**CITY OF HOUSTON CONTRACT NUMBER _____**

**TEXAS DEPARTMENT OF LICENSING AND REGULATION NUMBER _____**

**THE STATE OF TEXAS §**
**§**
**COUNTY OF HARRIS §**

# POLICE-AUTHORIZED TOW SERVICE AGREEMENT

This Agreement is made and entered into by and between the City of Houston, Texas, a home rule municipality of the State of Texas, principally situated in Harris County ("the City") and the Tow Operator ("the Operator"), identified below.

**RECITALS:**

**1.** Section 8-126 of the Code of Ordinances, Houston, Texas, authorizes the Chief of Police to execute agreements for police authorized tows by tow operators; and

**2.** the Operator desires to provide auto wrecker services to the City of Houston and will pay to the Auto Dealers Detail of the Police Department a nonrefundable annual administrative fee of $660.00 as specified in section 8-126(c) of the Code of Ordinances, Houston, Texas, for each auto wrecker operated under this Agreement; and

**3.** the Operator holds a tow truck license issued by the Texas Department of Licensing and Regulation for each auto wrecker servicing this Agreement and has provided a listing of said auto wreckers and the zone in which each auto wrecker will be operated hereunder on a form provided by the Police Department that is attached to and made part of this Agreement as "Exhibit A;" and

**4.** the Operator has and agrees to maintain all forms of insurance coverage that are required by section 8-126(e) (2) of the Code of Ordinances, Houston, Texas. The proof of insurance is attached hereto and made a part hereof as "Exhibit B;" and

**5.** the Operator has a business relationship with one or more police private storage lots to accept for storage those vehicles that are towed under this Agreement within each zone that has been defined in Exhibit A. This relationship is evidenced on a form provided by the Police Department identifying each storage lot that will be utilized in servicing this Agreement and is attached to and made part of this Agreement as "Exhibit C."

**NOW, THEREFORE** in consideration of the premises and the covenants hereinafter set forth, the City of Houston and the Operator have mutually agreed as follows:

## I. Identity of Wrecker Service, Operator and Agents

**1.01** The auto wrecker service is known as:

_____

_____
*(Name under which the auto wrecker service operates)*

and is hereinafter referred to as the "auto wrecker service" and is operated from:

_____

_____
*(Physical street address of the wrecker service)*

**1.02** The "Operator" who owns the auto wrecker service is:

_____

The Operator is (Check one, as applicable):

| | | | | | |
|---|---|---|---|---|---|
| a. | ☐ | a proprietorship. | b. | ☐ | a partnership. |
| c. | ☐ | a limited partnership. | d. | ☐ | a corporation. |
| e. | ☐ | a limited liability company | f. | ☐ | limited liability partnership |

Evidence of the ownership of the auto wrecker service is attached to and made a part of this Agreement as "Exhibit D" (Attach true copy of [1] assumed name certificate if a proprietorship, [2] partnership agreement disclosing the names of all general or limited partners if a partnership, or [3] a copy of the articles of incorporation and certificate from the corporate secretary setting forth the names of all officers and all persons owning ten percent (10%) or more of the outstanding stock if a corporation), or (4) a copy of the membership agreement if an LLC.

**1.03** The publicly listed telephone number for the auto wrecker service at which the Operator or his employee or agent may be reached is: _____.

## II. Police Auto Wrecker Designation

**2.01** The Operator represents that he is familiar with the provisions of Article III of Chapter 8 of the Code of Ordinances of Houston, Texas, as amended, which are hereby incorporated into and made a part of this Agreement by reference. Without limitation, the provisions of Section 8-126(e) of the Code of Ordinances, Houston, Texas, regarding operation within zones and insurance requirements are specifically incorporated herein and read as follows:

> "Operator shall choose one specific zone for each auto wrecker that is to be utilized by the Operator to perform police-authorized tows. Operator shall not allow auto wrecker to tow any vehicle outside of the approved zone, except when authorized by the police department. No tow hereunder shall exceed a maximum distance of 20 miles unless the tow destination is located within the zone. Violation of this provision is grounds for revocation of this Agreement."
>
> "The Operator shall obtain and maintain in effect during the term of this Agreement, insurance coverage as set out below, and shall furnish certificates of insurance, prior to the beginning of the term of this Agreement. All such policies except Worker's Compensation or Occupational Safety Insurance shall be primary to any other insurance and shall name the City as an additional insured. All liability policies shall be issued by a company with a Certificate of Authority from the State Department of Insurance to conduct insurance business in Texas or a rating of at least B+ and a financial size of Class VI or better according to the current year's Best's rating. Operator shall maintain the following insurance coverage in the following amounts:
>
> A. Automobile Liability Insurance $1,000,000 combined single limit per occurrence;
>
> B. Cargo on Hook Coverage or equivalent in the amount of $50,000 per vehicle;
>
> C. Workers Compensation or Occupational Safety Insurance; and
>
> D. All drivers of auto wreckers shall be named insured on Operator's liability insurance policy.

Operator shall provide City with new certificate of insurance if additional drivers are added.

The Operator agrees to comply with the said provisions and the other terms and conditions of this Agreement in providing auto wrecker services. It is expressly understood and agreed that any amendments hereafter adopted by the City Council of the City of Houston, Texas, will become part of this Agreement by reference upon their

effective date. It shall be the obligation of the Operator to take notice of such amendments by virtue of their adoption, and the City shall not be obligated to provide any personal notice of such amendments to the Operator.

The Operator shall charge no fees for servicing a police scene in excess of the fees authorized under city ordinance for vehicles towed without the consent of a vehicle owner. Further, the Operator shall not obligate the owner of a vehicle removed from a police scene and placed in storage to pay any fees in excess of those authorized for a vehicle delivered to a state licensed vehicle storage facility without the consent of the vehicle owner. Under no circumstances will a vehicle owner be charged a fee of any type in excess of the fees applicable had the vehicle been towed without the vehicle owner's consent.
Operator agrees to maintain the ability to accept and process credit cards. Operator agrees to maintain the ability to accept at least two major credit card issuers of the following: VISA, MasterCard, American Express, and Discover Card. Furthermore, all credit transactions will reflect the Operator's name as payee.

**2.02** Operator agrees that in the event City redraws the zones for auto wreckers during the term of this Agreement, operator shall choose one specific zone from the revised service areas. Thereafter Operator shall only perform police authorized tows in the new zone.

**2.03** It is expressly understood that this Agreement does not constitute any promise or obligation by the City to cause any vehicle to be towed by the Operator.

**2.04** It is expressly understood that each auto wrecker servicing this Agreement must meet the following minimum requirements:

**a.** The chassis cab will be rated at no less than one ton by the manufacturer and will be equipped by said manufacturer with dual wheels and tires at each end of the rear axle.

**b.** The auto wrecker will have a light bar that conforms to state law.

**c.** The auto wrecker will be equipped with wheel dollies, except on rollback type trucks.

**d.** The auto wrecker will carry at all times:

**1)** Three flares or three bidirectional triangles, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal conditions at night time.

**2)** One broom of a type designed for pushing with an 18 inch head and a handle of not less than 36 inches.

**3)** No less than five gallons of dry sand or other absorbent that is at least as effective as sand in absorbing liquid.

**4)** A box or bucket to carry glass and debris cleaned from streets when picking up a wrecked vehicle.

**5)** One flat-edged shovel of at least nine inches, with a handle of not less than 36 inches.

**6)** One wrecking bar of not less than 36 inches in length with a wedge head.

**7)** Fire extinguisher, at least one 10 pound or two 5 pound multiple purpose fire extinguisher(s), in good working condition.

**8)** Magnetic tow lights, unless wireless, with appropriate cable and cushions to protect a vehicle's finish.

**9)** Safety (mud) flaps at least 8 inches from the surface.

**e.** Operators shall comply with and require auto wrecker drivers to comply with the following clothing requirements:

1) A Class 3, Level 2 reflective vest, shirt or jacket meeting the ANSI/ISEA requirements for high visibility safety apparel must be worn at all times while working outside of the tow truck.

2) Closed Toe Shoes; and

3) Vest or Shirt displaying, on the front of the shirt or vest, the name of the wrecker company as it is registered with the City.

**2.05** Each auto wrecker shall be inspected at the Operator's expense by an inspection service provider approved by the Police Department. The inspection service provider shall certify in writing that the vehicle meets minimum manufacturer's performance standards as applicable to the specific vehicle and components being tested. Such inspections shall be performed prior to the execution of this Agreement and at least annually thereafter, during the term of this Agreement. A copy of each written certification by the inspection service provider shall be attached to and incorporated in this Agreement as "Exhibit(s) E."

**2.06** Each auto wrecker authorized to provide nonconsent tows under this Agreement must display a medallion issued by the Police Department. The medallion shall be the property of the City and may be seized pending a hearing for breach of any term of this Agreement related to any obligation of the Operator. The medallion must be returned to the Police Department on termination of this Agreement. Replacement of a lost or stolen medallion requires a Police Department offense report and payment of a $100 replacement fee.

**2.07** Operator shall provide the motorist with a copy of the "Motorist Bill of Rights" in a form prescribed by the Police Chief, which shall include wording relating to rights of individual in regard to police authorized tows. A copy of the Motorist Bill of Rights is attached hereto as Exhibit "I".

## III. Term and Termination

**3.01** The term of this Agreement shall commence March 10, 2014 and extend for a period of five (5) years, unless sooner terminated or suspended pursuant to the provisions of this Agreement.

**3.02** The Operator may terminate this Agreement, without cause, upon written notice to the City of Houston.

**3.03** With the prior authorization of the City Council of the City, the Chief of Police may terminate this Agreement, without cause, upon thirty (30) days written notice to the Operator.

**3.04** In the event he has grounds to believe that the Operator has failed to timely or fully perform any obligation assumed under this Agreement or any prior Agreement, including but not limited to the provisions of Section 6.19 herein, the Chief of Police or any Executive Assistant or Assistant Chief of Police may suspend this Agreement upon written notice to the Operator. The grounds for the suspension shall be stated in the notice. If the Operator so requests by giving notice in writing thereof to the address or party named in Section 5.02, the Chief of Police, or a hearing officer that he may designate therefor, will afford a hearing to the Operator as to the suspension within five (5) days after delivery, Saturdays, Sundays and City observed holidays, excepted. **Sworn affidavits shall be accepted as evidence at such hearings.** If the hearing officer finds that there has been no breach of the terms and provisions of this Agreement or any prior Agreement then he shall reinstate this Agreement. If the hearing officer finds that there has been a breach then he may terminate this Agreement, provided that, in lieu of termination, he may impose a further suspension of from one (1) to three hundred sixty-five (365) days for the breach or breaches of this Agreement and require that reasonable restitution be made to any person(s) damaged by the breach. Unless otherwise directed by the hearing official, restitution shall be made within thirty (30) days following the imposition of the suspension and restitution or the Agreement shall be terminated. The decision of the hearing officer shall be made in writing and notice thereof shall be given to the Operator and shall be final.

**3.05** Operator agrees that an officer in the Auto Dealer's Detail of the Police Department shall resolve all disputes between auto wrecker drivers relating to the right to tow a vehicle. Failure of a driver to comply with decision of the officer shall be grounds for temporary suspension of the driver's identification card for a period not to exceed five calendar days. Additionally, violations of this agreement or any statute by

Operator or driver shall be grounds for temporary suspension of Operator's medallion and/or the driver's identification card by an Auto Dealers officer for a period not to exceed five calendar days.

**3.06** In the event of the termination, suspension, revocation, or cancellation of the state license issued to any of the Operator's auto wreckers servicing this Agreement, this Agreement shall be automatically suspended contemporaneously therewith and without notice. Upon restoration of such auto wrecker license, the Agreement may be reinstated upon payment of $660 for each auto wrecker license restored.

**3.07** Operator agrees to maintain all insurance coverages required under Section 8-126(e) (2) of the Code of Ordinances, Houston, Texas, and quoted in Section 2.01, above, at all times during the term of this Agreement. In the event of the termination or cancellation of any insurance required under Section 8-126(e) (2) on any of the Operator's auto wreckers servicing this Agreement, this Agreement shall be automatically suspended contemporaneously therewith and without notice. Upon restoration of such insurance, the Agreement may be reinstated upon payment of $660 for each auto wrecker for which insurance is restored.

**3.08** Effective as of 11:59 o'clock p.m. the date of termination or expiration of this Agreement, the Operator shall not tow any vehicle without the consent of the owner except upon authorization of a police officer of the City. However, this Agreement shall survive its expiration or termination and shall continue to be applicable for any vehicle whose towing commenced prior to its expiration or termination.

## IV. State Regulations

**4.01** Operator agrees that it will comply with any valid and applicable state law, rule, or regulation, including the provisions of the Texas Towing Act, Chapter 2308 Texas Occupations Code effective September 1, 2007. However, no provision of this Agreement shall be construed to obligate the Operator to violate state law or any valid and applicable rule or regulation adopted thereunder.

## V. Notices

**5.01** Any notice that is required or permitted to be given by the City to the Operator hereunder may be mailed to the Operator by Certified U. S. Mail, return receipt requested, postage prepaid, addressed to:

_____

_____

_____

or may be given by personal delivery to the Operator or any of his agents or employees at the following local address:

_____

_____

_____

**5.02** Any notice that is required or permitted to be given by the Operator to the City or to the Chief of Police hereunder may be mailed to the City by Certified U. S. Mail, return receipt requested, postage prepaid, addressed to:

Lieutenant in Command
Auto Dealers Detail
Houston Police Department
P. O. Box 3408
Houston, Texas 77253-3408

or may be given by personal delivery to:

Lieutenant in Command
Auto Dealers Detail
Houston Police Department
1002 Washington, Basement Level
Houston, Texas 77002

**5.03** Notices mailed as above shall be deemed given on the third regular postal delivery day after the date of their deposit in the United States Mail. Notices delivered by personal delivery shall be deemed given upon their delivery.

**5.04** Either party may change its address for notice upon written notice to the other party hereto.

## VI. General

**6.01** The rights herein granted to the Operator and the obligations herein assumed by the Operator shall be personal to the Operator and shall only apply to the auto wrecker service identified in Article I, above. Operator shall not assign, subcontract or lease any auto wrecker servicing this Agreement to any driver or other person or entity without the prior written approval of the Chief. This Agreement shall terminate upon any attempted assignment, subcontract, lease or other subletting of any obligation assumed hereunder in any manner unless the Chief of Police has given prior written approval therefor. This Agreement shall also terminate upon any attempted sale of the auto wrecker service or

any interest therein (including, but not limited to, the conveyance of any partnership interest, if a partnership, or the cumulative transfer of ten percent (10%) or more of the outstanding stock, if a corporation or membership if a LLC) unless the Chief of Police has given prior written approval therefor.

**6.02** Operator agrees not to have any final unpaid civil judgments related to Operator's wrecker service business.

**6.03** This instrument, inclusive of the documents incorporated herein by reference or as exhibits hereto, constitutes the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed, and it may only be amended by instrument of equal dignity hereto executed by both parties.

**6.04** This Agreement shall be construed in accordance with the laws of the State of Texas and the Charter and Ordinances of the City and any subsequent amendments.

**6.05** The Operator agrees that any nonconsent tows to a Police Impound ordered by the Police Department for crime scene processing and then towed to a storage lot shall be considered a single tow.

**6.06** Operator acknowledges and understands that the City shall not be obligated to pay any fees or other consideration to Operator for the purpose of this Agreement. The only consideration the Operator shall receive are the fees it collects for services to the vehicle owners.

**6.07** The Operator agrees to notify the Police Department in writing within 48 hours of any change in the information required by this Agreement or contained in the attached exhibits. Only those auto wreckers listed in the records of the Police Department and covered by insurance required under this Agreement and applicable State law may provide towing services under this Agreement, and each auto wrecker may provide such services only in its dispatch zone.

**6.08** Operator shall notify the Police Department in writing within 48 hours of any arrest or criminal conviction. Operator agrees that the Police Department may conduct an examination of any criminal conviction of Operator, including but not limited to obtaining any criminal history record information permitted by law. In addition, within 48 hours of being made aware of any arrest or criminal conviction of a wrecker driver employed by Operator, Operator shall notify the Police Department.

Furthermore, by executing this Agreement, Operator represents and certifies that it meets and shall comply with all the requirements and procedures set forth in the Mayor's Policy on Drug Detection and Deterrence, City Council Motion No. 92-1971 and the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31, both of which are on file in the Office of the City Secretary. Operator shall execute Exhibits "F" and "G".

**6.09** The Operator agrees not to employ or allow any person to continue to be employed as a wrecker driver servicing this Agreement who has been the operator of an auto wrecker service for which an Agreement with the city has been terminated for cause within the five (5) year period preceding the effective date of this Agreement.

**6.10** The Operator agrees not to employ or allow any person to continue to be employed as a wrecker driver servicing this Agreement who does not have a valid wrecker driver identification issued by the Police Department. Issuance of this identification requires completion of an application form prescribed by the Police Department, attached as Exhibit "H" and:

**a.** A valid Texas driver's license issued by the Department of Public Safety.

**b.** A valid tow operator's license issued by the Texas Department of Licensing and Regulation

**b.** Payment of a nonrefundable $75 annual administrative fee to the Auto Dealers Detail, as authorized by Section 8-126(c) of the Code of Ordinances, Houston, Texas.

**c.** Proof that the driver has taken and passed a drug test at the driver's or Operator's expense at a laboratory certified by the Federal Department of Health and Human Services within thirty (30) days preceding the execution of this Agreement or employment of driver by Operator and takes and passes such a test on an annual basis during the term of this Agreement, with copies of all drug test reports subsequent to the initial test report being delivered in person by the applicant or by email directly from the testing laboratory to the Police Department to the address and in the manner specified in Section 5.02 of this Agreement. In addition drivers shall pass a drug screening test within thirty (30) days preceding the date of application for a wrecker driver identification.

**d.** Approval of the wrecker driver by the Police Department based on the criteria set forth under Section 6.20 of this Agreement.

**6.11** Operator agrees to require each wrecker driver servicing this Agreement to publicly display the wrecker driver identification card issued by the Police Department. The wrecker driver identification card shall match Operator's name on the auto wrecker. The identification card is property of the City, and must be returned immediately to the Police Department on demand. Replacement of a lost or stolen identification card requires a police offense report and payment of a $25 replacement fee. In the event a wrecker driver's employment with Operator is terminated, for any reason, Operator agrees to return the departing employee's wrecker driver identification card to the Police Department within seven (7) days after employee's last day. In the event Operator is

notified of the suspension or revocation of an employee's wrecker driver identification card, Operator agrees to return said identification card to the Police Department within seven (7) days of notification. Failure by the Operator to surrender a previously issued identification card will be treated by the Police Department as a lost or stolen card, and no new card will be issued to the wrecker driver.

**6.12** Operator agrees to prohibit any person, other than the holder of a wrecker driver identification card issued by the Police Department, from occupying the passenger compartment of an auto wrecker responding to a police scene. This restriction does not apply to the occupants of a vehicle that is subsequently towed from a police scene. In the event the Police Department is authorized to issue identification cards to wrecker driver trainees the holder of the trainee identification card may ride with the wrecker driver as a passenger.

**6.13** The Operator agrees to mark each auto wrecker used to service this Agreement in accordance with state law with the motor carrier registration number on the left and right front quarter panel of the power unit and all other required information upon the left and right side doors of the power unit.

**6.14** The Operator agrees to be responsible for the removal of debris from the roadway at the scene of any accident where the authorization to tow a vehicle has been granted. This includes vehicles towed at the direction of a police officer.

**6.15** The Chief of Police or any member of the Police Department that he may designate shall have the right to inspect the auto wrecker service records relating to vehicles that have been towed pursuant to this Agreement. Access to the records shall be provided during normal business hours.

**6.16** All records relating to towing of vehicles pursuant to this Agreement shall be maintained by the Operator at the Operator's business address for a period of two (2) years. All records, including computer source data for those records, will be subject to inspection and copying. All records shall be kept in a manner prescribed by the Police Department and shall be kept in a controlled environment, free of insects, rodents, rodent excrement, and water damage.

**6.17** It is expressly understood and agreed that the telephone number listed in Section 1.03 shall be available through Southwestern Bell Telephone Company Directory Assistance, or any successor thereof, for the business name and street address specified in Section 1.01. The telephone service must be provided by a land based telephone line. Wireless communication access of any type (i.e. cellular telephone, pager) as a method of contacting the Operator at the place of business is not acceptable as a substitute for such land based access.

**6.18** It is expressly understood and agreed that in accordance with Section 8-123 of the Code of Ordinances, Houston, Texas, no fees other than or in excess of those

provided by ordinance may be charged for any vehicle towed at the direction of a police officer.

**6.19** It is expressly understood and agreed that any vehicle towed at the direction of a police officer shall be delivered as specified in the wrecker slip issued under Section 8-116(a) of the Code of Ordinances, Houston, Texas, to the storage facility specified on the police tow ticket without delay and may not be redirected except as authorized in Section 8-116(b) of the Code of Ordinances, Houston, Texas. In the event the address on the police tow ticket is the address of a storage facility and an automotive repair facility the vehicle shall be delivered to the storage facility located at the address.

**6.20** It is expressly understood and agreed that the Operator will report the employment or termination of each wrecker driver servicing this Agreement to the Auto Dealers Detail on a form prescribed by the Police Department for this purpose within 48 hours. Should a wrecker driver be disapproved by the Police Department, notice shall be provided to the Operator of the disapproval and the grounds for disapproval. Grounds for disapproval shall be based upon actions or conduct that could materially affect service to the City, including, but not limited to:

**a.** Failure to comply with any ordinance, state law, or valid and applicable rule or regulation governing auto wrecker operation.

**b.** Conviction for any auto theft related offense or offense of class B Misdemeanor or higher.

**c.** Outstanding criminal warrants.

**d.** Failure to display city issued wrecker driver identification while servicing this Agreement.

**e.** Failure to clean the street at the scene of an accident.

**f.** Failure to obey instruction of police officer at tow scene.

**g.** Failure to allow inspection of auto wrecker.

**h.** Failure to use proper forms to document towed vehicle.

**i.** Failure to comply with continuing education required pursuant to Section 86.250 of the Texas Administrative Code.

Within (10) days of this notice, the Operator may request a hearing before the City's Automotive Board to contest the disapproval of a wrecker driver by giving notice in

writing thereof to the address or party named in Section 5.02. The Automotive Board will afford a hearing to the Operator on the disapproval of the wrecker driver within thirty (30) days after delivery of the request, Saturdays, Sundays and City observed holidays, excepted. Sworn affidavits shall be accepted as evidence at such hearings. If the Automotive Board finds that the wrecker driver may service this Agreement, he shall order the acceptance of the wrecker driver by the Police Department. If the Automotive Board finds that the wrecker driver may not service this Agreement, the Operator may not use the wrecker driver to service this Agreement under penalty of termination of the Agreement for cause.

**6.21** **(a)** Release.

THE OPERATOR, ITS PREDECESSORS, SUCCESSORS AND ASSIGNS HEREBY RELEASE, RELINQUISH, AND DISCHARGE THE CITY OF HOUSTON, ITS PREDECESSORS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, AND ITS FORMER, PRESENT, AND FUTURE AGENTS, EMPLOYEES, AND OFFICERS FROM ANY LIABILITY ARISING OUT OF THE SOLE AND/OR CONCURRENT NEGLIGENCE OF THE CITY OF HOUSTON FOR ANY INJURY, INCLUDING DEATH OR DAMAGE TO PERSONS OR PROPERTY WHERE SUCH DAMAGE IS SUSTAINED IN CONNECTION WITH OR ARISING OUT OF THE WORK PERFORMED UNDER THIS AGREEMENT.

**(b)** Indemnification.

OPERATOR COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES, (COLLECTIVELY, THE "CITY") FROM ANY AND ALL THIRD PARTY CLAIMS, DEMANDS, AND LIABILITY, INCLUDING DEFENSE COSTS RELATING IN ANY WAY TO DAMAGES, CLAIMS, OR FINES ARISING BY REASON OF OR IN CONNECTION WITH OPERATOR'S ACTUAL OR ALLEGED NEGLIGENCE OR OTHER ACTIONABLE PERFORMANCE OR OMISSION OF THE OPERATOR IN CONNECTION WITH OR DURING THE PERFORMANCE OF THE DUTIES UNDER THIS AGREEMENT. OPERATOR FURTHER EXPRESSLY COVENANTS AND AGREES TO PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM ALL CLAIMS, ALLEGATIONS, FINES, DEMANDS, AND DAMAGES RELATING IN ANY WAY TO THE ACTUAL OR ALLEGED JOINT AND/OR CONCURRENT NEGLIGENCE OF THE CITY AND OPERATOR, WHETHER OPERATOR IS IMMUNE FROM LIABILITY OR NOT.

IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED HEREIN IS AN AGREEMENT BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CITY'S OWN NEGLIGENCE WHERE SAID NEGLIGENCE IS AN ALLEGED OR ACTUAL

CONCURRING PROXIMATE CAUSE OF ANY ALLEGED THIRD-PARTY HARM.

THE INDEMNITY PROVISION PROVIDED HEREIN SHALL HAVE NO APPLICATION TO ANY CLAIM OR DEMAND WHERE BODILY INJURY, DEATH, OR DAMAGE RESULTS ONLY FROM THE SOLE NEGLIGENCE OF THE CITY UNMIXED WITH ANY FAULT OF THE OPERATOR.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIABILITY OF THE OPERATOR UNDER THIS INDEMNITY PROVISION SHALL NOT EXCEED $600,000 PER OCCURRENCE.

**6.22** Operator agrees to comply with the continuing education required pursuant to Section 86.250 of the Texas Administrative Code.

**6.23** Operator agrees to comply with the Federal Reporting Requirements stipulated in the National Motor Vehicle Title Information System issued by the Department of Justice, wherein Operator must report all junk and salvage vehicles that it purchases from a private party, takes possession of in lieu of towing or storage cost or sells at auction.

**6.24** Operator agrees that each wrecker driver servicing this Agreement shall be able to read and speak the English language sufficiently to communicate effectively with citizens, dispatchers and first responders, to understand highway traffic signs and signals, to respond to official inquiries and to make entries on reports and records.

[INTENTIONALLY LEFT BLANK]

**Executed in triplicate counterparts, each having the force and effect of the original.**

**OPERATOR**

By: _____

_____
*(Print or type name)*

_____
*(Title)*

**ATTEST (if a corporation)**

By: _____
Corporate Secretary

**CITY OF HOUSTON**

By: _____
Art Acevedo
Chief of Police

**COUNTERSIGNED**

By: _____
Chris Brown
City Controller

**DATE OF COUNTERSIGNATURE**

**_____ day of _____, 20___.**

# POLICE-AUTHORIZED TOW SERVICE AGREEMENT

## Auto Dealers Instructions

1. Three (3) copies of the Agreement should be filled out and executed and include all necessary documents.

2. **Exhibit A**

   - List each wrecker that will service this Agreement including the zone in which the will operate.
   - Include a copy of the registration.
   - Include a copy of the TDLR license

3. **Exhibit B**

   - Automobile Liability Insurance - $1,000.000 combined single limit per occurrence.
   - Cargo on Hook or equivalent - $50,000 per vehicle
   - Worker's Compensation or Occupational Safety Insurance
   - All drivers shall be named insured on liability policy
   - All policies (except Workers Comp/Occ Safety) shall name the City as an additional insured.

4. **Exhibit C**

   - "Drop Letter" for each storage lot accepting vehicles towed by the PATSA
   - Verify each storage lot listed in the drop letter is a current PPSLA holder

5. **Exhibit D**

   - A Proprietorship
   - A Limited Partnership
   - A Limited Liability Company (LLC)
   - A Partnership
   - A Corporation (S or C)
   - A Limited Liability Partnership
   - "Doing Business As" (DBA)

(2-67) requires copies of Articles of Incorporation, Partnership papers, or DBA papers. Articles of Incorporation must be verifiable through the Secretary of State and corporations must be in good standing with officers listed.

**Exhibit D1**

- Operator must turn in a letter stating what credit cards are accepted. (Must accept 2 major credit cards)

6. **Exhibit E**
   - Attach copies of the TXDOT vehicle inspection report on each wrecker servicing this Agreement.

7. **Exhibit F and G**

   - Letter from the drug company who is administering your drug testing
   - Attach copies of the Drug Policy Compliance Agreement (Exhibit F)
   - Submit copy of written drug free workplace policy
   - Attach copies of Exhibit G (Drug Policy Compliance Declaration). This form must be submitted to Auto Dealers every six months.

8. **Exhibit H**

   - Verify the telephone number listed in Section 1.03 is available through Directory Assistance (Yellow Pages) for the exact business name and address provided in the Agreement.
   - Attach an Application form for each wrecker driver who will be servicing this agreement.

9. Attach one check covering the $660 administrative fee for each auto wrecker listed in **Exhibit A** and one check for all wrecker drivers for which application is made.

10. After the Agreement has been sent for approval, the wreckers listed in "**Exhibit A**" will be scheduled for inspection by Auto Dealers.

# POLICE-AUTHORIZED TOW SERVICE AGREEMENT

## EXHIBIT A

| Wrecker Tag No. | VIN (last 4) | Medallion | Zone | Wrecker Tag No. | VIN (last 4) | Medallion | Zone |
|---|---|---|---|---|---|---|---|
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**Executed on this: _____ day of _____, 20_____**

**OPERATOR**

**By: _____**

_____
***(Print or type name)***

_____
***(Title)***

**ATTEST (if a corporation)**

**By: _____**
**Corporate Secretary**

DUPLICATE AS MANY TIMES AS NEEDED

**Dau 4/23/14**

# EXHIBIT "B"

# CITY OF HOUSTON

# PROOF OF INSURANCE

This certifies that the below named insured is provided insurance coverage issued by a company that has a Certificate of Authority from the State Department of Insurance to conduct insurance business in Texas or has a rating of at least B+ and a financial size of Class VI or better according to the current year's Best's rating. The policy issued has a 30-day cancellation-endorsement (TE 02-02A) to the Auto Dealers Detail, P.O. Box 3408, Houston, Texas 77253.

The following minimum insurance coverage is provided:

Automobile Liability Insurance - $1,000,000 combined single limit per occurrence
Cargo on Hook Coverage - $50,000 per vehicle Workers Compensation or
Occupational Safety Insurance

All policies except Worker's Compensation or Occupational Safety Insurance are primary to any other insurance and name the City of Houston as an additional insured. All drivers are named insured on the liability insurance policy.

Policy No._____ Policy Period From:_____ To: _____

Name of Company Insured and Mailing Address:

_____

_____

List of covered vehicles (include year, make, and last five of VIN):

| | | | | | |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

List of drivers (first initial, last name, DL#):

| | |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Name of Insurance Co. _____

Address: _____

Signed by: _____ Date: _____
(Authorized Company Representative)

Print Name _____ Phone No._____

This is an official Government record. A false entry may constitute a felony of the third degree.

(Duplicate form as many times as needed)

# EXHIBIT "C"

## POLICE-AUTHORIZED TOW SERVICE AGREEMENT

As Operator of a police private storage lot located in zone _____ , I agree to accept for storage vehicles towed by the below named auto wrecker service:

_____
(Name of auto wrecker service listed in Section 1.01 of Police-Authorized Tow Service Agreement)

The auto wreckers that are authorized to deliver vehicles to my storage lot are:

| Wrecker Tag# | Wrecker Tag# | Wrecker Tag# | Wrecker Tag# |
|---|---|---|---|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

My police private storage lot is known as:

_____
(Name of storage lot as listed in Section 1.01 of Police Private Storage Lot Agreement)

**Executed on this: _____ day of _____ , 20_____**

**OPERATOR**

By: _____

_____
*(Print or type name)*

_____
*(Title)*

**ATTEST (if a corporation)**

By: _____
Corporate Secretary

(Duplicate form as many times as needed)

# EXHIBIT “D”

## Attach true copy of

[1] assumed name certificate if a proprietorship,

[2] partnership agreement disclosing the names of all general or limited partners if a partnership, or

[3] a copy of the articles of incorporation and certificate from the corporate secretary setting forth the names of all officers and all persons owning ten percent (10%) or more of the outstanding stock if a corporation), or

(4) a copy of the membership agreement if an LLC

# EXHIBIT "E"

## POLICE AUTHORIZED TOW SERVICE AGREEMENT
## AUTO WRECKER INSPECTION

The below listed wreckers have been inspected by Auto Dealers for compliance with Section 2.03 and Section 6.11 of the Police-Authorized Tow Service Agreement between the City and the auto wrecker service known as:

(Name of auto wrecker service listed in Section 1.01 of Police-Authorized Tow Service Agreement)

The auto wreckers that are authorized to deliver vehicles to my storage lot are:

| Wrecker Tag# | Wrecker Tag# | Wrecker Tag# | Wrecker Tag# |
|---|---|---|---|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

Approved by: _____

Date of Approval: _____

(Duplicate form as many times as needed)

# EXHIBIT "F"

## DRUG POLICY COMPLIANCE AGREEMENT

I, _____ _____ as an owner or officer of
(Name) (Print/Type) (Title)
_____ (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. **1-31).**

2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests,

3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results,

4. Submit semi-annual Drug Policy Compliance Declarations,

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

_____ _____
Date Contractor Name

_____
Signature

_____
Title

(Duplicate form as many times as needed)

# EXHIBIT "G"

## DRUG POLICY COMPLIANCE DECLARATION

I, _____as an owner or officer of
(Name) (Print/Type) (Title)
_____(Contractor)
(Name of Company)
have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____to _____ , 20 ___,

_____ Initials A written Drug Free Workplace Policy has been implemented and employees notified. The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

_____ Initials Written drug testing procedures have been implemented in conformity with the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1 -31. Employees have been notified of such procedures.

_____ initials Collection/testing has been conducted in compliance with federal Health and Human Services (HHS) guidelines.

_____ Initials Appropriate safety impact positions have been designated for employee positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is

_____ Initials From _____ to_____ the following test has occurred
(Start date) (End date)

| | Random | Reasonable Suspicion | Post Accident | Total |
|---|---|---|---|---|
| Number of Employees Tested | | | | |
| Number of Employees Positive | | | | |
| Percent of Employees Positive | | | | |

_____ Initials Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ Initials I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

_____
(Date)

_____
(Typed or Printed Name)

_____
(Signature)

_____
(Title)

(Duplicate form as many times as needed )

EXHIBIT "H"

# CITY OF HOUSTON

APPLICATION FOR AUTO WRECKER DRIVER SERVICING A
POLICE-AUTHORIZED TOW SERVICE AGREEMENT
*(print or type all information)*

I, _____ hereby make application to act
*(Full name: First Middle Last)*
as an auto wrecker driver servicing a Police-Authorized Tow Service Agreement.

Wrecker Service Operator: _____
*(Auto wrecker service listed in Section 1.01 of Police-Authorized Tow Service Agreement)*

Address: _____Business Phone: _____

I reside at _____ and my phone number is _____
*(Street address, city, state, zip code)*

Date of Birth: _____ Height:_____ Weight: _____ Hair: _____ Eyes:_____ Place of Birth: _____

Sex: _____ Race: _____ Social Security Number: _____ Driver's License: _____

I (circle one) have have not been convicted within the last seven (7) years of any felony or misdemeanor (including DWI, but not traffic offenses). If you have been convicted of any felony or misdemeanor, explain in detail (what, when, and where):

I (circle one) have have not received adjudicated probation/parole for any of the above offenses. If so, explain:

Date application made: _____ Applicant's Signature _____

**State of Texas**

**County of Harris**

_____, personally appeared before me, and being first duly sworn declared that he/she signed this application in the capacity designated, if any, and further states that he/she has read the above application and the statements therein contained are true.

Sworn to and subscribed before me this _____day of. _____, 20_____

_____
*Notary Public in & for the State of Texas*

---

FOR OFFICE USE ONLY

Right Hand Thumb

Checked By _____ FPC

Houston Police Department/auto Detail
1200 Travis, 14th floor
Houston, Texas 77002
Phone # (713) 308-1440

# Motorist Bill of Rights

The Houston Police Department and the licensed towing companies of Houston want you to be an informed consumer. The following are your rights regarding towing services in the City of Houston.

**Tow Fee**

**$159.00 –** If your vehicle is abandoned, blocking a moving lane, or in an accident or law enforcement incident the fee will be $159.00 for the first 20 miles and $3.18 per additional mile.

**Payment Options**

Cash or Credit Card will be accepted. The tow operator must accept two of the four major credit cards (MasterCard, Visa, American Express or Discover).

**Tow Location (excluding prisoner vehicles)**

You have the option to be towed to a location of your choice at the tow fee rate listed above. Advise the on-scene police officer of the location you choose and ask for a copy of the police tow slip indicating the location.

**Police Private Storage Lot**

You have the option to have your vehicle towed to a Police Private Storage Lot where the storage fees are regulated and posted. Choosing a location other than a Police Private Storage Lot may lead to paying fees that are not regulated.

**Soliciting**

Tow operators may not solicit business. If a tow operator attempts to solicit business, notify the officer on the scene.

**Find My Car**

To find the storage lot location of your vehicle and pending storage fees, please visit www.findmytowedcar.com. The license plate or VIN number must be entered in order to retrieve the information.

**Tow Hearing**

If you feel your vehicle was wrongly towed, you may request a hearing to determine if probable cause existed for the removal of the vehicle. Visit www.jp.hctx.net/tow/RequestTowHearing.pdf for information on hearings.

**Complaints**

Direct complaints to the Houston Police Department, Auto Dealers Detail at hpd.AutoDealers@HoustonPolice.org or call 832-394-4869.