in furtherance of CITY's Abandoned Vehicle Abatement Program in accordance with the terms and conditions set forth in Attachment "A" hereto, which is incorporated herein by reference. No charge shall be assessed against CITY or the owner of any vehicle that is towed, stored, or dismantled under the provisions of the Abandoned Vehicle Abatement Program.

39.0 BREACH OF CONTRACT

Any of the following acts if committed by OFFICIAL TOW SERVICE during the performance of this Agreement shall be considered a material breach of this Agreement:

39.1 Nonpayment of CITY any business license fees, VTACR fees, or any other fees required by this Agreement or the Palm Springs Municipal Code.

39.2 Failing to comply with any provision of this Agreement or breach of any rules, regulations, or conditions provided in this Agreement or the Palm Springs Municipal Code.

39.3 Violation of any federal, state or local law by OFFICIAL TOW SERVICE, any person having any ownership interest in OFFICIAL TOW SERVICE, or any employee of OFFICIAL TOW SERVICE.

39.4 Failing to maintain a satisfactory level of service to the CITY or the public.

39.5 Failing to keep any vehicle towed at the request of the Department in safe condition and good repair.

39.6 Failing to use distinctive coloring, monogram, or insignia on the vehicle.

- 39.7 Any deviation from the schedule of rates set forth in this Agreement without prior approval of the Chief of Police.
- 39.8 Passing on, or refusing, for any reason, a tow assignment from the Department three or more times in any calendar month.
- 39.9 Allowing the insurance coverage required herein to either be withdrawn or lapse or to no longer be in force for any reason.
- 39.10 Dissolution of business or bankruptcy.
- 39.11 Assignment of this Agreement, or any right or interest stated herein, without the prior written consent of CITY; or
- 39.12 Any other act which the Department finds makes it contrary to the public interest, convenience, necessity, or general welfare for the Agreement to continue.

40.0 ACTS OR OMISSIONS OF REPRESENTATIVES

- 40.1 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 OFFICIAL TOW SERVICE in the performance of the services and obligations under this Agreement shall constitute the acts and/or omissions of OFFICIAL TOW SERVICE.

41.0 CHARGES

- 41.1 Pursuant to Palm Springs Municipal Code Section 11.82.070(b), The City Council of the CITY shall establish the fee schedule for services to be provided under this Agreement. All charges for towing, impound, storage, and other services required to be performed by OFFICIAL TOW SERVICE under the terms and conditions of this Agreement shall not exceed those charges established the City Council.
- 41.2 All rates and charges shall be conspicuously posted in the OFFICIAL TOW SERVICE office and in all tow vehicles, and shall be available for review by CITY personnel and/or persons for whom tow service is provided. All customer bills shall be itemized. It will be the OFFICIAL TOW SERVICE's responsibility to collect payment for services it renders under this Agreement from the motorists, and CITY shall not be responsible in any way whatsoever for payment of these charges.
- 41.3 OFFICIAL TOW SERVICE shall accept a valid bank credit card or cash for payment of towing and storage by the registered owner, legal owner, or agent of the owner claiming the vehicle.

42.0 NOTICES

42.1 Any notices required or permitted under this Agreement 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 Palm Springs
Attn: Chief of Police
P.O. Box 1830
Palm Springs, California 92263

OFFICIAL TOW SERVICE:

Attn: _____

43.0 CHANGE OF CIRCUMSTANCES

43.1 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.

44.0 SEVERABILITY

44.1 If any term or condition 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.

45.0 VENUE

45.1 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 Riverside 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.

46.0 EFFECTIVE DATE

46.1 The Effective Date of the Agreement shall be _____.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as follows, to be effective on the day and year first written above.

"CITY"

CITY OF PALM SPRINGS, CA

By: _____
DAVID READY,
City Manager

Date: _____

By: _____
AL FRANZ,
Chief of Police

Date: _____

ATTEST:

By: _____
JAMES THOMPSON,
City Clerk

Date: _____

APPROVED AS TO FORM:

By: _____
DOUGLAS HOLLAND,
City Attorney

Date: _____

"OFFICIAL TOW SERVICE"

By: _____

Date: _____

Name

Title

By: _____

Date: _____

Name

Title

ATTACHMENT "A"

ABANDONED VEHICLE ABATEMENT PROGRAM

PURPOSE

Any tow operator selected to be an official Police Tow Service Provider shall provide to the city, at no charge, the services needed to facilitate the city's vehicle abatement program. Vehicles towed by tow truck companies for the city's vehicle abatement program must store these vehicles out of the public view. The Provider shall comply with the provisions of Chapter 11.80 of the Palm Springs Municipal Code, in addition to the provisions of this Attachment and the Agreement.

AUTHORITY

In addition to and in accordance with the determination made and the authority granted by the state under Sections 22660 through 22664 of the California Vehicle Code to remove abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof as public nuisances, the city council adopted Ordinance 1246 (PSMC Chapter 11.80) and found that the accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways creates a condition tending to reduce the value of private property and promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety to minors, creates a harborage for rodents and insects, and is injurious to the health, safety, and general welfare. The Council concluded that the presence of abandoned, wrecked, dismantled, or inoperative vehicles or part thereof, on private or public property is a public nuisance which may be abated as such in accordance with the provisions of the Palm Springs Municipal Code.

NOTICE

Within five days after the date of removal of the vehicle or part thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or part thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including, but not limited to, the registration card, certificates of ownership, or license plates.

SALE OF VEHICLE

Five days after adoption of the order declaring the vehicle or part thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 11.80.110 of the City's Municipal Code, or fifteen days after such action of vehicle or part thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard. Said vehicle shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates

or historical vehicle license plates, pursuant to Section 5004 of the Vehicle Code, in which case the vehicle may be reconstructed or made operable.

RIGHT TO ENTER PRIVATE PROPERTY

When the city council has contracted with or granted a franchise to any person or persons to assist in the enforcement of this chapter, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter.

PERFORMANCE AND TOW ASSIGNMENT PROCEDURE

The Abandon Vehicle Abatement Program is administered by the Director of Building and Safety. Requests for service under the Abandon Vehicle Abatement Program will first be made on a rotational basis to all Police Tow Service Providers that are under contract to the City. The Police Tow Service Provider that is first on the rotational list shall respond to a request for service from the City within ninety (90) minutes from the time it receives the call. Requests for tows will normally be limited to ordinary business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, unless such vehicles are part of a special off-hours operation or present an immediate safety hazard or threat to public safety. In the event the Police Service Tow Provider fails to furnish a tow unit within the specified time period, the Director of Building and Safety or his designee may cancel the tow request and request a tow unit from the Police Tow Service Provider that is next on the rotation list.

When the tow is canceled, the Police Tow Service Provider shall forfeit his/her turn in the general rotation for Police Tows. Failure to respond in a timely manner to any type of tow covered under the Agreement shall be a basis for suspension or termination from the rotational tow list as follows:

- Two failures to respond within one year shall result in a warning letter.
- Three failures to respond within one year shall result in an automatic 30-day suspension from the Police Tow Service Program.
- Four failures to respond within one year shall result in termination of the contract for the remaining contract period.

If the Police Tow Service Provider is unable to dispatch a tow unit immediately upon receiving a call for service, the Police Tow Service Provider shall immediately inform the Director of Building and Safety or his designee, and the Police Tow Service Provider shall forfeit their turn of the general Police Tow Service rotation list.

CITY OF PALM SPRINGS
OFFICIAL POLICE TOW SERVICE AGREEMENT

ATTACHMENT "B"

Pursuant to Palm Springs Municipal Code Section 11.82.070(b), the Palm Springs City Council has approved the following rates:

\$150.00 per tow

\$50.00 per day storage

Acknowledged By: _____
Signature

Date: _____

Name

Title

**CITY OF PALM SPRINGS, CA
NOTICE INVITING
REQUEST FOR PROPOSALS/STATEMENTS OF QUALIFICATIONS (RFP 14-12)
FOR
TOWING AND STORAGE OF VEHICLES AS REQUESTED BY
THE PALM SPRINGS POLICE DEPARTMENT**

NOTICE IS HEREBY GIVEN that Request for Proposals/Statements of Qualifications (RFP 14-12) from vehicle Tow Operators who are interested in providing towing and storage services on a rotational basis for the City of Palm Springs Police Department will be received at the Office of Procurement & Contracting, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs, California, before **3:00 P.M. Local Time, xxxDAY, xxxxMONTH xxDATE, 2012**. Proof of receipt before the deadline is a City of Palm Springs, Division of Procurement and Contracting time/date stamp. It is the responsibility of the Proposer to see that any proposal sent through the mail, or by any other delivery method, shall have sufficient time to be received by the Procurement Office prior to the proposal due date and time. Note that City Hall is open Monday thru Thursday and is closed every Friday, weekends and holidays. Late proposals will be returned unopened.

PROJECT LOCATION: City of Palm Springs, CA within the city limits at the direction of the Palm Springs Police Department.

DESCRIPTION OF WORK: The work is comprised of providing vehicle towing and storage services on a rotational basis for the City of Palm Springs Police Department.

OBTAINING RFP DOCUMENTS AND REGISTRATION:

The RFP document may be downloaded via the internet at the following direct page link <http://www.palmsprings-ca.gov/index.aspx?page=85> (or by visiting www.palmspringsca.gov and clicking on Government, then Departments, then Procurement and then open Bids and Proposals). Upon downloading the document it is **IMPERATIVE** that you contact Cheryl Martin, Procurement Specialist I, via email at Cheryl.Martin@palmspringsca.gov or by phone at (760) 322-8373 to **officially register for this specific project** with your company name, address, phone, fax, contact person and email address. Failure to officially register may result in not receiving addenda to the RFP. Failure to acknowledge addenda to the RFP may render your proposal as non-responsive.

SELECTION PROCESS AND AWARD OF CONTRACT: This solicitation has been developed in the Request for Proposals (RFP) format. Responses to this Request for Proposals/Statements of Qualifications will be evaluated on the basis of various factors including, but not limited to: demonstrated financial strength; quality of the proposer's existing or proposed facilities located in Palm Springs, equipment and personnel; demonstrated and successful completion of services of similar scope and size; other cities' and clients' evaluations of the proposer's prior or current services and any actions taken by such cities or clients regarding the proposer; demonstrated safety record for the proposer's tow vehicles and employees; degree to which the proposer ascertained and addressed this City's needs and priorities. The City reserves the right to negotiate the terms and conditions of any resulting contract. Final contract award, if any, will be made by the Palm Springs City Council. The selected firms will be required to comply with all insurance and license requirements of the City.

All expenses associated with the preparation, submission of an RFP proposal to the City, or participation in any presentations, interviews or any other element of the RFP process shall be the sole financial responsibility of the Proposer.

PROPOSALS TO REMAIN OPEN: The Proposer shall guarantee that all contents of their proposal shall be valid for a period of 120 calendar days from the due date of proposals.

Craig L. Gladders, C.P.M.
Procurement and Contracting Manager
Xxxx xx, 2012

**REQUEST FOR PROPOSALS/STATEMENTS OF QUALIFICATIONS (RFP 14-12)
FOR
TOWING AND STORAGE OF VEHICLES AS REQUESTED BY
THE PALM SPRINGS POLICE DEPARTMENT**

PURPOSE:

The City of Palm Springs is requesting Proposals/Statements of Qualifications from qualified Tow Operators to provide as-needed vehicle towing and storage services for the Palm Springs Police Department. These services include but are not limited to: towing and storing vehicles involved in accidents or disabled for other causes (when alternate towing is either not appropriate or is not requested by the owner or operator of the vehicle); and towing and storing of vehicles which for other reasons are within the jurisdiction of the Palm Springs Police Department, including impounded/forfeited vehicles under the provisions of California Vehicle Code 14602.6 and 14607.6.

BACKGROUND:

The City is has adopted an ordinance that codified the police rotational towing program. The ordinance is codified as Chapter 11.82 of the City's Municipal Code, entitled "Police Tow Services Standards". Currently three (3) local towing firms provide towing and storage on a rotational basis as requested by the Palm Springs Police Department under the terms and conditions of an agreement which commenced on August 1, 2007. The rotational tow program is being re-solicited at this time.

Statements received prior to the deadline in response to this request for Proposals/Statement of Qualifications process will be evaluated by a qualifications evaluation committee. The evaluation committee will submit a recommendation for award to the Palm Springs City Council.

As a result of this RFP, the Palm Springs City Council may elect to execute a City-drafted towing agreement with any, all or none of the existing Operators and may, or may not, approve additional Operators to be added to the rotation towing program.

The contractual agreement for the rotational tow program includes rules and regulations and performance standards established either by ordinance, by the Palm Springs Police Department, or by other City departments. These include, but are not limited to, rules relating to response time, towing, storage, equipment, storage facilities, fees, customer relations, and disciplinary actions deemed necessary for the Police Department to effectively manage the program. Each participating Operator must agree to abide by the terms and conditions of the agreement. A copy of the agreement is attached and included with the RFP document for your reference.

Operator's participating in the rotational tow program shall agree to pay the City a vehicle towing administrative cost recovery fee to reimburse the City for actual and reasonable costs incurred in connection with the towing program (pursuant to State of California Vehicle Code, Div 5, Chap 9, Sect 12110). The estimated number of (police) tows expected to be generated out of the rotational tow program is between 750 and 800 tows/year total.

Included herein is a description of the basic standards for the rotational towing program.

EVALUATION OF QUALIFICATIONS AND INFORMATION:

Responses to the request for Proposals/Statements of Qualifications will be evaluated on the basis of various factors, including, but not limited to, the following:

1. Demonstrated financial strength including, but not limited to, the proposer's:
 - a. Current facilities, equipment, and personnel,
 - b. Capability of securing financing for facilities, equipment, personnel, or other resources,
 - c. Credit worthiness;
2. Quality of the proposer's existing or proposed facilities, equipment, and personnel;
3. Demonstrated and successful completion of services of similar scope and size, including, but not limited to:
 - a. Years of experience that the proposer as an official police tow services provider or a municipal service provider,
 - b. Timeliness of performance,
 - c. Customer satisfaction or complaints;
4. Other cities' and clients' evaluations of the proposer's prior or current services and any actions taken by such cities or clients regarding the proposer;
5. Demonstrated safety record for the proposer's tow vehicles and employees; or
6. Degree to which the proposer ascertained and addressed this City's needs and priorities.

SUBMISSION GUIDELINES:

Respondents to this RFP should, at a minimum, provide the information requested below. Interested tow operators are encouraged to provide additional information not specifically identified below that would help to demonstrate their firm's qualifications to provide tow services for the City.

A. Facilities, Equipment and Personnel

A.1. Facilities - Give the address of your firm's tow yard **in Palm Springs**. Include the capacity (size) of your storage area; describe the enclosure, i.e., paved, locks, length and height of fences, hours of operation, etc. Indicate your facility's compliance with or deviation from applicable City zoning codes. If you operate from other location(s), state the location(s). Do you have secondary vehicle storage facilities? If so, give the location and capacity.

A.2. Equipment – Identify in detail each vehicle and all related equipment that your firm would utilize in the City's rotational tow program.

A.3. Personnel – Identify all personnel that will provide services under the City's program. Include all drivers, supervisory and office personnel. Provide a Form 234F for each driver that will perform service in the program.

A.4 Identify your recruitment/hiring/training/customer service practices.

B. Financial/Organizational Strength

B.1 Provide a brief history of your firm in the towing industry.

B.2 Provide in detail a description of the industry experience of your key management personnel.

B.3 Discuss your organizational structure and your management style. Do you have an ongoing program to identify substance abuse, in accordance with Department of Transportation (DOT) Employee Testing Act of 1991?

B.4 Provide evidence of the financial stability of your firm.

B.5 Identify your capability of securing financing for facilities, equipment, personnel, or other resources

B.6 Provide evidence of your firm's credit worthiness.

B.7 Identify your vehicle replacement policy, the age of your current equipment and your plans for acquisition of new/replacement equipment.

B.8 Adequacy of Business Records: Identify how your firm will:

- track the status of all vehicles towed for the City through the rotational program;
- report the status of all such towed vehicles to the City, when requested to do so;
- keep track of gross receipts received through participation in the City's tow program;
- keep track of information related to lien sales.

Provide samples of all such documentation with your Statement of Qualifications.

B.9 Provide certificates of insurance evidencing the insurance coverages carried by your firm.

B.10 Identify the procedures, the staff and other resources and the training your firm has with performing vehicle abatement services.

C. Successful Completion of Similar Service Arrangements

C.1 Identify the years of experience that you have as an official police tow services provider or a municipal service provider.

C.2 List any contracts your firm currently has, or has had in the recent past (last 5 years), similar to the City's requirements. Give the name and current phone number of a contact person for each reference.

C.3 State any complaints your firm has received within the past two years, or the absence thereof. Include equipment violations, inspection citations, etc.

C.4 Indicate whether or not you have ever been suspended or terminated from a towing program operated by another government agency for any reason.

C.5 Identify your prior experience performing abandoned vehicle abatement services for public agencies.

D. Safety Record

D.1 Describe your firm’s safety policies and all safety training provided to your employees.

D.1 State any safety violations or incidents occurring within the past three years and how they were resolved. Also, state any citations on vehicles owned/operated by your firm. Indicate whether or not you have ever been suspended from towing by another government agency for safety violation(s). If so, supply the date and describe the violation and/or incident(s).

DEADLINE FOR SUBMISSION OF PROPOSALS/STATEMENT OF QUALIFICATIONS: All proposals must be received in the City of Palm Springs, Division of Procurement and Contracting office **before 3:00 P.M., LOCAL TIME, XXXDAY, XXXXX XX, 2012.** Proof of receipt before the deadline is a City of Palm Springs, Division of Procurement and Contracting time/date stamp. It is the responsibility of the Proposer to see that any proposal sent through the mail, or by any other method, shall have sufficient time to be received by the Procurement Office prior to the proposal due date and time. Late proposals will be returned to the Proposer unopened. **Proposals shall be clearly marked and identified and must be submitted in a sealed package to:**

**City of Palm Springs
Division of Procurement and Contracting
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: Craig L. Gladders, C.P.M., Procurement & Contracting Manager**

PLEASE NOTE THAT PALM SPRINGS CITY HALL IS **CLOSED EVERY FRIDAY** DUE TO THE CURRENT FURLOUGH PROGRAM, AND THEREFORE IS NOT ABLE TO ACCEPT, TIME OR DATE STAMP ANY PROPOSALS ON FRIDAYS (OR WEEKENDS AND HOLIDAYS). PLEASE TAKE THIS INTO CONSIDERATION WHEN DELIVERING A PROPOSAL BY THE DUE DATE AND TIME AS DEFINED IN THIS DOCUMENT.

QUESTIONS?: Proposers, their representatives, agents or anyone else acting on their behalf are specifically directed **NOT** to contact any city employee, commission member, committee member, council member, or other agency employee or associate for any purpose related to this RFP other than as directed below. **Contact with anyone other than as directed below WILL be cause for rejection of a proposal.**

ANY questions, technical or otherwise, pertaining to this request for Request for Proposals **must be submitted IN WRITING and directed ONLY to:**

**Craig L. Gladders, C.P.M.
Procurement & Contracting Manager
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262
via FAX (760) 323-8238
or via EMAIL: Craig.Gladders@palmspringsca.gov**

Interpretations or clarifications considered necessary in response to such questions will be resolved by the issuance of formal Addenda to the RFP. **The deadline for all questions is 3:00 P.M., Local Time, XXXXDay, XXXX XX, 2012.** Questions received after this date and time may not be

answered. Only questions that have been resolved by formal written Addenda via the Division of Procurement and Contracting will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

ADDITIONAL INFORMATION:

RIGHT TO ACCEPT OR REJECT PROPOSALS: The City of Palm Springs reserves the right to waive any informality or technical defect in a proposal and to accept or reject, in whole or in part, any or all proposals and to cancel all or part of this RFP and seek new proposals, as best serves the interests of the City. The City furthermore reserves the right to contract separately with others certain tasks if deemed in the best interest of the City.

RESPONSIBILITY OF PROPOSER: All proposers shall be responsible. If it is found that a proposer is irresponsible (e.g., has not paid taxes, is not a legal entity, submitted an RFP without an authorized signature, falsified any information in the proposal package, etc.), the proposal shall be rejected.

PUBLIC RECORD: All documents submitted in response to this solicitation will become the property of the City of Palm Springs and are subject to the California Code Section 6250 et seq., commonly known as the Public Records Act. Information contained in the documents, or any other materials associated with the solicitation, may be made public after the review process has been completed, negotiations have concluded and a recommendation for award has been officially agendized for City Council consideration, and/or following award of contract to a specific firm, if any, by the City Council.

BUSINESS LICENSE: The successful firm will be required to be licensed in accordance with the City of Palm Springs Business License Ordinance, Municipal Code Chapter 3.40 through 3.96, entitled "Business Tax".

INVESTIGATIONS: The City reserves the right to make such investigations as it deems necessary to determine the ability of the proposer to perform the Work and the proposer shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any proposal if the evidence submitted by or investigation of such proposer fails to satisfy the City that such proposer is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

SIGNED PROPOSAL AND EXCEPTIONS: Submission of a signed proposal will be interpreted to mean that proposer has hereby agreed to all the terms and conditions set forth in all of the sheets which make up this Request for Request for proposals. Exceptions to any of the language in either the RFP documents, contract services agreement or attached insurance requirements, must be included in the proposal and clearly defined. Exceptions to the City's RFP document or standard insurance requirements, terms or conditions, or contract services agreement may be considered in the evaluation process.

ROTATIONAL TOWING PROGRAM DESCRIPTION

General: This program is for providing Palm Springs Police Department (PSPD) – generated tows on a rotational basis for firms that have been qualified to provide such services for the City. Each participating Operator must agree to abide by the terms and conditions of an agreement in the form provided by the City and further agree to pay the City a vehicle towing administrative cost recovery fee to reimburse the City for actual and reasonable costs incurred in connection with the towing program. (State of California Vehicle Code, Div 5, Chap 9, Sect 12110).

Services: The services to be provided include as-needed non-consensual towing and vehicle storage services. All services shall be provided in accordance with any and all applicable federal, state and local ordinances, rules and regulations. Services include but are not limited to: towing and storing vehicles involved in accidents or disabled for other causes (when alternate towing is either not appropriate or is not requested by the owner or operator of the vehicle); and towing and storing of vehicles which for other reasons are within the jurisdiction of the Palm Springs Police Department, including impounded/forfeited vehicles under the provisions of California Vehicle Code 14602.6 and 14607.6. The Operator shall be able to properly conduct a lien sale as outlined in Division 11, Chapter 10, Article 2, beginning with Section 22851 of the California Vehicle Code.

Special Services: Operators participating in the rotational tow program will be required to provide the following special services to the City:

- Towing services necessary to support the City's Thursday night Villagefest. On a weekly rotation, Operators participating in the program shall remove cars from areas within the Villagefest boundaries, coordinating with Villagefest staff and the Police Department.
- As-needed towing and related services for City vehicles free of charge (Limited to 10 tows per operator/per contract year – All tows limited to Coachella Valley only).
- As-needed abatement of vehicles from private property at the direction of the City's Code Enforcement Officers in accordance with the "Attachment A" included in the Contract Services Agreement entitled "Abandoned Vehicle Abatement Program".

Standards for Tow Truck Equipment:

A. Official police tow services shall provide towing equipment capable of providing for the following services:

1. Recovery trucks with an adjustable boom with at least eight ton lifting capacity.
2. Wheel lift towing.
3. Roll back/flatbed towing.
4. Towing in parking garages.
5. Towing from off-road areas.
6. Towing of large and oversized vehicles.
7. Towing of motorcycles without causing additional damage.

B. All tow trucks shall be equipped as provided in the California Vehicle Code.

C. Official police tow services shall, at all times, have at least three fully equipped and operational tow trucks in service. All of the tow trucks in service must have a minimum capacity of 14,000 GVW. At least one of the tow trucks in service must be a flatbed tow

truck. At least one of the three tow trucks in service must have a eight ton lifting capacity.

D. Every official police tow service shall be equipped for and have personnel proficient in unlocking locked vehicles where practicable when requested to do so by Police Department employees.

Standard Rules of Operation

A. All requests for non-consensual vehicle towing service on city or public property, including public rights-of-way, and the removal of traffic hazards shall be made through the Police Department.

B. Official police tow service provider's business office shall be located within the provider's storage yard and attended at all times for servicing the public and the City from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for the holidays of January 1, known as New Years Day; third Monday in January, known as Dr. Martin Luther King Jr.'s Birthday; third Monday in February, known as Washington's Birthday/President's Day; last Monday in May, known as Memorial Day; July 4, known as Independence Day; first Monday in September, known as Labor Day; the second Monday in October, known as Columbus Day; November 11, known as Veteran's Day; fourth Thursday in November, known as Thanksgiving Day; and December 25, known as Christmas Day. If January 1, July 4, November 11 or December 25 fall upon a Sunday, the Monday following is a holiday and if they fall upon Saturday, the preceding Friday is a holiday. Official police tow service providers may make an additional charge for after normal business hours release of vehicles consistent with the guidelines or provisions of the Council resolution establishing fees and charges for tow services.

C. General Rules of Operation.

1. Official police tow service provider must be available to promptly respond twenty-four hours a day, seven days a week for all requests by the City for towing services.
2. Official police tow service provider shall release vehicles stored or impounded by the Police Department, pursuant to authorization provided by appropriate employees of the Police Department. Such authorization shall be in writing on a form provided by the Police Department or may be given verbally by employees authorized by the Department to provide verbal releases.
3. All vehicles stored or impounded as a result of a tow ordered by the Police Department shall be made available during business hours to the owner of the vehicle or his representative, or any authorized insurance agent, insurance adjuster, or any body shop or car dealer, for the purpose of estimating or appraising damages, except vehicles with a "police hold."

D. Removing Hazards. After being dispatched by the Police Department to the scene, the official police tow service provider shall cooperate with the police officers in removing hazards and illegally parked vehicles as requested. It is the duty of the police officers to determine when such vehicle should be impounded or moved, and the tow truck attendant shall abide by their decisions.

E. The owners of an official police tow service provider participating in towing assignments by the Police Department shall be responsible for the acts of their employees while on duty. Each official police tow service provider shall be responsible for damage to vehicles while in its possession caused by the active or passive negligence of the official police tow service

provider.

F. Access to Provider's Facilities.

1. All official police tow service providers' records, equipment, and storage facilities will be subject to periodic checks by Police Department or other City investigators during normal business hours.
2. Throughout the term of this agreement, every official police tow service provider shall maintain all offices, storage facilities and equipment in a neat, clean and organized manner.
3. Every official police tow service provider shall provide access to employees of the City at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this agreement are being fulfilled.

G. Each official police towing service provider shall record its time out and its time in or the end of service on every tow truck assignment. Such records shall be available and open to City examination.

H. All official police towing service providers shall submit a monthly report to the Chief of Police and Finance Director, which shall include the following:

1. Total police impounds;
2. Number of times dispatched by Palm Springs Police Department;
3. Number of dispatch calls resulting in impounds;
4. Number of vehicles sold on lien sale under authority of Civil Code Section 3072, as may be amended from time to time;
5. Number of vehicles sold under authority of Civil Code Section 3073, as may be amended from time to time;
6. Certification of (a) the availability of the names and addresses of buyers and description of vehicles when sold and (b) that such names, addresses, and descriptions are available for inspection by the Chief of Police and the Finance Director.
7. Number of calls answered in which time beyond one hour was required to handle.

I. All official police towing service providers shall comply with the following communications requirements:

1. Official police tow service provider shall maintain a twenty-four (24) hour per day telephone service to receive calls from the public.
2. Official police tow service provider shall require the answering service to retain data and records relating to the City's requests for towing services on premises for the term of the contract.
3. Official police tow service provider shall require the answering service to promptly accept and relay requests for towing services made by the City. Failure or refusal to promptly relay the City's requests for towing services shall constitute failure to comply with the requirements, terms and conditions of this agreement and may result in suspension or termination of the agreement.
4. Official police tow service provider shall install and maintain at all times during the length of this agreement, communications between their tow vehicle(s) and the official answering service. This communication may be either by two-way radio or cellular telephone.

5. Official police tow service provider shall maintain a twenty-four hour per day communication contact with their tow vehicle(s).

J. Official police tow service shall have a secure and environmentally safe vehicle storage facility with a minimum of fifteen thousand usable square feet.

1. The vehicle storage facility must be located within the corporate city limits of the City of Palm Springs.
2. The vehicle storage facility must be completely enclosed by a six foot high wall or fence with no holes, gaps or other unsecured openings, and a gate. The wall or fence shall have two or more strands of barbed wire installed in such a manner as to discourage access over the top of the wall or fence, or the wall shall be a minimum of eight feet in height without barbed wire. All gates into the storage yard shall meet the same standards required of the wall or fence. Any damage to walls, fences or gates which allows unauthorized access must be repaired within twenty-four hours.
3. The vehicle storage facility shall have adequate lighting, and comply with all applicable building codes, zoning regulations, environmental laws and regulations, and any and all the applicable laws, rules and regulations established by federal, state, county and/or city governments.
4. No official police tow service provider shall perform any work in the vehicle storage facility upon any vehicle stored or impounded by the Police Department without first obtaining authorization from the Police Department and the Registered Owner of the vehicle.
5. Official police tow service provider shall not dispose of any impounded vehicle, through any process whatsoever, without first obtaining authorization from the Police Department. Nothing herein shall be deemed to prevent or prohibit the official police tow service provider from commencing the lien sale process on any such impounded vehicle.

K. Official police tow service providers shall abide by all federal, state, and local laws pertaining to the disposal of unclaimed vehicles and shall not use any vehicle stored or impounded as a result of tow ordered by the Police Department for any purpose except as expressly authorized under the agreement.

L. All vehicles stored or impounded as a result of a tow ordered by the Police Department shall be towed directly to an official storage lot unless the Police Department or other person legally in charge of the vehicle requests that it be taken to some other location. Vehicle release fees shall be established by resolution of the City Council.

Additional Storage Operation terms, conditions and requirements:

Operator shall be responsible for all vehicles stored by the Operator, together with all accessories and equipment on each vehicle and all personal property in each vehicle. It shall be Operator's responsibility to protect the stored equipment and property against loss or damage by fire, theft, weather or other causes. In the event of loss or damage to a stored vehicle, its accessories or equipment, or personal property contained in the vehicle, the Operator shall be responsible to the owner for all losses or damages. Personal property in vehicles stored by Operator shall not be disposed of to defray any charges for the towing or storing of a vehicle; and, if not called for by the owner within thirty (30) days after date of notice by PSPD of impound or storage, all such property shall be disposed of in accordance with all State, County and Municipal laws, statutes, ordinances and regulations, including without limitation, Vehicle Code Section 10652 (reporting storage of

vehicles over thirty days).

Operator shall take all reasonable precautions required by the PSPD to avoid damage to any evidence, such as fingerprints or stains. Operator shall take whatever actions and precautions necessary to protect the engines, trunks and interior areas of all stored or impounded vehicles against the elements by rolling up windows, closing doors, trunk lids and hoods, and, if necessary, covering the vehicle or parts thereof exposed to the weather with plastic, canvas or other waterproof covering. Operator shall park all stored or impounded vehicles in such a manner as to prevent any damage while other vehicles are being moved or parked in the vicinity of said vehicles.

Response to Calls:

A. Each official police tow service provider shall be placed on a "rotation list" in an initial order to be determined by the Police Chief. The rotation list shall be used whenever a driver or owner of a disabled vehicle is unable to specify a particular garage or tow service, or whenever a Police Department employee stores or impounds a vehicle and the driver or owner is not present or is not consulted.

B. Official police tow service providers shall be called, in turn, in response to a Police Department request. Whenever any official police tow service provider cannot, for any reason, respond any equipment needed to accomplish the requested service within the response time specified herein, the official police tow service provider shall be passed over and the next company on the rotation list will be called. The official police tow service provider shall become eligible to provide service again only in its next turn in rotation. Whenever a Police Department employee determines that an emergency exists because an official police tow service provider is unable, for any reason, to provide adequate tow service, the Police Department employee shall have the right to have such services performed by any other means available. In the event a Police Department employee cancels a rotation tow due to no fault on the part of a provider, such provider shall be placed on the top of the rotation list for the next requested tow.

C. When an Operator will be temporarily unavailable to provide services due to a preplanned/scheduled activity (i.e.: vacations, maintenance, medical leave) he/she shall notify the PSPD at least 24 hours prior to the date that services will be unavailable, noting the times and dates of the unavailability.

D. Operator, or his/her employee(s) responding to a PSPD call, shall perform the towing or service required for which he/she was called. This requirement may be waived by the PSPD officer in charge, if the requested equipment is inadequate for the service to be performed; provided, however, if an Operator supplies the wrong equipment, such Operator shall be placed upon the bottom of the PSPD Rotation list.

E. Operator shall not respond to a PSPD call assigned to another Operator unless requested to do so by the PSPD. If an Operator assigned the initial PSPD call requires the assistance of an additional Operator at the scene, the Operator assigned the initial call may, subject to the prior approval of the PSPD officer in charge, request the Operator next on the PSPD Rotation list to assist him/her.

Response time:

A. When it becomes evident that there will be a delay in responding to a request for towing service, the official police tow services provider shall advise the Police Department of this

delay and the reason for the delay.

B. Each official police tow services provider agrees that, for any thirty day period, the average response time pursuant to requests for tow service by the Police Department, shall not exceed fifteen minutes. Each official police tow service provider also agrees that the maximum response time for any single request for tow service by the Police Department shall not exceed twenty minutes. Response time is defined as the elapsed time between the relaying of the tow service request to the tow service provider and arrival of the tow vehicle on the scene.

Driver Qualifications and Public Demeanor:

The Operator shall ensure that tow truck drivers responding to calls initiated by the PSPD are qualified and competent employees of his/her company. The Operator shall ensure that the tow truck drivers are at least 18 years old and are properly licensed and have all necessary certificates required by the State of California to operate a tow truck. All tow truck owners shall be trained and proficient in the use of the tow truck and related equipment, including, but not limited to, the procedures necessary for the safe towing and recovery of the various types of vehicles serviced through PSPD rotation. The Operator shall ensure that each tow truck driver and employee providing dispatch services for Operator participate in one (1) customer service training offered by, but not limited to, a local community college or tow industry association at least once every other year.

The Operator shall provide to the PSPD a Form 234F for each tow truck driver to be utilized in the PSPD tow program.

While involved in PSPD rotation tow operations or related business, the Operator and/or his/her employees shall refrain from any act(s) of misconduct, to include, but not limited to, any of the following:

- 1) Rude or discourteous behavior.
- 2) Lack of service, selective service, or refusal to provide service which the Operator, is/should be capable of performing.
- 3) Any act of sexual harassment or sexual impropriety.
- 4) Unsafe driving practices.
- 5) Exhibiting any objective symptoms of alcohol and/or drug use.
- 6) Appearing at the scene of a PSPD rotation tow call with the odor of an alcoholic beverage emitting from his/her breath. The Operator/tow truck driver shall submit to a preliminary alcohol screening test upon demand of the PSPD.

At the sole discretion of the Police Chief or his designee, non-compliance with this section may constitute grounds for disciplinary action.

Rates for Service:

The City Council establishes the tow fee schedule by resolution. The current fees, which are subject to change, are \$150 per tow and \$50 per day storage.

Insurance:

The Operator shall maintain the following minimum levels of insurance from an insurance carrier admitted in California or admitted in the state in which the Operator's business is located and is authorized to do business in California in a form and content satisfactory to the City:

- 1) Commercial Business Automobile Liability as required by Vehicle Code Section 16500.5. Bodily injury and property damage with a combined single limit of not less than \$750,000 for Class A tow trucks. The combined limits for Classes B, C, and D shall not be less than \$1,000,000. These minimum standards are to include non-owned and hired auto coverage.
- 2) Uninsured Motorist - Legal minimum, combined single limit.
- 3) On-Hook Coverage/Garage Keepers Legal Liability Insuring the vehicle in tow which limits based on the size of the tow truck:
 - a) Class A tow truck \$50,000
 - b) Class B tow truck \$75,000
 - c) Class C tow truck \$150,000
 - d) Class D tow truck \$150,000
- 4) Garage Liability Insurance, including premises and operations coverage for bodily injury and property damage with a combined single limit of not less than \$500,000.
- 5) Workers' Compensation Insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Operator and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Operator in the course of carrying out the work or services contemplated in this Agreement.
- 6) Garage Keepers Liability - Shall be the same minimum as on-hook coverage for vehicles in the care, custody, and control of the operator in the storage yard.

No work or services under this Agreement shall commence until the Operator has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. All of the above policies of insurance shall be primary insurance and shall name the City, its officers, employees and agents as additional insured in accordance with a standard ISO additional insured endorsement form. The insurer shall waive all rights of subrogation and contribution it may have against the City, its representatives, officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days prior written notice by registered mail to the city. In the event any of said policies of insurance are cancelled, the Operator shall, prior to the cancellation date, submit new evidence of insurance to the City.

Those tow truck operators removing a vehicle from a hazardous materials incident to the nearest

reasonable and safe stopping location will be considered to be transporting property subject to normal minimum insurance requirements of Section 34631.5 of the Vehicle Code.

Business Records:

The Operator shall maintain records, at his/her place of business, relating to tow services furnished under this Agreement, including a description of vehicles, nature of service, tow truck driver's name, start time, end time, location of call, and itemized costs of towing and storage.

The Operator shall also maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, FCC licensing, and non-PSPD tows.

The PSPD, or other City staff as may be designated by the Police Chief, may inspect all Operator records without notice during normal business hours.

Operators shall permit the PSPD to make copies of business records at their place of business, or to remove business records for the purpose of reproduction. The PSPD shall provide a receipt for any (original) records removed from the place of business.

Records shall be maintained and available for inspection for a period of two years beyond the expiration date of the original Agreement and any extension(s) thereof.

Administrative Cost Recovery for Vehicle Towing.

The City establishes a vehicle towing administrative cost recovery fee for the City's administering the official police tow services providers' agreement and operating a vehicle towing program ("VTACR fee") in an amount as adopted by the Council by resolution. The current VTACR fee, which is subject to change, is one hundred thousand dollars (\$100,000), and will be divided equally between the number of official police tow service providers selected. For example, if four police tow service providers are selected, the fee for each provider will be \$25,000.

VTACR Fee - Establishment and Payment.

A. An official police tow services provider shall, prior to or at the time the agreement with the City is entered into, and on the annual anniversary of the date the agreement was entered into, pay the VTACR to the City. In lieu of an annual payment as required under this Section, the annual fee may be divided into twelve installments with the first payment being due and payable prior to or at the time the agreement is entered into and with each successive installment being due and payable on the first day of each successive month thereafter.

B. By resolution, the City Council shall establish or modify the amount of the VTACR Fee, basing it on the actual and reasonable costs to the City, including administration and overhead, for administering the official police tow services providers' agreement and operating the vehicle towing program.

C. To reflect cost-of-living changes and to ensure that changing economic conditions do not impair the real value of the fees and charges under this Chapter, on July 1 of each year the

Chief of Police shall:

1. Review the VTACR Fee; and
2. Adjust the VTACR Fee upward or downward by the same percentage increase or decrease, occurring during the previous twelve (12) months, in the consumer price index for all urban consumers ("CPI-U") for the San Bernardino-Palm Springs Metropolitan Area (published by the Bureau of Labor Statistics, U.S. Department of Labor), or applying a similar index if the CPI-U is not published or available, to the nearest one dollar (\$1.00).

C. In addition to adjusting the fees and the charges for cost-of-living changes under Section 11.82.150(B), the Chief of Police shall recommend, with the City Manager's approval, that the City Council revise the fees and the charges when a change in the cost of either administering the official police tow services providers' agreement or operating the vehicle towing program makes the revision appropriate.

D. The Chief of Police may prepare, adopt, amend and enforce rules, regulations or procedures for calculating, collecting, paying and administering the fees and charges under this Chapter.

E. A copy of the resolution establishing the current fees and charges under this Chapter will remain on file and will be available for inspection in the police department.

Minimum Performance Standards:

- Timely payment to City of VTACR Fee;
- Timely submission of all required monthly reports;
- No more than 3 "passes" on tow assignments within a single calendar month;
- Ability to maintain an average response time of 15 minutes or less;
- Successful re-inspection of equipment and facilities;
- Random audit of 30 tow invoices with an error rate of less than 10%;
- Complaint ratio of not more than 1% of all tow requests.

Term:

The term of official police tow truck service agreements shall be three (3) years with two (2) one (1) year renewal options at the sole discretion of the City.

Form of Agreement:

Each official police tow services provider shall enter into a written agreement with the City, which agreement shall contain eligibility requirements, operating regulations, fee schedules, and service requirements as adopted by the City Council. The agreement, in a form that the City Attorney approves, must include at least the following provisions:

1. Minimum requirements and performance standards for equipment, facilities, personnel (including background checks where appropriate), and services;
2. Procedures for handling and protecting vehicles in the official police tow services provider's care, custody, or control;
3. Conditions for releasing vehicles;
4. Maximum allowable rates and charges;

5. An indemnification provision satisfactory to the City Attorney;
6. Minimum insurance coverages and amounts, satisfactory to the City's Risk Manager or the City Attorney;
7. The term of the agreement and grounds for its suspension, termination, or cancellation.
8. Terms and provisions for payment of the vehicle towing administrative cost recovery fee as required in Chapter 11.82 of the Municipal Code.