

AGREEMENT BETWEEN THE CITY OF HUNTINGTON BEACH
AND BEST TOWING, LLC., FOR
POLICE DIRECTED TOWING AND STORAGE SERVICES

This Police Directed Towing And Storage Agreement ("Agreement") is made and entered into this day of March 1, 2018, by and between the CITY OF HUNTINGTON BEACH , a municipal corporation (hereinafter "City"), and BEST TOWING LLC., a CALIFORNIA CORPORATION (hereinafter "Tow Operator"), located at 7472 Warner Avenue, Huntington Beach, California 92647.

RECITALS:

WHEREAS, the City requires, from time to time, towing and storage services in connection with vehicles which have been determined to be a public nuisance pursuant to the Huntington Beach Municipal Code, or which are in violation of statutes and ordinances relating to parking, traffic, and law enforcement; and

The Tow Operator represents that it has the managerial and operating personnel and the facilities and equipment necessary to provide the required vehicle towing and storage services to the City pursuant the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained, the parties agree as follows:

1. SCOPE OF SERVICES.

The Tow Operator agrees to furnish towing and storage services to the City as generally described in the Recitals (which are incorporated herein by this reference), and more particularly described in the Tow Operator's proposal dated November 27th, 2017 and as further defined by this Agreement. Such services shall be performed in a prompt,

efficient, and orderly manner only after being notified by City's representative to commence towing of a vehicle.

2. DUTIES OF TOW OPERATOR.

A. The Tow Operator shall:

1. Respond to the location requested by the City within twenty (20) minutes of receipt of a call from City. If the Tow Operator is not able to respond within the aforementioned response time, the Tow Operator shall notify the City immediately of the expected time of arrival (ETA). If the ETA is unacceptable to the City, the City reserves the right to contact an alternate towing operator to provide the service.
2. Provide for the deployment of tow vehicles when special events occur in the City, such as Fourth of July, US Open, street fairs and/or parades as well as DUI check points, as requested by the City. The Tow Operator shall have the capability to tow up to 100 vehicles in a five (5) hour period for special events or DUI check points. The Tow Operator may utilize pre-approved subcontractors to tow up to 100 vehicles in a five (5) hour period for said special events or DUI check points. Such additional towing services will be coordinated by the City with the Tow Operator in advance. The City, at its sole discretion, may utilize tow services of any company for special events or DUI check points.
3. Not perform any work or services upon any towed and impounded vehicle without first obtaining the owner's written consent or as necessary for emergency or for security purposes. Any parts or accessories removed or

modified shall be listed on the itemized statement and the statement shall be stored in the Tow Operator's Business Office.

4. Not solicit or agree to make repairs on a towed and impounded vehicle(s) until the vehicle(s) has been released by the Police Chief, or his designee.
5. Secure and safeguard all vehicles and personal property received by the Tow Operator pursuant to this Agreement.
6. Not bill the City in excess of the rates established by Resolution of the City Council.

3. TOW OPERATOR VEHICLE STORAGE FACILITY AND OFFICE REQUIREMENTS.

A. The Tow Operator's vehicle storage facility (Storage Facility) shall hereby be designated as the City "Official Police Garage" and a "Designated Public Garage" and:

1. Be maintained within the City and be accessible 24 hours a day, 7 days a week, 365 days a year to accept vehicles towed pursuant to this Agreement. Lighting must be sufficient to afford easy visibility to all areas of the storage facility.
2. Have the capacity to store a minimum of 200 vehicles simultaneously.
3. Comply with all City, County and State laws including all permits, licenses or land use approval requirements of the City or any other Local, County, State or Federal Agency, including all City Zoning requirements.

4. Be completely enclosed and employ a security system. The security system shall be adequate to preclude theft, vandalism or damage of towed vehicles while stored at the Storage Facility. No towed vehicles shall be left parked or stored on the public streets or visible to the public at any time. Storage vehicles must be away from customer parking and the Tow Operator Office area. The Tow Operator must provide adequate parking for its equipment and be able to accommodate at least six (6) additional vehicles for customer parking.
5. Contain an enclosed protective storage garage capable of holding a minimum of three (3) vehicles that have been ordered impounded by the Police Department. Said protective storage garage shall be lockable and accessible to the Police Department on request. With the exception of private impounds, vehicles stored in said protective storage garage shall not be removed from storage until authorized by the Police Chief or his or her designee, in writing.
6. The Storage Facility shall be clearly marked with a telephone number to call if release is requested after normal working hours. Normal working hours shall be from 0800 hours to 1700 hours, Monday through Friday, except officially recognized holidays.
7. The Tow Operator may charge a reasonable gate fee for vehicle drop-off between 5:00 p.m. and 8:00 a.m. The Tow Operator shall

pay any third party tow operator for tow service within two (2) business days of receipt of a towed vehicle.

B. The Tow Operator shall maintain an Office within the Vehicle Storage Facility location and the Office shall:

1. Be posted with a sign listing the rates and charges of all towing and storage services offered. Such sign shall be conspicuously placed in the office or other places where customer financial transactions take place. The Sign shall include the company name, address, phone number and hours of operation, to be clearly visible from the roadway.
2. Be open and staffed with personnel able to conduct business Monday through Friday during normal business hours.

4. RELEASE OF IMPOUNDED VEHICLES.

A. The Tow Operator shall:

1. Release impounded vehicles only upon receipt of a Police Department Release signed by an authorized officer or employee of the City's Police Department.
2. Ensure that vehicles are available for release from impound and storage 24 hours a day, 7 days a week, 365 days a year.
3. Advise the Records Bureau of the Police Department of all vehicles impounded pursuant to this Agreement and not released thirty (30) days after the conclusion of the tow rotation. Tow Operator shall identify such vehicles by year, make, model, color,

license and vehicle identification number, and the Tow Operator shall notify the California Highway Patrol, Sacramento, California, by receipt mail of any vehicles towed pursuant to the California Vehicle Code.

4. At the request of the City, release any vehicle from storage and/or impound at no cost to the registered owner, unless such liability or responsibility has been acknowledged by the Police Chief, or unless such liability or responsibility is imposed by law.

5. TOW OPERATOR'S EQUIPMENT.

- A. The Tow Operator shall provide a minimum of six (6) tow vehicles with drivers permanently stationed in the City while the Tow Operator is engaged in providing service to the City pursuant to this Agreement. The Tow Operator's equipment shall include 2 flatbeds, 3 wheel lifts, and 1 tow vehicle with a GVWR of at least 14,000 lbs.
- B. The Tow Operator shall provide special tow vehicles to allow for the towing of unique vehicles or equipment, such as classic or luxury automobiles, and specialized types of vehicles such as motor homes, motorcycles and forklifts, boats or large trucks.
- C. The Tow Operator shall not use converted pick-up trucks or other vehicles not specifically designed by the manufacturer for towing other vehicles.
- E. The Tow Operator vehicles used in the performance of this Agreement shall contain radio communication equipment that complies with all FCC requirements. City radio frequencies shall not be used by the Tow

Operator. All communication equipment shall be purchased and maintained at the Tow Operator's expense.

- F. The Tow Operator vehicles must be well maintained and next to new in appearance, with the name, address and phone number of the Tow Operator's Huntington Beach location permanently affixed to the vehicle.
- G. The Tow Operator vehicles shall be equipped with a cable winch of sufficient size and capacity to retrieve vehicles that may have gone over embankments, or off traveled portions of roadways into inaccessible locations.
- I. The Tow Operator vehicles shall be equipped with the standard "tools of the trade" such as Slim Jim, dolly, etc.
- J. The Tow Operator's tow vehicles shall be rated, at a minimum, one ton capacity, and each vehicle shall be equipped, operated and maintained in compliance with the California Vehicle Code.
- K. The Tow Operator shall provide the Police Department immediate access to inspect vehicles, equipment and vehicle storage facilities.

6. TOW OPERATOR PERSONNEL.

- A. All Tow Operator personnel must maintain a valid State of California Driver's License at a class level to operate all vehicles and equipment used in the performance of the Agreement¹.
- B. The Tow Operator shall provide all drivers engaged in operations pursuant to this Agreement, copies of the California Vehicle Code relating to

¹ Tow Operator personnel with existing unexpired records are not required to resubmit information until such time as records are expired.

vehicle towing and storage services. All personnel shall be trained in the proper and safe use of all towing equipment.

- C. All towing services performed under this Agreement shall be at the direction of a City representative if present at the scene.
- D. The Tow Operator's business operations shall be conducted at all times in an orderly, ethical and courteous manner. The Tow Operator shall use its best efforts to secure and maintain the confidence of vehicle owners and operators. Any complaints filed with the Police Department by a vehicle owner, operator or other patron, against the Tow Operator and/or employees, will be investigated by the City. At the conclusion of the investigation, a recommendation of action shall be forwarded to the Police Chief for action, including the recommendation of termination of this Agreement.
- E. All Tow Operator personnel in the field shall wear uniforms which bear the name of the individual and the Tow Operator in a conspicuous place on the uniform.
- F. Prior to commencing tow operations pursuant to this Agreement, all current (and future personnel) performing services under this Agreement, shall: (1) be fingerprinted and photographed by the Huntington Beach Police; and (2) submit the following information to the Huntington Beach Police Department:
 - 1. Name, date of birth, driver's license number, and residence address;

2. The business, occupation, or employment history for three (3) years immediately preceding the date of the application, including permit history; and
3. All criminal convictions or proceedings in which a plea of guilty or nolo contendere was entered, including Vehicle Code violations;

G. All Tow Operator personnel engaged in towing vehicles pursuant to this Agreement shall be fluent in English.

H. The Police Chief, at his or her sole discretion, may refuse to allow the Tow Operator personnel to perform services pursuant to this Agreement. The Police Chief will refuse to allow the Tow Operator personnel with bad moral character, intemperate habits or a bad reputation for truth, honesty or integrity, including making a material misrepresentation in a job application or committed, aided, or abetted in the commission of any act, or act of omission, which if committed would be grounds for suspension or revocation of this Agreement. No Tow Operator employee shall perform services pursuant to this Agreement unless they are over eighteen (18) years old.

7. ROTATING SCHEDULE FOR SERVICE CALLS.

A. If the City utilizes vehicle towing and storage services in addition to those provided by the Tow Operator, City shall use its best efforts to assign

requests for towing services on the 15th and last day of the month on a rotating schedule.

- B. The City reserves the right to use any towing and storage services in the event of any emergency or calamity or when the Tow Operator services are unavailable for any reason.

8. TERM OF AGREEMENT.

The term of this Agreement shall commence on April 1, 2023, and shall continue for a period not to exceed five (5) years or upon termination by either party, whichever occurs first. Performance under this Agreement shall not commence until the Tow Operator has satisfied all obligations contemplated in this Agreement.

9. TERMINATION.

The City reserves the right to terminate this Agreement in the event of a breach of any material term of this Agreement, which breach is not cured following written notice and a reasonable opportunity to cure.

10. PROCEDURE FOR TERMINATION IN THE EVENT OF BREACH.

Prior to termination of the Agreement, the Police Chief shall give the Tow Operator notice in writing of the breach and a reasonable period to cure. The opportunity to cure period shall be a minimum of thirty (30) days (except in cases of emergency where a shorter time may be prescribed consistent with the nature of the emergency). If the breach is not timely cured, the Tow Operator will be considered in breach of this Agreement and the Police Chief may recommend to the City Council termination of this Agreement.

11. FORCE MAJEURE; TOW OPERATOR'S INABILITY TO PERFORM.

In the event the Tow Operator's performance of any of the terms, conditions or obligations of this Agreement is prevented by an occurrence beyond the Tow Operator's reasonable control, such inability to perform shall not be deemed a breach. The Tow Operator shall notify City in writing within thirty (30) days of its discovery of the occurrence or may be deemed in breach. In such an instance, the Tow Operator shall have reasonable time, under the circumstances, to perform in a manner satisfactory to the City. For the purpose of this Section, causes or events not within the control of the Tow Operator shall include, but not be limited to, acts of God, strikes, sabotage, riots or civil disturbances, epidemic, labor disputes, freight embargoes, explosions, natural disasters such as floods, earthquakes, landslides and fires, rationing, and power or communications failures. Inadequate finance or lack of regulatory (including obtaining and maintaining necessary permits or licenses) approval or the right to use the facilities of any public utility shall not excuse performance and will be considered breach.

12. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES.

The Police Chief, or his designee, shall be responsible for the administration of this Agreement. The Police Chief may issue to the Tow Operator direction concerning policies and procedures to be implemented in connection with the towing and storage of vehicles pursuant to this Agreement.

In the event of dispute between the Tow Operator and the City as to the nature and extent of the services to be performed, or the level and manner of performance, the Police Chief, or his designee, shall make the final and conclusive determination which shall be binding on the Tow Operator.

Formal notices, demands and communications by either party shall be made in writing and may be effected by personal delivery or by mail. The representatives of the respective parties who are authorized to administer this Agreement, and to whom formal notices, demands and communications shall be given are as follows:

To CITY:

Police Chief
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

To TOW OPERATOR:

Best Towing, LLC.
John C. Vaughan
7472 Warner Ave
Huntington Beach, CA 92647

If the name of the representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice thereof shall be given within five (5) working days of said change.

13. TRANSFER OF OWNERSHIP.

Except as provided herein, the Tow Operator shall not sell or transfer any rights or obligations under this Agreement without the prior written authorization of the Police Chief.

14. INDEPENDENT CONTRACTOR STATUS.

The Tow Operator is, and shall be, acting at all times in the performance of this Agreement as an independent contractor herein and not as an employee of City. The Tow Operator shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for the Tow Operator and its officers, agents and employees, and all business licenses, if any, in connection with the services to be performed hereunder.

15. RATES, FEES AND CHARGES.

- A. The Tow Operator shall be responsible for all costs, charges or expenses incurred by the Tow Operator pursuant to the terms of this Agreement unless such liability or responsibility is imposed by law on another party.
- B. The rates, fees and charges imposed by the Tow Operator for towing or storing any vehicles pursuant to the terms of this Agreement shall not exceed those which are at any time approved by Resolution of the City. The City shall adjust the fees set forth in the Resolution and such fees shall increase pursuant to this Agreement based upon the change in the Metropolitan Consumer Price Index for the Los Angeles-Riverside-Orange County, California, area during the preceding year by such percentage change. The adjusted fee amount shall be rounded to the next highest dollar, and this amount shall constitute the fee authorized by Huntington Beach Municipal Code Chapter 5.66.
- C. Rates, fees and charges shall be posted in a conspicuous location at the Tow Operator's place of business and may be collected by the Tow Operator from a vehicle owner or property owner at the time the vehicle or property owner desires the release of the vehicle from the Tow Operator's storage facilities.
- D. Should there be any dispute between the Tow Operator and a vehicle owner or property owner regarding rates, fees and charges for services rendered pursuant to this Agreement, such dispute shall be resolved by the Police Chief, or his duly authorized representative. The Tow Operator

shall make no demands upon the vehicle owner or property owner for a sum in excess of the amount determined to be reasonable by the Police Chief, or his authorized representative.

E. The Tow Operator shall furnish to the person subject to towing, or his or her agent, an itemized statement of services performed, including labor and special equipment used in towing the vehicle and the charges made therefor upon the request of:

1. The registered owner; or
2. The legal owner; or
3. The insurance carrier of either (a) or (b); or
4. The duly authorized agent of any of the foregoing.

The Tow Operator shall furnish a copy of such statement without demanding payment as a condition precedent.

16. LETTER OF CREDIT.

- A. The Tow Operator (Applicant) shall establish irrevocable letter of credit (or similar instrument guaranteeing performance of this Agreement if preapproved by the City) with an issuing bank approved in advance by the City, naming the City as the beneficiary, in the sum of \$50,000.00 and in the form approved by the City Attorney. The letter of credit shall serve as security for the faithful performance by the Tow Operator of all the provisions and obligations of the Agreement.
- B. If within thirty (30) days following receipt of written notice from the City of the Tow Operator's failure to provide service or pay City an amount

owing under this Agreement, the letter of credit may be called by the City upon five (5) days prior written notice to the Tow Operator indicating the intention of the City to draw upon the letter of credit, the amount to be drawn and the reason therefor.

- C. The Tow Operator shall deposit a sum of money sufficient to restore the letter of credit to the original amount within thirty (30) days after notice from City that an amount has been withdrawn from the letter of credit, specifying the date and amount of the withdrawal.

17. ALTERNATIVE REMEDIES.

Remedies provided for in this Agreement are cumulative and in addition to other rights the City may have at law or equity or under this Agreement. In no event shall the amount of any insurance, bond or letter of credit be construed to limit the Tow Operator's liability for damages.

18. REGULATION.

The Tow Operator shall comply with all Federal, State and Local statutes and ordinances, shall make all reports required by the Vehicle Code of the State of California, and shall follow all reasonable rules and regulations which the Police Chief of the City may from time to time prescribe governing the conduct of the Tow Operator's operations under this Agreement.

19. RECORD KEEPING AND REPORTING.

Tow Operator shall keep records of all tow operations, financial or otherwise conducted pursuant to this Agreement. In part, the Tow Operator shall record the following:

Time a call for towing was received, the location of call, the license number of the vehicle, the make and model of vehicle, the date of release, the person or firm to whom released, the charges imposed and Police case number, if assigned.

Said reports shall be submitted in writing to the City upon request in a form acceptable to the City. The Tow Operator shall provide access to all records maintained regarding this Agreement to the City upon demand for auditing purposes.

20. CITIZEN COMPLAINTS.

- A. Except as provided in Section 15, The Tow Operator shall establish written procedures for receiving, acting upon and resolving citizen complaints without intervention by the City consistent with the Tow Operator's complaint handling procedures which shall be designed to accomplish the following:
 - 1. Receipt and acknowledgment of any complaint made in person or by telephone within twenty four (24) hours, regardless of the time the complaint is made.
 - 2. Acknowledgment of any complaint received by mail at the Tow Operator's office within ten (10) business days of the date such complaint is made.
- B. In the event of a dispute between the citizen and the Tow Operator regarding the bill, the Tow Operator shall promptly investigate the dispute and report the results to the subscriber. In the event the dispute is not resolved to the citizen's satisfaction, the Tow Operator shall provide in writing to the City its complaint procedures.

C. The Tow Operator shall respond within two business days to complaints made to or referred by City.

21. WORKER'S COMPENSATION INSURANCE.

Pursuant to *California Labor Code* Section 1861, the Tow Operator acknowledges awareness of Section 3700 *et seq.* of said Code, which requires every employer to be insured against liability for workers' compensation; the Tow Operator covenants that it shall comply with such provisions prior to commencing performance of the work hereunder.

The Tow Operator shall maintain workers' compensation insurance in an amount of not less than One Hundred Thousand Dollars (\$100,000) bodily injury by accident, each occurrence, One Hundred Thousand Dollars (\$100,000) bodily injury by disease, each employee, Two Hundred Fifty Thousand Dollars (\$250,000) bodily injury by disease, policy limit.

The Tow Operator shall require all subcontractors to provide such workers' compensation insurance for all of the subcontractors' employees. The Tow Operator shall furnish to City a certificate of waiver of subrogation under the terms of the workers' compensation insurance and the Tow Operator shall similarly require all subcontractors to waive subrogation.

22. INSURANCE.

In addition to the workers' compensation insurance and the Tow Operator's covenant to indemnify City, the Tow Operator shall obtain and furnish to City:

A. A policy of general public liability insurance, including motor vehicle coverage covering the services. Said policy shall indemnify the Tow

Operator, its officers, agents and employees, while acting within the scope of their duties, against any and all claims of arising out of or in connection with the services, and shall provide coverage in not less than the following amount: combined single limit bodily injury and property damage, including products/completed operations liability and blanket contractual liability, of \$1,000,000 per occurrence. If coverage is provided under a form which includes a designated general aggregate limit, the aggregate limit must be no less than \$1,000,000. Said policy shall name City, its officers, and employees as Additional Insureds, and shall specifically provide that any other insurance coverage which may be applicable to the services shall be deemed excess coverage and that the Tow Operator's insurance shall be primary.

- B. Automobile liability insurance covering all vehicles used by the Tow Operator to fulfill the herein Agreement, with minimum limits of liability of One Million Dollars (\$1,000,000) combined single limit coverage against any injury, death, loss or damage due to wrongful or negligent acts or omissions by the Tow Operator and/or his employee and/or sub-tow operators.
- C. On Hook Liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000).
- D. Garage keeper's liability insurance with minimum limits of One Million Dollars (\$1,000,000).

All insurance required hereunder shall be issued by a company rated “A” or better in Best’s Key Rating Guide and authorized to transact business in the State of California as an admitted surety insurer.

23. CERTIFICATE OF INSURANCE.

Prior to commencing performance of the work hereunder, the Tow Operator shall furnish to City certificates of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverages as required by this Agreement; said certificates shall provide the name and policy number of each carrier and policy, and shall state that the policy is currently in force and shall promise to provide that such policies shall not be canceled or modified without thirty (30) days prior written notice to City. The Tow Operator shall maintain the foregoing insurance coverages in force until the work under this Agreement is fully completed and accepted by City.

The requirement for carrying the foregoing insurance coverages shall not derogate from the provisions for indemnification of City by the Tow Operator under this Agreement. City or its representative shall at all times have the right to demand the original or a copy of all said policies of insurance. The Tow Operator shall pay, in a prompt and timely manner, the premiums on all insurance herein above required.

24. INCREASE IN COVERAGE.

Nothing contained in this Agreement shall preclude the City from requiring the Tow Operator to increase the amounts of insurance coverage specified herein, or to obtain and maintain other types of insurance coverage, in order to protect the interests of the City and its vehicle owners and operators. The Tow Operator shall comply with such

new or additional requirements within a reasonable time after receipt of City's written request or the City may terminate this Agreement.

25. INDEMNIFICATION.

The Tow Operator hereby agrees to protect, defend, indemnify and hold harmless City, its officers, elected or appointed officials, employees, agents, and volunteers from and against any and all, claims, damages, losses, expenses, judgments, demands for defense costs, and consequential damage or liability of any kind or nature, however caused, including those resulting from death or injury to the Tow Operator's employees and damage to the Tow Operator's property, including failure to give the notice referred to in Section 10652 of the California Vehicle Code, arising directly or indirectly out of the obligations or operations herein undertaken by the Tow Operator, caused in whole or in part by any negligent act or omission of the Tow Operator, any sub-tow operators, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including but not limited to current active or passive negligence, except where caused by the active negligence, sole negligence, or willful misconduct of the City. The Tow Operator shall conduct all defense at its sole cost and expense and City shall approve selection of the Tow Operator's counsel. City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing this obligation. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Tow Operator.

26. SUBCONTRACTING, DELEGATION AND ASSIGNMENT.

- A. The Tow Operator shall not delegate, or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of the Chief of Police. Failure to receive prior approval shall be grounds for immediate termination of this Agreement at the option of the City Council.
- B. The Tow Operator may use subcontractors only after receiving written approval from the City.
- C. Any authorized assignment, delegation or subcontract shall be made in the name of the Tow Operator and shall not bind or purport to bind the City and shall not release the Tow Operator from any obligation under this Agreement.

27. COMPLIANCE WITH STATE LAW.

- A. Notwithstanding the requirement to comply with all Federal, State and City laws, the Tow Operator shall comply with Sections 22523, 22524, 22669, 22670, 22671, and 22850 through 22856 of the Vehicle Code which relate to the removal, storage and disposition of abandoned vehicles and liens of garage keepers.
- B. The Tow Operator shall keep fully informed of and comply with all City, County, State and Federal laws, ordinances and/or regulations which are applicable to the Tow Operator and/or those engaged or employed by the Tow Operator in doing the services to be provided by the Tow Operator pursuant to the herein agreement, including but not limited to the handling

of vehicles, lien sales with outstanding parking penalties, owner notifications, removal, storage and disposition of abandoned vehicles, etc.

- C. The Tow Operator shall obtain and maintain all permits and licenses, pay all charges and fees, and give all notices required by any Federal, State law or City ordinances or other laws relating to the performance of this Agreement.

28. NON-DISCRIMINATION.

- A. In the performance of this Agreement, the Tow Operator shall not discriminate against any member of the public, employee, sub-tow operator, or applicant for employment because of race, color, religion, ancestry, sex, national origin, handicap or age. The Tow Operator shall take affirmative action to ensure that members of the public are served, sub-tow operators and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin or age.
- B. The provisions of Paragraph A above shall be included in all solicitations or advertisements placed by or on behalf of the Tow Operator for personnel to perform any services under this Agreement. City shall have access to all documents, data and records of the Tow Operator and its sub-tow operators for purposes of determining compliance with the fair employment and non-discrimination provisions of this Section.

29. PERMITS AND LICENSES.

The Tow Operator shall obtain and maintain during the term of this Agreement all necessary licenses, permits and certificates required by law for the conduct of the Tow Operator's activities and for the provision of services hereunder, including a business license issued by the City.

30. ADVERTISING.

The Tow Operator shall not display or use any signs, advertising materials, logos, etc., which indicate that the Tow Operator is an official towing service for the City of Huntington Beach without written authorization of the City. A designation of "Official Police Tow" or similar language is not acceptable without prior written consent.

31. CONFLICT OF INTEREST.

The parties agree that, to their knowledge, no member of the City Council, officer or employee of the City has any interest, whether Agreement, financial or otherwise in this transaction, or in other business of the Tow Operator, and that if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of all such information shall be made in writing to the other party, even if such interest would not be considered a conflict of interest under applicable laws. The Tow Operator covenants that it has, at the time of execution of this Agreement, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner with the performance of services required hereunder. The Tow Operator further covenants that, in the performance of the services hereunder, no person having any such interest shall be engaged or employed.

32. RESOLUTION OF DISPUTES.

- A. Disputes regarding the interpretation of application of any provisions of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between parties.
- B. Disputes regarding the precipitating cause for any removal, seizure or impound of a vehicle directed by the Police Department shall, to the extent feasible, be resolved by the Police Department Station Commander pursuant to the California Vehicle Code commencing with Section 22650 thereof. This section shall not apply to disputes concerning removal of vehicles pursuant to Sections 22660 through 22668, inclusive, and Sections 22655, 22658, or 22710 of the California Vehicle Code. Those disputes shall be referred to the attention of the Police Department Station Commander by the aggrieved party within ten (10) days after the disputed removal, seizure or impound. A hearing shall be conducted by an authorized member of the City's Police Department within forty-eight (48) hours. The Tow Operator shall abide by the decision rendered.

33. AGREEMENT NON-EXCLUSIVE.

The City reserves the right to Agreement for towing and storage with more than one Tow Operator.

34. AMENDMENTS.

This Agreement supersedes all prior proposals, agreements and understandings between the parties and may not be modified or terminated orally, and no modification,

termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

35. GOVERNING LAW.

This Agreement shall be governed by the laws of the State of California.

36. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the nonprevailing party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized offices the day, month and year first above written.

BEST TOWING, LLC

By: Kelly Moses

print name

ITS: (circle one) Chairman/President/Vice President

By: David Moses

print name

ITS: (circle one) Secretary/Chief Financial Officer/Asst.
Secretary - Treasurer

REVIEWED AND APPROVED:

City Manager

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

David Moses

City Attorney

INITIATED AND APPROVED:

David Moses

Police Chief

BEST 67

CITY OF HUNTINGTON BEACH TOW RATE SCHEDULE

Drop Fee	\$104.00
Basic Tow	\$200.00
Heavy Duty	\$342.00
Flatbed	\$223.00
2ton	\$269.00
Dolly/Skids	\$81.00
Rollover Minimum	\$81.00
Drop Linkage	\$69.00
Clean Fee	\$81.00
Hazmat	\$160.00
Winching Per Hour	\$200.00
Private Property Impound	\$269.00
After Hour 5:00pm - Midnight	\$91.00
After Hour Midnight – 8:00am	\$125.00
Vehicles Outside- Per Day	\$69.00
Vehicle Inside- Per Day	\$81.00
Motorcycle Outside- Per Day	\$41.00
Motorcycle Inside- Per Day	\$51.00
Truck Or Motorhomes (Larger Than 20')	\$75.00
Vehicle Stored As Evidence- Outside	\$81.00
Vehicles Stored As Evidence- Inside	\$51.00
Motorcycles Stored As Evidence- Outside	\$29.00
Motorcycles Stored As Evidence- Inside	\$34.00
Mileage for towing outside of the City	\$12.00 per mile

*** Tow Operator to provide prompt invoicing within 30 days from date of service**

X Key Man

2023/2028 CONTRACT TOW ROTATION SCHEDULE

	2023	2024	2025	2026	2027	2028
12/31 to 1/15	BEST	MANDIC	BEST	MANDIC	BEST	MANDIC
1/15 to 1/31	MANDIC	BEST	MANDIC	BEST	MANDIC	BEST
1/31 to 2/15	BEST	MANDIC	BEST	MANDIC	BEST	MANDIC
2/15 to 2/28	MANDIC	BEST	MANDIC	BEST	MANDIC	BEST
2/28 to 3/15	BEST	MANDIC	BEST	MANDIC	BEST	MANDIC
3/15 to 3/31	MANDIC	BEST	MANDIC	BEST	MANDIC	BEST
3/31 to 4/15	BEST	MANDIC	BEST	MANDIC	BEST	MANDIC
4/15 to 4/30	MANDIC	BEST	MANDIC	BEST	MANDIC	
4/30 to 5/15	BEST	MANDIC	BEST	MANDIC	BEST	
5/15 to 6/30	MANDIC	BEST	MANDIC	BEST	MANDIC	
6/30 to 7/15	BEST	MANDIC	BEST	MANDIC	BEST	
7/15 to 7/31	MANDIC	BEST	MANDIC	BEST	MANDIC	
7/31 to 8/15	BEST	MANDIC	BEST	MANDIC	BEST	
8/15 to 8/31	MANDIC	BEST	MANDIC	BEST	MANDIC	
8/31 to 9/15	BEST	MANDIC	BEST	MANDIC	BEST	
9/15 to 9/30	MANDIC	BEST	MANDIC	BEST	MANDIC	
9/30 to 10/15	BEST	MANDIC	BEST	MANDIC	BEST	
10/15 to 10/31	MANDIC	BEST	MANDIC	BEST	MANDIC	
10/31 to 11/15	BEST	MANDIC	BEST	MANDIC	BEST	
11/15 to 11/30	MANDIC	BEST	MANDIC	BEST	MANDIC	
11/30 to 12/15	BEST	MANDIC	BEST	MANDIC	BEST	
12/15 to 12/31	MANDIC	BEST	MANDIC	BEST	MANDIC	



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/30/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Elite Commercial Insurance Services, Inc. P.O. Box 118 Somis CA 93066	CONTACT NAME: Cassaundra Evans PHONE (A/C, No, Ext): (805) 444-1425 FAX (A/C, No): E-MAIL: cevans@elitecommercialinsurance.com ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: AmGuard Insurance Company NAIC # 42390 INSURER B: Insurance Company of the West 27847 INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Best Towing & Transportation Service, LLC. DBA: Best Towing Service 7472 Warner Ave. Huntington Beach CA 92647	

COVERAGES

CERTIFICATE NUMBER: CL2333001440

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:	Y		K2GP424167	04/01/2023	04/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY	Y		K2GP424167	04/01/2023	04/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist BI \$ 60,000
	☐ UMBRELLA LIAB ☐ EXCESS LIAB ☐ OCCUR ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WVE 5006145 12	04/01/2023	04/01/2024	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	GARAGEKEEPERS LEGAL LIABILITY ON-HOOK / CARGO			K2GP424167	04/01/2023	04/01/2024	\$1,000,000 LIMIT \$500/\$2,500 DED \$200,000 LIMIT \$1,000 DEDS

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THE CITY OF HUNTINGTON BEACH, ITS OFFICERS, ELECTED OR APPOINTED OFFICIALS, EMPLOYEES, AGENTS AND VOLUNTEERS IS NAMED ADDITIONAL INSURED WITH RESPECTS TO GENERAL LIABILITY AND AUTO LIABILITY.

LOCATION: 7452-7472 WARNER AVENUE., HUNTINGTON BEACH, CA 92647 - \$1,000,000 GKLL LIMIT

CERTIFICATE HOLDER

CANCELLATION

CITY OF HUNTINGTON BEACH, ITS OFFICERS, ELECTED OR VOLUNTEERS 2000 MAIN ST. HUNTINGTON BEACH CA 92648	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Cassaundra Evans</i>
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