

AGREEMENT

This Tow Service Agreement sets forth the rules and regulations that a company shall comply with to receive a rotation tow listing with the Redlands Police Department (RPD). Participation in the RPD Rotation Tow Program is voluntary. Compliance with all of the terms and conditions of this Tow Service Agreement is mandatory for tow companies participating in the RPD Rotation Tow Program. An operator, by agreeing to participate in the program, is not acting as an agent for the RPD or the City of Redlands when performing services under this Agreement. For clarification purposes, definitions are contained in Attachment A to this Agreement. Attachment B contains a summarized listing of California Vehicle Code (CVC) and Civil Code laws applicable to all tow companies in the State of California. Attachment C contains a listing of tow truck equipment specifications and equipment use requirements applicable to all RPD rotation tow operators. Attachment D contains instructions for completing required application forms.

I. RPD ROTATION TOW

A. The RPD Police Commander shall determine the maximum response time, enrollment period, reasonable rates, minimum number of trucks and any applicable waiver of requirements.

1. Waiver of requirements shall be in effect no longer than six months following the application by, and acceptance of, an operator who meets all requirements of this Agreement. Upon expiration of the six-month period, operators who fail to meet the minimum requirements of this Agreement shall be terminated.

2. A waiver will not be granted for requirements based upon law or safety considerations.

II. ROTATION LISTS

A. The RPD maintains one rotation tow list for all classes of tow trucks to ensure an equitable distribution of calls.

1. Regardless of the class of tow truck utilized or responding to the call, charges shall not be more than for the class of vehicle towed or serviced, except when vehicle recovery operations require a larger class of tow truck.

2. A call to an operator shall constitute one turn on the list and the operator shall subsequently be moved to the bottom of the list. This includes when the operator fails to answer the phone, is unable to respond, is unable to perform the required service, refuses to respond or provide service, or is canceled due to excessive response time. If it is determined that the operator is not needed and is

canceled by the RPD, up to and including arrival at the scene, there shall be no charges and the operator will be placed back at the top of the list.

1. If the operator is canceled by the vehicle's owner or agent prior to the operator taking possession of the vehicle, there shall be no charges for towing. The operator shall immediately contact the RPD and advise the RPD of the cancellation. The operator will then be placed back at the top of the list.

2. If service, other than towing and recovery, has begun and is canceled by the vehicle's owner or agent, the operator may charge a minimum of one-half of the regular hourly service charge for the time expended on the call. For purposes of cancellation, service begins when physical work on the vehicle has begun, not at the time of response. No lien shall arise for the service unless the operator has presented a written statement to the vehicle's owner or agent for the signed authorization of services to be performed.

(a) The operator shall not take possession of any vehicle to establish a lien for any nontowing services performed, or begun and subsequently canceled, when not entitled to such lien by law. Refer to Civil Code Section 3068.1 for when a lien begins.

C. If two or more operators are called to the same incident, distribution of the vehicles shall be at the discretion of the RPD Incident Commander.

D. The RPD Incident Commander may direct a RPD rotation tow operator to move vehicles to help clear a roadway or for lifesaving operations. Operators shall provide the assistance as directed. There shall be no charge for this assistance, and the assistance provided shall not change the operator's place in the rotation.

E. An operator shall have a full service business office and storage facility located within the City of Redlands.

F. Operators applying for a rotation tow listing shall have a minimum of three (3) years verifiable for-hire-towing experience, as an owner or principal, prior to the final filing date of an enrollment period in order to qualify for a RPD rotation tow listing.

G. Ownership status will be investigated and determined by the RPD.

H. There shall be no more than three operators approved for the rotation tow listing.

III. TOW TRUCK CLASSIFICATIONS

A. An operator shall equip and maintain all tow truck(s) covered under this Agreement in accordance with the provisions set forth in the California Vehicle Code,

Title 13 of the California Code of Regulations, the specifications contained in this Agreement, and consistent with industry standards and practices.

1. Notwithstanding CVC section 615, all tow trucks shall have recovery capabilities, wheel lift capabilities, and a boom meeting the specifications contained in this Agreement. For the purpose of this Agreement, "a trailer for hire that is being used to transport a vehicle" shall not qualify as a primary tow truck for rotation tow lists.

2. An operator who has a car carrier may be exempted from the recovery, wheel lift, and boom capability requirements. However, the car carrier must be an additional unit.

B. A violation of the Gross Vehicle Weight Rating (GVWR) and safe loading requirements of a tow truck shall be cause for immediate suspension. This includes exceeding the tow truck's GVWR, front axle weight rating, rear axle weight rating, maximum tire weight ratings, or not maintaining 50% of the tow truck's unladen weight on the front axle when lifting/carrying a load.

C. There will be three classes of tow trucks covered under this Agreement:

1. Class A - Light Duty

(a) An operator shall maintain a minimum of five tow trucks which has a manufacturer's GVWR of at least 10,000 pounds. Class A equipment specifications can be found in Attachment C of this Agreement.

1. A "trailer for hire" shall not be approved for listing as a Class A tow truck.

2. Tow companies whose equipment had previously been approved and continuously used on rotation for the RPD and owned by the same operator, but do not have wheel lift capabilities, may apply for and receive a rotation tow listing.

2. Class B- Medium Duty

a. An operator shall maintain a minimum of one tow truck with a GVWR of at least 19,501 pounds. The truck shall be capable of providing and maintaining continuous air to the towed vehicle. Class B equipment specifications can be found in Attachment C of this Agreement.

b. Tow companies whose equipment had previously been approved and continuously used on rotation for the RPD and owned by the same operator, but do not have wheel lift capabilities, may apply for and receive a rotation tow listing.

3. Class C - Heavy Duty

a. An operator shall maintain at least one three-axle tow truck with a GVWR of at least 33,000 pounds. The truck shall be equipped with air brakes and must be capable of providing and maintaining continuous air to the towed vehicle. Class C equipment specifications can be found in Attachment C of this Agreement.

b. Tow companies whose equipment had previously been approved and continuously used on rotation for the RPD and owned by the same operator, but do not have wheel lift capabilities and/or three-axles, may apply for and receive a rotation tow listing.

D. To properly and safely tow and service the wide variety of vehicles being operated on the highway, a towing procedure may require the use of auxiliary equipment specifically designed for the purpose. This auxiliary equipment should be used when appropriate. A listing of service and auxiliary equipment for each classification can be found in Attachment C of this Agreement.

IV. TOW TRUCK DRIVERS

A. The operator shall ensure that tow truck drivers responding to calls initiated by the RPD are qualified and competent employees of his/her company. The operator shall ensure that the tow truck drivers are 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 RPD rotation. Tow truck drivers shall be at least 18 years old and possess the following minimum class driver license:

1. Class A tow truck - A valid Class C license, or a valid Class A license with valid medical certificate.

2. Class B tow truck - A valid Class C license for nonregulated vehicles, or a valid Class A license with valid medical certificate for regulated vehicles pursuant to CVC section 34500.

3. Class C tow truck - A valid Class A license with valid medical certificate.

B. The Class A (1) license must be endorsed to allow operation of special vehicle configurations and/or special cargoes (refer to Attachment B).

C. The operator shall maintain a current list of drivers.

1. The operator shall provide a current list of his/her drivers to the RPD upon implementation of this Agreement. The operator shall notify the RPD upon any change in driver status, including the addition of any new driver(s), or the deletion of any driver(s). An updated list shall be provided to the RPD within seven calendar days of any change in driver status.

2. Operators, shall as a minimum, maintain the following information for each employee:

- a. Full name.
- b. Date of birth.
- c. California Driver License number.
- d. Copy of valid medical certificate (if required).
- e. Job title/description.
- f. Current home address.
- g. Current home phone number.
- h. Type(s) of truck(s) driver has been trained and instructed to operate.

D. All tow service employees shall be fingerprinted by the RPD. The tow operator shall provide Department of Justice fingerprint fee as required by the RPD.

E. All tow truck operators shall have in their possession a tow truck operator's permit issued by the Chief of Police.

V. RATES

A. Fees charged for response to calls originating from the RPD shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person. The reasonableness of the fees charged will be determined in the following manner:

1. The operator shall submit his/her retail hourly rate to the Police Commander. The Police Commander shall determine the validity and reasonableness of the submitted rates.

- a. Validity will be based upon telephone quotes, posted rates, area CHP rates and charges to retail customers. Any submitted rate in excess

of an operator's retail rate (as defined in Attachment A) will be considered invalid and will not be accepted. An operator who submits an invalid rate shall not be allowed to resubmit a new rate and will be disqualified from RPD rotation tow listing until the next enrollment period.

b. Reasonableness shall be determined as compared to other rates. An operator who submits a rate that is determined to be excessive shall be allowed to resubmit his/her rates only once.

2. In an effort to remain competitive in the open market, the operator may lower retail rates at any time by notifying the RPD. When an operator lowers his/her retail rate, that retail rate becomes the new approved RPD rate. Operators may only raise rates for RPD calls during enrollment periods or upon approval after a midterm review. Operators may raise rates for non-RPD calls at anytime. Rates for RPD calls shall remain at the lowest retail rate until the next enrollment period.

3. Any operator who charges rates above his/her retail hourly rates or submitted rates for a RPD call shall be in violation of this Agreement and subject to disciplinary action including termination of this Agreement.

B. The rate for towing shall be computed from portal to portal. Time expended shall be charged at a rate not to exceed the hourly rate. Time expended in excess of the minimums shall also be at the hourly rate in no more than 15 minute increments. There shall be no additional charges for mileage and labor.

1. The operator may charge up to a thirty-minute minimum per call for base services.

2. The operator may charge up to a one-hour minimum per call on public safety response calls.

3. The operator may only charge a maximum of one half hour rate for the towing or service calls for Redlands Police Department vehicles or vehicles towed as evidence.

4. The operator shall base towing charges upon the class of vehicle being towed regardless of the class of truck used, except when vehicle recovery operations require a larger class truck.

C. Rates for a service call (out of gas, lockouts and tire changes) shall be from portal to end of service, and may be at the hourly rate with up to a thirty-minute minimum. Charges in excess of thirty minutes may be charged in no more than 15 minute increments

D. Fees for Special Operations.

1. For special operations involving Class B and C tow trucks, the operator shall submit his/her proposed fees for vehicle recovery operations and load salvage operations to the Police Commander. Fees shall be reasonable and consistent with industry standards for similar operations. Charges in excess of thirty minutes may be charged in no more than 15 minute increments.

a. Hourly rates shall be established for the following:

1. Auxiliary Equipment, e.g., airbags, converter gear/dolly and additional trailers.

2. Contracted Equipment, e.g., airbags, converter gear/dolly, additional trailers, forklifts, scooploaders, etc.

3. Contract labor.

b. The Police Commander shall determine the reasonableness of the fees for these types of operations, based upon the average of the proposed fees submitted and a comparison to industry standards for similar operations.

2. Operators shall submit a mark up rate (percentage of the cost to the operator) for retail equipment and specialized labor not otherwise listed on the application.

3. If an operator performs a service for which a required rate was not submitted to, and approved by, the RPD, the operator shall only be entitled to charge for the actual cost of that service. Example: contract labor rate not submitted, the operator may only charge for the actual rate paid for the labor.

E. The total fees charged for after hours release shall be no more than one-half the hourly rate, and shall only be allowed if there is no person on duty at the storage facility for release and a call back is required outside normal business hours.

F. Storage Fees.

1. The operator shall submit his/her proposed storage fees, for inside and outside storage, to the Police Commander. The Police Commander shall determine the reasonableness of the fees for inside and outside storage, based upon the average of the proposed fees submitted by those applying for rotation.

2. The operator shall display in plain view at all cashiers' stations, a sign as described in Section 3070 of the Civil Code, disclosing all storage fees and charges in force, including the maximum storage rate.

3. Vehicles stored up to 4 hours shall not be charged a storage fee. Vehicles stored 24 hours or less shall be charged no more than one day storage. Each day thereafter shall be calculated by calendar day.

4. Store (outdoors) up to four evidentiary vehicles free of charge during the course of this contract. These evidence storage spots shall be located together and in one area that is out of the way from the day to day operations. This is to prevent tampering or unnecessary touching or handling of the vehicles. Additional vehicles held as evidence by RPD shall be charged no more than one half the normal daily rate unless approved by the Police Commander.

5. Vehicles stored by the RPD for forfeiture shall be charged no more than three days storage.

G. This Section 5 of this Agreement entitled "Rate," shall not apply if the operator responds to a RPD call in a location where towing rates for all tow companies are established by a city or county ordinance.

H. The approved schedule of rates charged by the operator shall be available in the tow truck, and shall be presented upon demand to the person(s) for whom the tow services were provided, or his/her agent, or any RPD officer at the scene.

I. Rate requirements represent the maximums an operator may charge on a RPD call. An operator is not precluded from charging less when deemed appropriate by the operator. These requirements shall not be construed as requiring a charge when an operator would not normally charge for such service.

1. No operator or employee shall refer to any rate as the minimum required or set by the RPD.

VI. COLLUSION

A. An operator and/or applicant shall not conspire, or attempt to conspire, or commit any other act of collusion, with any other operator or applicant for the purpose of secretly, or otherwise, establishing an unfair understanding regarding rates or conditions to the Agreement that would bring about any unfair condition which could be prejudicial to the RPD, the motoring public, or other operator(s).

1. Examples of "collusion" include, but are not limited to: conspiracy by any operator(s) to establish artificially high or low rate(s) for services performed

pursuant to this Agreement, conspiracy or attempt to circumvent the midterm review process.

B. A finding by the RPD that any operator or applicant has been involved in collusion shall be cause for termination of this Agreement. Any operator or applicant found to be involved in any act, or attempted act of collusion, shall be disqualified from participation on the RPD rotation tow list for the current term, plus three years.

VII. RESPONSE TO CALLS

A. The operator shall respond to RPD calls 24 hours a day, seven days a week, within the maximum response time as established by the Police Commander and as specified in Section 1, of this Agreement. The operator shall respond with a tow truck of the class required to tow the vehicle specified by the RPD. The operator shall advise RPD dispatch, at the time of notification, if they are either unable to respond or unable to meet the maximum response time. If, after accepting the call, the operator is unable to respond or will be delayed in responding, the operator shall immediately notify the RPD Communications Center. The operator shall not assign initial calls to other tow operators.

1. A failure(s) to respond and/or repeated failure(s) to meet the maximum response time requirements shall constitute failure to comply with the terms and conditions of this Agreement.

a. The Police Commander may take immediate disciplinary action for any flagrant violation of the requirement to respond within the maximum response time.

b. When an operator will be temporarily unavailable to provide services due to a preplanned/scheduled activity, e.g., vacation, maintenance or medical leave, he/she shall notify the Police Commander at least 24 hours prior to the date that services will be unavailable, noting the times and dates of the unavailability.

B. The operator, or his/her employee(s) responding to a RPD call, shall perform the towing or service required for which he/she was called. This requirement may be waived by the RPD Incident Commander if the requested equipment is inadequate for the service to be performed.

1. Any refusal to respond or to perform the required towing or service will subject the operator to suspension, if deemed appropriate by the RPD.

C. An operator shall not respond to a RPD call assigned to another operator unless requested to do so by the RPD.

1. There may be times when the operator assigned the initial RPD call may require the assistance of an additional operator at the scene. The operator assigned the initial call may, subject to prior agreement with the Police Commander, and with the concurrence of the RPD Incident Commander, request a specific operator to assist him/her. The request shall be routed to the additional operator through the RPD.

2. There may be times when an operator, who was not called to a scene, comes upon a collision scene where a vehicle or vehicles are blocking a roadway and a RPD officer requests his/her assistance in clearing the roadway. In such a case, the operator may be requested to move the vehicle to a safe location, as directed by the officer, and leave it. There shall be no charge for this assistance, and the assistance provided shall not change the operator's place in the rotation.

D. Only the tow truck personnel and equipment requested shall respond to a RPD call. Additional tow truck personnel and equipment shall be at the approval of the RPD Incident Commander. This shall not preclude the operator from responding to an incident to ascertain if additional assistance or equipment is required. There shall be no additional charge for any personnel or equipment that is not necessary to perform the required service.

VIII. STORAGE FACILITY

A. The operator shall be responsible for the security of vehicles and property at the place of storage. As a minimum, a fenced or enclosed area shall be provided. The operator is responsible for the reasonable care, custody, and control of any property contained in towed or stored vehicles. Operator must display at the front of the business a sign which reads "To report any complaints, contact Redlands Police at 909-798-7681".

B. The operator shall obtain approval from the RPD prior to the removal of any property from a stored or impounded vehicle and shall provide a receipt, with a copy placed in the stored vehicle. The requirement to obtain approval from the RPD prior to the removal of property may be excused by the Police Commander if it is determined that proper safeguards and procedures are utilized by the operator.

1. This requirement may not be waived in cases where a vehicle has been impounded for evidence or investigation.

2. Upon approval from the RPD, the operator shall release personal property from an impounded or stored vehicle at the request of the vehicle owner or his/her agent.

a. There shall be no charge for the release of personal property during normal business hours. Operators may charge an after hours release fee

for property released after normal business hours. The fees charged shall be consistent with the after hours vehicle release provisions.

b. "Personal property" are items which are not affixed to the vehicle.

1. Personal property includes: papers, transportable cellular telephones, pull-out radios, portable radios and/or portable stereo equipment, clothes, luggage and tools.

3. Cargo shall be released upon demand of the carrier or pursuant to a court order.

C. The primary storage facility shall normally be at the same location as the business address. If not at the same location, there shall be no charge for any additional distance traveled to and from a secondary location. The vehicle and/or personal property shall be released at the primary storage facility or place of business (when the primary storage facility and the place of business are not at the same location) upon request of the owner or a person having a legal entitlement to the vehicle and/or property.

1. Prior to the utilization of new storage facilities that were not listed on the application for rotation tow listing, the operator shall obtain the Field Services Division Commander's approval and furnish the address.

2. Secondary storage facilities shall be located within the City of Redlands, reasonably close to the main business office.

D. Tow operators shall maintain sufficient storage spaces.

E. An operator's place of business shall have a sign that clearly identifies it to the public as a towing service. The sign shall have letters that are clearly visible to the public from the street. The sign shall be visible at night.

F. For the purpose of this Agreement, "normal business hours" shall be 8:00 a.m. to 6:00 p.m., Monday through Friday, except for the following state recognized holidays:

1. New Year's Day, Martin Luther King Day, Lincoln Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, day after Thanksgiving Day, and Christmas Day.

2. Business hours shall be posted in plain view to the public.

3. Employees shall be properly trained to conduct business transactions related to towing, storage and release of vehicles/property.

G. The release of vehicles shall be conducted in accordance with RPD procedures.

IX. INSURANCE

A. 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:

1. Commercial Business Automobile Liability (as required by Section 16500.5 of the California Vehicle Code) - Bodily injury and property damage with a combined single limit of not less than \$500,000 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 - Insuring the vehicle in tow with limits based on the size of the tow truck.

a.	Class A tow truck	\$25,000
b.	Class B tow truck	\$50,000
c.	Class C tow truck	\$100,000
d.	Class D tow truck	\$100,000

4. Garage Liability - Includes premises and operations. Coverage for bodily injury and property damage with a combined single limit of not less than \$500,000.

5. 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.

6. Workers' Compensation Insurance - Legal minimum requirement.

B. Proof of insurance shall be in the form of a certificate of insurance. Policy expiration or cancellation shall result in the immediate termination of this Agreement. The operator's insurance policy shall provide for the immediate notification to the RPD in the event that the insurance policy has expired or is canceled. Additionally, the operator shall notify the RPD in advance of the expiration or cancellation of the operator's insurance policy.

X. INSPECTIONS

A. The RPD shall provide for not less than one annual inspection of all tow trucks at no charge to the operator. The RPD may conduct additional inspections without notice during normal business hours. The operator shall not dispatch a tow truck (to a RPD call) that has not been inspected and approved by the RPD. The RPD shall inspect a tow truck within thirty days of a request from an operator.

1. Any operator who fails an inspection by RPD or the CHP is entitled to only one reinspection. Failure to pass the reinspection shall be cause for the disqualification of the tow truck from use on RPD rotation. The tow truck shall be disqualified until the next enrollment period.

XI. BUSINESS RECORDS

A. The operator shall maintain records, at his/her place of business, of tow services furnished.

1. Invoices shall at a minimum include a description of vehicle(s), nature of service, start time, end time, location of call and itemized costs of towing and storage. Release information shall include date and time of release and shall include a copy of the RPD release authorization.

2. Records for each call shall indicate the tow truck driver's name and truck used.

B. 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-RPD tows.

C. The RPD may inspect all operator records without notice during normal business hours.

D. Operators shall permit the RPD to make copies of business records at their place of business, or to remove business records for the purpose of reproduction.

1. The RPD shall provide a receipt for any (original) records removed from the place of business.

E. Records shall be maintained and available for inspection for a period of two years plus the current term of this Agreement.

F. Failure of the operator to comply with the inspection requirements shall be cause for suspension, if deemed appropriate by the RPD.

XII. FINANCIAL INTEREST

A. No operator or applicant shall be directly involved in the towing related business of any other operator or applicant within the City of Redlands. "Directly involved" shall mean anything in common between operators or applicants with regards to any of the following: 1) business licenses; 2) insurance; 3) tow truck or equipment ownership; and 4) employees.

B. Storage facilities owned by an operator, and shared with another operator, shall only be approved if the owner/operator charges for the space exclusively on a flat monthly rate rather than a vehicle-by-vehicle basis, or combination thereof.

1. Facilities shared by operators shall be physically separated and secured from each other. The Police Commander may delete this requirement if deemed appropriate.

C. The sale or transfer of the controlling interest in a company shall immediately terminate an Agreement. The new owner(s) may apply for a rotation tow listing at any time during the remainder of the current Agreement term, regardless of the enrollment period.

D. A terminated or suspended operator and the tow business he/she owned at the time of his/her suspension or termination shall not be eligible for a rotation listing for the duration of the suspension or termination.

1. This provision applies to the operator working in any capacity within any tow business, or operating any tow business, and to the tow business, even if operated under new ownership.

E. Any violation of this section is cause for suspension, if deemed appropriate by the RPD.

XIII. ANNUAL MEETINGS

A. The Police Commander may conduct, at a minimum, one annual meeting to discuss issues concerning the tow rotation. Attendance shall be mandatory at all meetings for the operator or his/her designee wishing to remain on rotation. The RPD shall give the operator 30 days written notice of any such meetings.

XIV. DEMEANOR AND CONDUCT

A. While involved in RPD rotation tow operations or related business, the operator and/or his/her employee(s) shall refrain from any act(s) of misconduct, to include, but not be 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 RPD rotation tow call with the odor of an alcoholic beverage emitting from his/her breath.

1. The operator/tow truck driver shall submit to a preliminary alcohol screening test upon demand of the RPD.

B. All RPD related tow service complaints received by the RPD against the operator or his/her employee(s) will be accepted and investigated in a fair and impartial manner. As a result of the investigation, the RPD may initiate disciplinary action as deemed appropriate. In any event, the operator will be notified of the results of any investigation.

C. Should the filing of criminal charges be a possibility, the RPD will conduct the investigation to conclusion or assist the lead investigating agency and, if warranted, request prosecution.

D. Any violation of this section is cause for suspension, if deemed appropriate by the RPD.

XV. COMPLIANCE WITH LAW

A. The operator and his/her employees shall, at all times, comply with federal, state, and local laws and ordinances, which include, but are not limited to, those laws which are applicable to the operator (refer to Attachment B for selected Vehicle Code and Civil Code Sections).

1. In the event of a minor traffic violation(s) by the tow truck driver(s) which is/are known by the RPD, the operator shall be advised of the violation(s) by the RPD. The operator will be granted the opportunity to take necessary steps to

ensure that his/her driver(s) drive(s) in compliance with law. Any subsequent traffic violation(s) may be cause for disciplinary action against the operator and/or the involved employee(s).

2. Any flagrant traffic violation(s) may be cause for immediate disciplinary action against the operator and/or the involved employee(s).

B. The provisions contained in Section 15, Compliance with Law, do not preclude the RPD from taking appropriate enforcement or administrative action for any violations of law.

C. Any conviction of the operator involving a stolen or embezzled vehicle, fraud related to the towing business, stolen or embezzled property, a crime of violence, a drug related offense, felony driving while under the influence of alcohol and/or a drug, misdemeanor driving while under the influence of alcohol and/or a drug while involved in a RPD rotation tow call, or moral turpitude shall be cause for denial of application or termination of this Agreement.

D. Any conviction of an employee involving a stolen or embezzled vehicle, fraud related to the towing business, stolen or embezzled property, a crime of violence, a drug related offense, felony driving while under the influence of alcohol and/or a drug, misdemeanor driving while under the influence of alcohol and/or a drug while involved in a RPD rotation tow call, or moral turpitude shall be cause for the removal of the employee from the list of current RPD rotation tow truck drivers.

E. An operator, or employee, arrested/charged for a violation involving any of the above crimes may be suspended until the case is adjudicated.

XVI. COMPLIANCE WITH AGREEMENT

A. The operator agrees, as a condition of inclusion on the rotation tow list, to comply with the terms and conditions of this Agreement. Furthermore, the operator agrees that failure by the operator or his/her agents to comply with these terms and conditions shall be cause for written reprimand, suspension, or termination from the RPD rotation tow list(s). Alleged violations of this Agreement will be investigated by the RPD. The operator will be notified of the RPD's findings within 30 days of the conclusion of the investigation.

XVII. DISCIPLINARY ACTION

A. The Police Commander may take disciplinary action against operators for violations of this agreement. The Police Commander shall retain discretion regarding the length of any suspension imposed pursuant to the terms and conditions of this Agreement.

- B. Records of violations shall be retained by the RPD for at least 36 months.
- C. The following major violations shall be cause for immediate suspension:
1. A violation of the equipment requirements related to safety.
 2. A violation of the GVWR and safe loading requirements of a tow truck. This includes exceeding the tow truck's GVWR, front axle weight rating, rear axle weight rating, maximum tire weight ratings, or not maintaining 50% of the tow truck's unladen weight on the front axle when lifting/carrying a load.
 3. A violation of overcharging.
 4. A violation of the Redlands Police Department or CHP Biennial Inspection of Terminals (BIT) Program requirements. Any unsatisfactory rating shall be cause for immediate suspension.
 5. Failure of the operator to satisfy a court order mandating reimbursement to the vehicle or property owner for the damage or loss which occurred while the vehicle was in his/her custody.
 6. Failure of the operator to comply with the inspection requirements of this Agreement.
 7. Failure of the operator to provide the monthly report, or to pay program or release fees as required by this Agreement.
 8. Failure of the operator to maintain the minimum insurance requirements set forth in the Agreement.
- D. The suspension for the above violations shall remain in effect until the period of suspension imposed is completed, and any and all violation(s) have been corrected and it is confirmed by the RPD that the operator is in full compliance with this Agreement.
- E. Failure of the operator or employee to comply with Section 14, Demeanor and Conduct, and/or Section 15, Compliance with Law, may be cause for suspension if deemed appropriate by the Police Commander.
1. Minor traffic violations may be considered as minor violations of this Agreement.
 2. A tow truck driver, not under the immediate observation of the operator, while on-duty and driving a tow truck, who is arrested and subsequently convicted for misdemeanor driving under the influence of alcohol and/or drugs, will be subject to suspension from participating as a tow truck driver under the provisions of this Agreement. The length of suspension will be at the Police Commander's discretion.
- F. There shall be no approval of equipment that is not in compliance with the equipment specifications contained in this Agreement at the time of reinstatement. Sections of this Agreement which are commonly referred to as "grandfather clauses" shall no longer apply to the operator who is suspended for one year or more.

G. Major Violations. Violations of the terms and conditions of this Agreement that are subject to suspension for the first violation are categorized as major violations. Any subsequent or continuing major violations shall be cause for termination.

1. Termination shall be invoked if, in the RPD's judgment, continued participation in the Rotation Tow Program by the affected tow operator may result in a hazard to public safety and/or welfare, or the operator has been convicted of a crime listed in Section 15C.

2. In lieu of termination, the RPD may impose additional suspensions for longer periods, if deemed appropriate.

H. Minor Violations. Except as specifically stated in this Agreement, minor violations of the terms and conditions of this Agreement may be cause for disciplinary action in the following manner.

1. 1st violation in 12 months - letter of written reprimand.

2. 2nd violation in 12 months - 30 day suspension.

3. 3rd violation in 12 months - 60 to 90 day suspension.

4. 4th violation in 12 months - termination of this Agreement.

a. In lieu of a termination, the RPD may impose additional suspensions for longer periods, if deemed appropriate.

I. Nothing herein shall be deemed to prohibit the RPD from immediately suspending any operator whose conduct, or that of his/her employee(s), in the discretion of the Police Commander, is deemed to be a danger to the motoring public or who has engaged in conduct constituting a flagrant violation of an RPD Tow Service Agreement.

XVIII. DISCIPLINE PROCESS AND APPEALS

A. Operators in minor violation shall be notified in writing of the violation by the Police Commander. The notice of violation shall be mailed to the operator at the address supplied in the Operator Approval portion of this Agreement.

B. Operators in major violation or facing suspension/termination shall be notified in writing of the violation by the Police Commander. The notice of violation shall be delivered to the operator at the address supplied in the Operator Approval portion of this Agreement. A confirmation notice of violation shall be mailed to the operator at the address supplied in the Operator Approval portion of this Agreement. Except where public safety may be in jeopardy, immediate suspension shall not be in effect until a

notice of violation is delivered to the operator. Service is deemed complete when a notice of violation is delivered to the operator or employee of the operator.

C. In the event the RPD serves the operator with a written reprimand or suspension, the operator may request a hearing within seven calendar days by submitting a request in writing to the Police Commander. If a hearing is requested, it shall be held as soon as practicable. The hearing shall be conducted by the Police Commander or his/her designee and the operator shall be entitled to present all relevant facts and circumstances in support of his/her position. The operator shall be further entitled to present testimony of at least one representative of a tow truck association or other qualified person. The operator shall be notified in writing of the decision of the Police Commander, within ten business days of the date of the hearing.

D. Following a hearing, if the operator is dissatisfied with the Police Commander's decision, the operator may request an appeal by submitting a request in writing to the RPD Division commander within seven calendar days. If an appeal is requested, it shall be held as soon as practicable. The appeal shall be conducted by the Chief of Police or his/her designee. The operator shall be notified in writing of the decision of the Chief of Police within ten business days of the date of the appeal. The Chief of Police's decision shall be subject to no further administrative appeal.

E. A suspension shall not take effect until the hearing and appeal process has been exhausted, with the exception of operators whose conduct is deemed to be a danger to the motoring public or whose conduct grossly violates the terms and conditions of this Agreement. If an operator fails to request a hearing or appeal within the specified time or fails to appear at a scheduled hearing or appeal, the action taken by the RPD Police Commander or Chief of Police shall be final and the suspension shall take effect upon written notification to the operator by the Police Commander.

XIX. MIDTERM REVIEW OF THE TERMS AND CONDITIONS

A. The purpose of this section is to provide a process for a midterm review of the terms and conditions of this Agreement in the event that there is a legitimate and substantial change in conditions or law affecting the majority of the operators within the City or the RPD. Examples of conditions may include, but not be limited to:

1. Substantial increase or decrease in business expenses.
2. Advances in technology in the industry related to safety issues.
3. Changes in law requiring the RPD or the operators to perform specific functions or operations in order to comply.

4. Changes in the terms and conditions of this Agreement brought about as a result of recommendations from the Police Commander and approved by the Chief of Police or his/her designee.

5. Proposed changes to the terms and conditions agreed upon by the Police Commander and the operators at the time that the Agreement was signed (e.g., response times).

B. A midterm review of the terms and conditions of this Agreement may only be granted by the Chief of Police.

1. A request for a midterm review of the terms and conditions of this Agreement shall be communicated to the Police Commander in writing, from a representative(s) of the towing industry, not merely at the request of a single operator. The Police Commander may also request a midterm review if he/she feels it is in the best interests of the motoring public, the tow industry, and/or the Department. The Police Commander will route all legitimate requests for midterm review with all pertinent information, through channels, to the Office of the Chief of Police.

2. Conditions indicating a need for midterm review must be substantial and must affect the entire towing industry or the RPD.

a. For purposes of this Agreement, the midterm review process is not intended to provide relief for a single operator who wishes to increase their rates, or change any other term or condition of this Agreement, to compensate for financial problems brought about as a result of business decisions or conditions which affect a small percentage of the industry.

3. A request for review will not be processed if there are 60 days or less remaining in the term of this Agreement.

C. A midterm review, when granted by the Chief of Police or his/her designee, will not automatically authorize a change in the terms and conditions of this Agreement. If a midterm review is announced by the Chief of Police, or his/her designee, it is the responsibility of the Police Commander to conduct a review of the conditions which initially caused the request to be communicated and to determine if the change is justified.

1. The Police Commander, after completing the review of all pertinent issues, may authorize the operators to submit their proposed changes or he/she may notify the operators of the changes to be implemented and direct them to comply with those changes. If, after evaluating all pertinent information, the Police Commander authorizes or directs a change in the terms and conditions of the Agreement, or if he/she decides that a change is not justified, he/she shall

notify the towing industry representative within 14 calendar days of the date of the Chief of Police's announcement authorizing the midterm review.

a. Operators shall resubmit their proposed changes in writing to the Police Commander within seven calendar days of the date that the Police Commander announces his/her decision. Failure to resubmit a written proposal within the specified time may result in the operator forfeiting his/her ability to propose more equitable conditions or rates, or may be cause for disciplinary action or termination of the Agreement.

i. If the proposed change affects tow rates only, operators shall resubmit their proposed rates on a new application (CHP 34A). The new application shall contain only the information pertinent to the rate proposals. When received by the Police Department, the new application will be attached to the original application for the current term.

ii. The Police Commander shall determine the reasonableness of the rate, based upon the average of the proposed rates submitted. An additional page with the new rate(s) shall be signed and attached to the original.

2. In the event that the towing industry representative(s) is/are dissatisfied with the Police Commander's decision, the towing industry, through its representative(s), may request an appeal by submitting a request in writing to the Chief of Police within seven calendar days. If an appeal is requested, it shall be conducted by the Chief of Police, or his/her designee, as soon as practicable. The number of representatives at the appeal shall be limited to a maximum of two. A designated representative shall be notified in writing of the decision of the Chief of Police within seven calendar days of the date of the hearing.

3. In the event that the Police Commander's decision is to direct the operators to resubmit rates which are more reasonable than the current rates, the new rate application process shall not be initiated until the hearing and appeal process is exhausted. If the towing industry, or its representative(s), fail(s) to request a hearing or appeal within the specified time, or fail(s) to appear at a scheduled hearing or appeal, the decision of the Police Commander shall be final, and the new rate application process shall begin.

4. In the event that the Police Commander's decision is to direct the operators to comply with a change to any other term or condition of this Agreement, e.g., change in response times, the new terms and conditions shall not be initiated until the hearing and appeal process is exhausted. If the towing industry, or its representative(s), fail(s) to request a hearing or appeal within the specified time, or fail(s) to appear at a scheduled hearing or appeal, the decision of the Police Commander shall be final, and the new rate application process shall begin.

XX. ADVERTISING

A. The operator shall not display any sign or engage in any advertisement indicating an official or unofficial connection with the RPD or the Department of Motor Vehicles.

1. Examples include, "Official RPD Tow," "Approved by RPD," "RPD Rotation Tow," and "Police Tow".

2. This will not preclude the Police Commander from implementing a system to mark and identify a particular tow truck as having passed the RPD inspection.

B. Any violation of this section is cause for suspension. At a minimum, the suspension shall be for the duration of the advertisement.

XXI. STORAGE

The operator shall maintain available space of adequate area to store and protect disabled vehicles. Such storage space will meet the following standards.

1. Storage lots shall be a minimum area of 60,000 square feet and shall accommodate a minimum of 200 vehicles. Such lots shall be properly fenced in accordance with the zoning and building requirements of the City and be screened from all public rights-of-way, and be at least six feet in height. Lots must be equipped as to provide adequate lighting during the hours of darkness, and further will be provided with facilities for locking or otherwise securing the same. Lots should be so located as to be under constant surveillance of the operator and located in an area subject to police patrol.

2. Vehicles requiring special handling for investigation, i.e., fingerprinting, photographing, searching, etc., must be under roof, in a building capable of being secured. Such vehicles will not be moved or touched after storage therein without the consent of the Redlands Police Department Investigating Officer.

3. When it is necessary to remove vehicles other than those in subsection 2 of this section to other storage facilities to make space available for current impounds, the Police Department shall be notified in writing within twenty-four hours of the new location of such vehicles. The new location will meet the requirements established in this chapter.

XXII. RECORD OF IMPOUNDMENT AND STORAGE

The tow service and storage garage grantee shall keep records of all vehicles ordered impounded and stored by the Redlands Police Department, at his place of business. Such records

shall be available to members of the Redlands Police Department and to any other person specifically authorized in writing by the Redlands City Manager.

- A. Records shall include, but not be limited to:
 - 1. CHP Form 180 Report of Impounded Vehicles;
 - 2. CHP Form 126 Report of Notification of Impound;
 - 3. City Police Department vehicle release order;
 - 4. Copies of registered letters to vehicle owners;
 - 5. Inventory lists of personal property in impounded and stored vehicles;
 - 6. Charge sheets listing tow charges and storage fees against each individual vehicle, and when possible will contain the owner's release (signature).

- B. The Records listed in subsection A of this section will be maintained in jacket files by date of impound or storage and readily available for the police officer in charge of the investigation, or responsible members of the California Highway Patrol or by any person specifically authorized in writing by the City Manager.

XXIII. WRITTEN PERMISSION REQUIRED TO DO SERVICE OR WORK

The tow service and storage garage operator shall not perform any service or work upon any police impound in his possession without first obtaining written permission from the vehicle owner or his agent. No work or contract will be entered into between the tow service and storage garage operator and the vehicle owner or his agent until the vehicle has been released in writing by the Redlands Police Department.

XXIV. WEEKLY REPORT OF VEHICLES IN STORAGE

The tow service and storage garage operator shall render a report each week to the Redlands Police Department listing the vehicles remaining in storage. Report shall specify the period of time of storage of the vehicle without being claimed by the owner.

XXV. PROGRAM FEES

- A. The operator shall pay the following fees to the City in connection with the operator's participation in the rotational tow program:
 - 1. For all Impounded and Stored Vehicles \$75 program fee

- B. The tow operator is not responsible for paying a program fee to the Police Department for vehicles towed for evidence purposes, vehicles stored under CVC 22651 (c), Recovered Stolen Vehicle or CVC 22651 (g), Incapacitated Driver.

C. The tow service and storage garage operator shall render a report each month to the Redlands Police Department listing the vehicles towed. The report shall be on a form specified by the Redlands Police Department and will accompany the required program fees for that month. The report shall cover the previous calendar month and shall be provided within 15 working days.

XXVI. CANCELLATION

This Agreement may be canceled by either party, by giving ten (10) days prior written notice to the other party.

XXVII. ATTORNEY'S FEES

In the event any action is commenced to enforce or interpret the terms, conditions or provision of this Agreement the prevailing party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for the use of in-house counsel by a party.

I. OPERATOR APPROVAL

I certify that I have read and understand this Tow Service Agreement and agree to abide by all provisions. I further agree to indemnify, defend and save harmless the City of Redlands and its elected officials, officers, agents and employees from any and all claims and losses accruing or resulting to the operator in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the operator in the performance of this Agreement. The operator, and the agents and employees of the operator, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

OPERATOR APPROVAL

Signature	Typed Name	
Company	Title	Date
Business Address	Phone Number	

James R. Bueermann
Chief of Police

Pat Gilbreath
Mayor

ATTACHMENT 'A'

DEFINITIONS

APPEAL

The final level of review for written reprimands, suspensions, terminations, or review of the Police Commander's decision regarding the midterm review process. An informal review conducted by the Police Commander, or his/her designee, at which an operator may present evidence or witnesses to show that an action taken by the Police Commander was improper, or to mitigate the action taken.

BASE SERVICES

Any service or tow which is performed when the vehicle operator or agent is present and the vehicle is not stored at the direction of an officer.

CHIEF OF POLICE

The Chief of Police of the Redlands Police Department.

CHP

The Department of the California Highway Patrol.

ENROLLMENT PERIOD

The period of time when a tow company may submit an application for inclusion on the rotation tow list. The enrollment period will be open for at least 30 days and the dates will be determined by the Police Commander.

DURATION OF THE TOW SERVICE AGREEMENT (TSA)

The duration of this TSA shall be set by the Police Commander for no less than one year and no longer than three years.

INCIDENT COMMANDER

The uniformed RPD member present at the incident who has scene management responsibilities.

LOAD SALVAGE OPERATIONS

Any operation involving the recovery of a load which has been spilled, or the off-loading and reloading of a load from an overturned vehicle performed in order to upright the vehicle. This will be limited to operations involving Class B, and C tow trucks.

NOTICE

All notices relating to this Agreement shall be in writing and delivered to the other party in person, via FAX, or by US mail.

OFFICE OF THE CHIEF OF POLICE

Chief of Police or Police Commander.

OPERATOR

A tow service which has been issued a Letter of Authorization, has signed the Tow Service Agreement, and is approved to receive RPD referred calls. The term "operator" refers to the company, its owner(s), and its manager(s) who have authority to enter into an Agreement with the RPD for towing services and to conduct business in accordance with the terms of this Agreement, and its employees.

PARTY OF INTEREST

Refers to the registered owner of the vehicle, or his/her agent. An agent is a party who may lawfully act on behalf of the registered or legal owner of the vehicle.

POLICE COMMANDER

The Police Commander in charge of the Redlands Police Department Field Services Division.

PORTAL TO PORTAL

Service shall start at the time of departure from the place of business or point of dispatch, whichever is closer to the location of the call, and shall end at the estimated time of return to the place of business or the completion of the call, if another call is pending, whichever is shorter.

Return to place of business includes a reasonable and verifiable amount of time required to place the tow truck back into service when unusual circumstances require additional time that are not part of normal operating procedures. (Examples: 1) 4 X 4 recovery in the mud: reasonable to charge for cleaning mud from truck and equipment, 2) burned car on car carrier: reasonable to charge for cleaning burn debris from carrier bed, 3) car towed from side of road on misty night and leaves mud track on bed of carrier: not reasonable to charge for cleaning of carrier bed.) For the purpose of this Agreement, "Portal to Portal" shall also mean "Portal to End of Service."

POSSESSION

Pursuant to Section 3068 of the Civil Code, possession is deemed to arise when the vehicle is removed and is in transit.

PUBLIC SAFETY RESPONSE

A response which results in a storage of a vehicle at the direction of an officer. This does not include a storage at the request of the vehicle operator, registered owner, or agent.

REPRESENTATIVE

A person or group of persons appointed by the operators within the City of Redlands, designated to represent their interests to the Police Commander.

RESPONSE TIME

The period of time from an operator's notification by a RPD Communications Center of a call to the arrival of the tow truck at the location requested.

RPD

Redlands Police Department

RETAIL RATE

The usual customary retail rate charged by an operator to individual retail customers. This is the competitive rate a company has posted in the office and quotes over the phone.

SUSPENSION

Removal of an operator from the RPD rotation tow list for a specified period of time. Suspensions may be for periods longer than the current term of the Agreement.

TERMINATION

Permanent removal of a tow operator from the RPD rotation tow list for the remainder of the term of the Tow Service Agreement and disqualification from any further participation in the Department's Rotation Tow Program.

TOW TRUCK

A tow truck as defined in Section 615 of the California Vehicle Code. Also includes slide back carriers and wheel lift vehicles.

TOW SERVICE AGREEMENT

A document which sets forth the terms and conditions of an Agreement between the operator and the Police Commander representing the RPD.

VEHICLE RECOVERY OPERATION

An operation involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle. This will normally be limited to operations requiring a Class B or C tow truck(s).

WAIVER OF REQUIREMENTS

Provides for temporary relief from selected terms and conditions of the Tow Service Agreement.

WRITTEN REPRIMAND

A written notice to an operator which specifies any violation(s) of the Tow Service Agreement, orders corrective action, and warns of further action(s) to be taken if corrective action is not taken.