

**CITY OF COSTA MESA**  
**POLICE DEPARTMENT**



**TOW POLICY GUIDELINES AND REQUIREMENTS**

August 2008

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**PURPOSE**

The purpose of this policy is to establish guidelines and requirements to efficiently manage and provide Police-initiated towing service that will be of mutual benefit to the Public, the Costa Mesa Police Department, and the towing companies providing that service.

**GOALS**

- (1) To provide the highest level of service to the motoring public at a fair and low cost to the person(s) who require(s) the services of a towing company.
- (2) To provide a workable and comprehensive policy regarding towing and/or storage of abandoned, disabled, stored or impounded vehicles from public or private property.
- (3) To provide grounds for addressing relevant matters pertaining to the administration of a rotational tow list and any other pertinent matters including procedures governing disciplinary action, up to removal from the rotational tow list for the tow service operators violating the contract.

**TOWING SERVICES - DEFINITIONS**

1. A call for towing service, which is initiated by a City employee, for the purpose of storing or impounding a vehicle.
2. A call for towing service, which is initiated by a City employee, for the purpose of removing a vehicle which has been involved in a collision and the owner or driver has not specified a tow service or garage.
3. A call for towing service, which is initiated by a City employee, at the request of the driver of a disabled vehicle and the towing service or garage is unspecified.
4. A call for clean up service, which is initiated by a City employee, for the purpose of removing fluids or solid materials from the highway, including sidewalk and parkway.
5. The Police Tow Policy Guidelines and Requirements shall apply to all tow service operators that are on contract with the City of Costa Mesa.

**RESPONSE TO CALLS**

Upon request by the Costa Mesa Police Department (CMPD), the tow service operator shall respond promptly and provide towing services for vehicles to be taken into custody by the Police Department. Such towing services shall include, but not be limited to towing vehicles which are involved in accidents, disabled by other causes, impeding the flow of traffic,

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impounded for evidence, abandoned in public places or on private property or for any other reason within the jurisdiction of the Police Department.

The tow service operator shall maintain sufficient numbers of trucks and equipment to be able to respond to a CMPD tow request to any location within the City within fifteen (15) minutes. Heavy Duty (Class C) and Super Heavy Duty (Class D) tow trucks shall respond within 45 minutes of CMPD tow requests within the City limits.

When dispatched by CMPD, the tow service operator shall not remove any vehicle involved in a collision, until authorized by CMPD.

The tow service operator agrees that its operators, employees and agents will only report to the scene of an accident or a disabled vehicle when summoned by the law enforcement officer or the person in control of the disabled vehicle.

In addition to removal of vehicles, the tow service operator shall remove, transport and dispose of all debris and fluids, including oil and gasoline, resulting from accidents in compliance with all applicable federal, state and local regulations concerning hazardous materials. In the event a call to remove a disabled vehicle is received by the tow service operator, necessitating response prior to completion of site clean-up, the tow service operator shall clear the current site sufficiently to restore normal traffic movement before proceeding to the subsequent request. Any vehicles remaining shall be towed to the storage facility at the earliest opportunity.

In the event the tow service operator receives an additional call to remove a disabled vehicle that is interrupting traffic flow while an earlier call is being processed, the tow service operator shall clear the site specified in the prior call sufficiently to restore normal traffic movement and immediately proceed to the site specified in the additional call. Any disabled vehicle deposited or parked by the tow service operator at the site specified in any call shall be towed to storage at the earliest opportunity after the tow service operator has complied with the above provisions for restoring traffic movement at all specified sites.

On any private party tows, the tow service operator shall observe and notify CMPD of any damage to City property.

**ABANDONED VEHICLES**

Abandoned vehicles and private party tows shall comply will all provision of California Vehicle Code Section 22651 et seq. and 22658 et seq. Failure to comply may result in disciplinary action up to or including termination of the contract.

**COSTA MESA MUNICIPAL CODE ARTICLE 18**

Each tow service operator shall comply with all applicable sections of Article 18 of the Costa Mesa Municipal Code.

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**TOWING SERVICE REQUIREMENTS**

Each tow service operator shall render 24 hours, 7 day a week towing service, and the service area shall include the entire city limits of Costa Mesa. Towing companies shall respond to the scene within 15 minutes from the time when called by the Costa Mesa Telecommunications Dispatch Center. The response time for a Heavy Duty (Class C) & Super Heavy Duty (Class D) vehicle tow may be up to 45 minutes.

The tow service operator agrees that its service, including the releasing of vehicles, will be available on a 24-hour, 7 day-a-week basis and that it will provide the Costa Mesa Police Department with a complete description of its towing operation for the City of Costa Mesa at the time it signs this Agreement. For any vehicle release during business hours, a person should wait no longer than 20 minutes to take possession of his/her vehicle after payment of fees. After business hours, a person waiting to take possession of his/her vehicle shall wait no longer than 30 minutes for response from tow service operator.

Each tow service operator is required to have dispatching capability to their trucks/drivers 24 hours per day.

The tow service operator on call will maintain a minimum of one driver on-duty at all times. In addition, at least one driver will be on stand-by at all times.

The tow service operator, or its employees, operators or agents shall not have any financial interest in any repair shop(s) to which private parties are referred by that tow service operator, employee, operator or agent. The tow service operator is prohibited from requiring tow to any particular repair shop(s) and is prohibited from requesting or receiving a fee from any repair shop(s) for towing a vehicle to that facility or for a referral to that facility.

The tow service operator or its employees, operators or agents shall not engage in practices commonly referred to in the tow services business as "soliciting", "cruising", or "poaching."

**Contract Tow Service Operators**

All tow service operators shall conduct their business in an orderly, ethical, business-like manner and use every means to obtain and keep the confidence of the motoring public.

All tow service operators shall be responsible for the acts of their employees while on duty and for damage to vehicles while in their possession.

All tow service operators shall be responsible for the protection of police-impounded vehicles regardless of the location of storage until the vehicles have either been released to their owners or disposed of through legal process.

Part of the tow service operator's responsibility is to keep current on all laws and regulations associated with being a tow operator.

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No contracted tow service operator shall be directly involved in the towing related business of any other towing service contracting with Costa Mesa or with a company providing private security services which have the power or duty to patrol or enforce parking regulations on private or public property.

All tow service operators shall comply with sections 9880.1 through 9884.17 of the California Business and Professions Code with regard to unauthorized charges or repair work on the vehicle in its charge and posting of notices.

The tow service operator shall maintain a current/valid motor carrier permit and provide the CMPD with a current copy. Failure to maintain a valid copy will result in automatic suspension of all activity until a valid motor carrier permit is obtained.

The tow service operator shall maintain current registration on all vehicles. Each tow service operator must provide CMPD with a copy of valid registration for each vehicle in his/her fleet. Failure to maintain current registration on any vehicle will result in removing the vehicle from towing services for the City of Costa Mesa until valid registration is obtained.

The tow service operator must maintain the standard current/valid insurance as required by the City of Costa Mesa, as defined in the Request for Proposal document. Auto insurance must be maintained for each vehicle. The insurance certificates must be provided to the CMPD. The insurance certificates must be approved by the Risk Management Division. Failure to maintain current/valid insurance may result in suspension of all towing activity until current/valid insurance is obtained.

The tow service operator is responsible for complying with all applicable federal, state, and local laws and regulations pertaining to a drug and alcohol free workplace. The tow service operator is required to have a drug and alcohol policy in writing, which must be distributed and made easily accessible to all of their employees. Failure to comply with the requirements of this document and the requirements set forth in the contract will be handled on a case by case basis and may result in suspension and or termination from providing tow services for the City of Costa Mesa.

The tow service operator shall notify the CMPD of any vehicles being towed or stored within the City pursuant to private party requests, prior to leaving the City limits or within 30 minutes of vehicle storage, whichever occurs first.

The tow service operator shall notify outside jurisdictions of any vehicles being towed or stored from that jurisdiction, *prior* to bringing the vehicle *into* the City of Costa Mesa.

Notwithstanding any provision or language that might indicate to the contrary, in responding to a call from the CMPD, the tow service operator shall have no claim against the City of Costa Mesa for the cost of its service rendered, but shall look solely to the owner of the vehicle transported. No representation is made by the City of Costa Mesa that such person will be financially responsible.

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All personal property located within towed or stored vehicles shall be surrendered to the vehicle owner upon request and upon presentation of proper identification unless the vehicle is to be held for evidence.

Any change in operating locations of a towing service provider shall be reported, in writing, to the CMPD at least thirty (30) days prior to such change.

Each contract tow service provider shall comply with Section 27907 of the Vehicle Code of the State of California regarding signs on tow trucks. Only tow trucks bearing the name of the towing service called shall be dispatched to the scene of need.

All vehicles stored or impounded as a result of a tow ordered by the City of Costa Mesa shall be towed directly to a towing service storage lot unless the CMPD or other person legally in charge of the vehicle requests that it be taken to some other location.

**Tow Yard Requirements**

**General Requirements**

All stored vehicles shall be stored and released from the tow service provider's office which shall be located within five (5) miles from the Costa Mesa Police Station (99 Fair Drive, Costa Mesa, California 92626).

Towing service storage lots shall be adequately fenced with gates locked and secured and reasonably well-lighted to maintain a maximum of security for stored and impounded vehicles. All storage lots must be inspected and approved by CMPD.

Open area storage yard(s) shall comply with all requirements of the zoning and building codes of the jurisdiction of the facility. Perimeter gates and fencing shall be maintained to ensure security and discourage unauthorized access.

There shall be adequate lighting to illuminate the entire storage/impound lot as well as all structures thereon. Evidence of compliance may be provided through photo metrics on a site plan. This compliance shall be presented to the CMPD and Costa Mesa Planning Division, if requested. Lighting shall be directed so as not to interfere with neighboring uses. Sign(s) identifying the tow service business to the public shall be visible and legible from the street during daylight and evening hours. A ring down line shall be provided at the tow yard/business office for direct ring to tow yard operator after hours.

Adequate open storage space shall be provided to accommodate stored, impounded, and disabled vehicles resulting from police calls for towing services. The minimum capacity of such a lot shall be not less than 100 standard size, 4-wheel vehicles. Tow service operators may have more than one lot in order to accommodate the 100 vehicles.

The CMPD reserves the right to require any other security devices as deemed reasonably necessary.

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Any damage to wall structures shall be repaired within 24 hours to ensure proper protection for the stored/impounded vehicles.

Prior to the utilization of a new storage facility, the tow service operator shall obtain the approval of the Chief of Police or his designee and furnish the new address thirty (30) days in advance for inspection.

**Storage Security Responsibility**

The tow service operator shall store all vehicles, together with all accessories and equipment on said vehicles and all personal property in each vehicle, in storage facilities approved by the City of Costa Mesa for Official Police tow storage. Facilities utilized by the tow service operator for Police tow storage must be located within a five (5) mile radius of the Costa Mesa Police facility.

The tow service operator shall be held accountable for all personal property, vehicle accessories, together with the vehicle stored within its storage facility. The City of Costa Mesa, its officers, agents, and employees shall be relieved of all responsibility.

The tow service operator shall not remove personal property from a stored vehicle. If the registered owner removes personal property from a stored vehicle, the tow service operator shall maintain documentation of such and will require a signed receipt from the registered owner for property released. The tow service operator shall immediately notify the CMPD if any contraband, weapons or hazardous materials are found in the vehicle(s).

No vehicle impounded at the direction of the CMPD shall be released, sold or dismantled without written approval (signed release) from the Costa Mesa Police Department.

Upon signing CMPD Form No.180, tow service operator assumes full responsibility for the vehicle and its contents.

**Evidence Hold or Special Handling Requirements**

- The secured evidence hold area must be within the confines of the tow service provider's primary storage facility, within the five miles of the Costa Mesa Police Station.
- It is required that the tow service provider is able to provide an enclosed "evidence hold" area. The hold area must contain four walls, a solid roof, and a door with a locking device for protection from the elements of weather and other forms of contamination.
- The bottom edge of the enclosed structure shall not be more than 2" above the finished parking surface of the enclosed area.
- This space must be adequate to contain at least one full-sized passenger vehicle. Please note the CMPD requires five (5) such evidence hold spaces.

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- Vehicles impounded by the CMPD for special investigation shall be stored in evidence hold until cleared by the investigating officers, at which time the owners shall be permitted a 48-hour grace period at no charge in which to remove the vehicles from storage. Under no circumstances shall contents of vehicles with a "Police Hold" be removed.
- The area shall provide ample room for vehicle inspection, free of restriction from other vehicles, equipment, structures, or other objects.
- Structure shall have a hard floor of either concrete or asphalt.
- Only items being held as police evidence shall be kept in the "evidence hold" storage area. The "evidence hold" storage area and floor will be kept in a clean condition.
- There must be adequate lighting and electrical power immediately available to this area.
- The area shall be free of pedestrian and vehicle traffic during the inspection.
- Vehicles with "evidence holds" shall not be touched, moved, or tampered with in any manner without the Costa Mesa Police Department's written consent.
- Protection shall also be provided to preclude evidence contamination by employees and other individuals during normal business hours.
- A log shall be maintained to document date, time, name and purpose of all person(s) entering the storage area for vehicles with "evidence holds."
- The tow service operator shall not charge the City for storage of vehicles that involve evidence hold.

**BUSINESS OFFICE**

The tow service provider must have one specific main business office location within five (5) miles of the Costa Mesa Police Station at which vehicles are released. The tow service provider must have been in the towing business a minimum of 24 months within the County of Orange, prior to the start of contract. If telephones are the means of communication for receipt of calls from the CMPD, tow service provider shall provide a list of telephone numbers to be called in order of priority, and immediately upon any change in such telephone numbers, or in the priority thereof, shall notify the CMPD in writing with effective the date of the change.

- Each tow service provider shall have a staffed business office within a five mile radius of the Costa Mesa Police Station. The office shall be staffed with employees that can

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release vehicles, file and maintain documents, and answer questions from the public; both in person and on the phone, and/or electronically by e-mail.

- The business office shall include either the tow service operator or a person who has the authority to conduct business and make decisions on behalf of the tow service operator for administrative purposes and release of vehicles.
- The office shall be staffed and open for business Monday through Friday, 8:00 a.m. - 5:00 p.m. Hours and charges shall be posted for public view in an unobstructed area inside the office.
- During business hours, the tow service office staff shall release any vehicle, upon payment of fees, within 20 minutes. After business hours, a person waiting to take possession of his/her vehicle shall wait no longer than 30 minutes for response from tow service operator. A ring down line shall be provided at the business office for direct ring to tow yard operator after hours.
- The tow service office may be closed on City of Costa Mesa recognized holidays; however those days will be posted in the tow office and visible to the public at least five (5) business days in advance, provided, however, that the operator must still comply with the requirement that no person waiting to take possession of his/her vehicle shall wait longer than 30 minutes for response from the tow service operator.
- The towing service office shall possess a valid City of Costa Mesa Business License.

**Business Office Staff**

Employees of tow service operators are to provide good customer service at all times.

Employees shall refrain from any acts of misconduct including, but, not limited to, any of the following:

- 1) Rude or discourteous behavior.
- 2) Lack of service, selective service, or refusal to provide service which the operator is or should be capable of performing.
- 3) Any act of sexual harassment or sexual impropriety, gender, racial, or religious discrimination.
- 4) All tow service operators shall comply with section 1.4 of the Professional Service Agreement:

Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age,

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physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

**Charges for Towing and Related Services**

Initial Towing Fee and Daily Storage Charges shall be in compliance with California Vehicle Code Section 22658 and in accordance to the rates established based on the Municipal Code Section 9-292 and 9-293.

Tow and storage rates shall be posted conspicuously in public view, in accordance with California Civil Code Section 3070 (17" x 22" - with 1" letters)

The tow service operator agrees to provide the following services under this agreement at or below the rates established periodically by the City Council in accordance with Section 9-284 of the Costa Mesa Municipal Code:

- Basic Tow/Flat Bed Tow
- Heavy Duty Tow (over  $\frac{3}{4}$  ton)
- Super Heavy duty (over 1 ton)
- Inside Storage
- Outside Storage
- Storage of trucks, trailers, buses
- Storage of motorcycles
- Tow Dolly
- Dropped Drive Line
- Winching/Recovery
- Labor
- After Hours Release
- Street clean up after accident (no tow) – hourly rate
- Lock outs/Extrication

With the exception of the basic tow rate, the preceding services are based on a 24-hour period. No charge or other fee shall be collected for a dry-run, i.e., when none of the above chargeable services is rendered by the tow service operator. It will be the tow service operator's responsibility to collect its fees for services under this agreement and City of Costa Mesa shall not be responsible in any way for such charges.

In the event the Costa Mesa Police Department errors in impounding a vehicle or for any other reason in the CMPD's sole discretion concludes a vehicle should be released without any charges, it shall be released immediately by the tow service operator without charge upon request by the CMPD.

The tow service provider must honor "no charge" or "reduced charge" towing fee waiver forms completed by an authorized Costa Mesa Police Watch Commander, Traffic Sergeant or higher, or Detective Sergeant or higher.

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If clean up at collision locations is requested and no vehicle tow is being requested, the towing service provider may charge the City for clean up at the agreed rate based upon hours verified by CMPD on site.

Annually the fees established by the City Council shall be subject to automatic annual adjustments in proportion to the percentage change in the Consumer Price Index ("CPI"), All Items, for All Urban Consumers in the Los Angeles-Anaheim-Riverside Area for the preceding year, whichever is greater, promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor. In no event shall the annual adjustment to the towing fees exceed 5 percent (5%) in any adjustment period.

The automatic adjustments shall commence on June 1, 2009, and shall continue every year thereafter on the same date. The automatic adjustments shall be calculated by means of the following formula:

$$A = B \times (C/D)$$

A = Adjusted Fees

B = Base fees as originally set by the City Council.

C = Monthly index for the third month prior to July) of each year in which each fee rate adjustment is to become effective.

D = Monthly index for the month of the Effective Date of this Lease.

In the event that the CPI is not issued or published, for the period for which such minimum encroachment fee is to be adjusted and computed hereunder, or in the event that the Bureau of Labor Statistics of the United States Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the United States Government, shall be used; and if none is so published, then another index generally recognized and authoritative shall be agreed upon by the City and the two service operator.

The tow service provider may request a rate increase over and above the CPI increase no more often than once per year. Any such request must be made no later than December 1<sup>st</sup> of each year and each request shall specifically detail the basis of the fee request.

**City Recovery of Administrative Fees**

The tow service provider must collect the City of Costa Mesa's reasonably borne administrative costs, on behalf of the City of Costa Mesa, in the prescribed amount established by the City User fees each year. The tow service provider must remit the collected fees on or before the 20th day of each calendar month. Payments must be made by check, payable to the City of Costa Mesa. Payments must be accompanied by statements indicating the number of towing incidents applied to compute the total fees remitted. The City has a right to request an audit at any time. If the audit is performed and errors are found, then the City may charge the tow service provider for the audit costs.

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**Payment**

Payment of cash or credit card with proper identification will be accepted by the tow service operator on calls for any services provided. The tow service operator, when responding to other CMPD ordered tows, will accept payment in the manner consistent with California Vehicle Code Division 11 Chapter 10 Article 1 Section 22651.1 as shown below:

*Towing or Storage Charges: Payment 22651.1. Persons operating or in charge of any storage facility where vehicles are stored pursuant to Section 22651 shall accept a valid bank credit card or cash for payment of towing and storage by the registered owner, legal owner, or the owner's agent claiming the vehicle. A person operating or in charge of any storage facility who refuses to accept a valid bank credit card shall be liable to the registered owner of the vehicle for four times the amount of the towing and storage charges, but not to exceed five hundred dollars (\$500). In addition, persons operating or in charge of the storage facility shall have sufficient funds on the premises to accommodate and make change in a reasonable monetary transaction.*

*Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when agreeing with a towing or storage provider on rates.*

**TOW TRUCK DRIVERS**

1. Drivers shall perform all towing and recovery services in the safest and most expedient manner possible.
2. The tow service operator shall ensure that drivers assigned to respond to City of Costa Mesa service calls are qualified employees; trained and proficient in the use of the tow truck and all related tow equipment and able to apply the procedures necessary to safely tow and recover vehicles serviced under this Contract.
3. All Drivers assigned to respond to City of Costa Mesa service calls shall be:
  - Punctual
  - Able to speak and write English fluently and clearly
  - Subject to a criminal history background records check to the reasonable satisfaction of the Chief of Police or his designee.
  - Possess a valid California Driver's License (CDL) (see #4 below)
  - Not under the influence of alcohol or any controlled substance
  - No DUI convictions within seven (7) years
  - Neat, clean and well groomed in appearance

Tattoos – In order to ensure a professional appearance for all tow service providers in Costa Mesa, all tattoos must be concealed by operators while working. Operators will be required to conceal any tattoos with gloves, collars, long sleeves, or by other means acceptable to the CMPD. Facial tattoos of any

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variety are not permitted. No facial piercings shall be worn while on duty. If there are any questions, clarification/authorization may be obtained by contacting the Police Chief's designee.

4. Drivers shall possess the proper class license(s) and certificate(s) required for the class of tow vehicle driven and for the type of tow service performed. Class A licenses must be endorsed by DMV to allow for operation of special vehicle configurations and/or special cargo.
5. All Drivers may be required to submit to a City of Costa Mesa criminal history records check including fingerprinting. Felony and misdemeanor convictions may be disqualifying. The City of Costa Mesa may elect to issue ID cards to those employees that successfully pass the background check.
6. The tow service operator shall maintain and provide the CMPD with a current list of drivers upon contract award, or upon request. Specific details required are noted in the Records and Reporting section of this document (page 21).
7. The tow service operator shall notify the CMPD in writing, (includes e-mail correspondence), of any change in drivers or driver status and provide the CMPD with an updated list of drivers within seven (7) calendar days following date of change during the term of the contract.

**Driving Infractions of Employees**

The tow service operator and employees shall, at all times, comply with federal, state, and local laws and ordinances.

- 1) In the event of a traffic infraction by a rotation tow truck driver, the tow service operator will be advised of the violation by the CMPD. The tow service operator will be granted the opportunity to take necessary steps to ensure that the driver complies with the law. Any subsequent traffic violations may be cause for disciplinary action against the operator and/or the involved employees.
- 2) Any misdemeanor traffic violations may be cause for immediate disciplinary action against the operator and/or the involved employees.
- 3) Any conviction of the operator or 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, or moral turpitude may be cause for suspension or removal of the employee or operator or denial of operator application, or termination of the contract.
- 4) An operator or employee arrested/charged for a violation involving any of the crimes listed in number 3, above, may be suspended from rotational tow until the case is adjudicated.
- 5) CMPD may take appropriate enforcement or administrative action for any violations of

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law. Complaints for violations of the law not normally investigated by CMPD will be referred to the agency with investigation jurisdiction.

- 6) Nothing herein shall be deemed to prohibit the CMPD from immediately suspending, terminating, or denying an application of any operator or employee whose conduct, in the opinion of the Chief of Police or his/her designee, is deemed to be a danger to the motoring public or who has engaged in conduct constituting a flagrant violation of the agreement.

Operators shall not employ tow truck drivers with poor driving records or with traffic-related felonies. To do so knowingly or negligently would be grounds for suspension or termination.

Example:

1. A driving record reflecting four (4) or more points in twelve (12) months constitutes a poor driving record. Five (5) or more points in twenty-four (24) months constitute a poor driving record.
2. A driving record reflecting a conviction for driving while under the influence of intoxicating liquor or narcotic/drugs or both, within the preceding seven (7) years constitutes a poor driving record.
3. A driver with a commercial license reflecting three (3) or more points in twelve (12) months constitutes a poor driving record. Four (4) or more points in twenty-four (24) months constitute a poor driving record.
4. For a driver with a commercial license reflecting a conviction for driving while under the influence of intoxicating liquor or narcotic/drugs or both, within the preceding seven (7) years constitutes a poor driving record.

**Drivers Training**

The tow service operator is solely responsible for the training of its employees. The operator shall ensure tow truck drivers responding to calls initiated by the Costa Mesa Police Department have completed the training as defined in Section 2436.5 of the California Vehicle Code within the past five (5) years. The tow service operator shall provide proof of said training for every driver on staff. The training shall include, but not be limited to, all of the following:

- (1) Tow truck driver and motorist safety.
- (2) Vehicle operation.
- (3) Traffic control and scene management.

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(4) Communication procedures.

(5) Demeanor and courtesy.

**Drivers Licensing**

The towing company shall ensure that only qualified and competent tow drivers respond to calls initiated by the Costa Mesa Police Department. Tow drivers shall be at least twenty-one (21) years old (in compliance with CVC Section 12515b) and possess the following minimum class driver's license:

1. Class A tow trucks - a valid Class C (3) license or a valid Class A (1) license with a valid medical certificate.
2. Class B tow trucks - a valid Class A (1) license with a valid medical certificate.
3. Class C tow trucks - a valid Class A (1) license with a valid medical certificate.
4. Class D tow trucks - a valid Class A (1) license with a valid medical certificate.

The Class A (1) licenses must be endorsed to allow operation of special vehicle configurations and/or special cargoes. Tow truck drivers shall have the proper class of license and endorsement(s) for vehicle and cargo being transported as shown below:

<u>VEHICLE TYPE OR CARGO</u>	<u>CLASS LICENSE</u>	<u>ENDORSE/CODE</u>
Pulling more than one trailer	A	T
Transporting passenger for hire	A or B	P
Tank vehicle	A or B	N
Hazardous materials	A, B or C	H
Tank vehicle with hazardous materials	A, B or C	X

Whenever tank vehicles, double trailers, and hazardous materials carriers are towed or driven, the driver needs to possess the appropriate class of license and endorsement.

Empty buses can be towed without the passenger transport endorsement, but the tow truck driver must have the passenger transport endorsement if the bus is driven by him/her, even without passengers.

Tow truck drivers may obtain a Class A driver's license which is restricted to towing other vehicles.

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The actual driving of damaged vehicles or vehicles being serviced requires that the Class A license not be restricted to towing vehicles.

All tow truck drivers must be proficient in unlocking locked vehicles with minimal damage, when so requested by the Costa Mesa Police Department.

**Employee Uniforms**

Each tow service operator shall be required to furnish their employees with a distinctive company uniform. Each uniform shall have the firm name, as well as the employee's name, in a conspicuous place. The tow company name and driver's first name shall be easily visible at all times; meaning that protective or inclement weather outer garments must meet this standard. Each employee shall have sufficient uniforms so as to maintain a neat, clean appearance at all times. Minimum requirements for uniforms include a shirt, pants, and appropriate safety shoes. All drivers shall be in uniform before any towing or service operation begins. No wording, designs, photos, gestures, or anything that could be considered offensive or obscene to the general public shall be displayed by the tow drivers or on any part of the uniform. These dress standards are required in order to project a professional and positive image to the motoring public, of the towing company representing the City of Costa Mesa and the Costa Mesa Police Department.

Drivers shall wear safety vests or reflectorized clothing that conforms to Occupational Safety and Health Administration (OSHA) requirements. Alternatively, the OSHA safety requirements may be incorporated into the uniform, jacket, or rain gear, as long as these items are worn as the outermost garment.

**TOW TRUCK CLASSIFICATIONS AND EQUIPMENT**

All tow trucks and their equipment shall be in good working condition. Once a tow truck has arrived at a scene, the driver shall, without undue delay, move vehicles to a location where they do not impede or obstruct traffic, and remove any debris and fluids (except clear water) on the ground originating from the vehicles. Undue delay includes, but is not limited to, delays caused by lack of knowledge or training of the tow truck driver to effectively operate the tow truck or its equipment, faulty equipment, and the lack of necessary equipment or supplies to remove a vehicle and/or clean the scene.

The tow service operator agrees to maintain all of its tow vehicles in compliance with the provisions of the California Vehicle Code, including but not limited to, Sections 24605, 25253, 25300, 27700, all vehicle code sections regarding smog equipment requirements, consistent with industry standards and practices. Said equipment requirements shall be maintained throughout the term of the Agreement. The tow service operator also agrees that all tow vehicles and tow trucks shall be maintained in a clean and neat manner and in sound mechanical condition at all times and that on all accident calls the tow service operator will clean up and remove all debris from the accident scene as required by the CMPD.

The tow service operator must comply with all federal, state, and local air pollution control laws and regulations applicable to tow services.

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The equipment and performance of each towing service provider shall be subject to periodic review and/or inspection by the Chief of Police or his/her designee.

Each tow truck shall be equipped with:

- Two-way radio or telephone or other acceptable communications equipment. Citizen's Band Class D is not acceptable.
- Two (2) covered buckets, each having a minimum capacity of three (3) gallons. One bucket will contain at least three (3) gallons of absorbent material (such as sand or similar material in keeping with EPA guidelines) capable of soaking fluids, and the second one to be used for placement of debris and other materials cleaned from an incident site.
- One (1) broom.
- One (1) shovel.

All State and Federal E.P.A. Guidelines shall be followed.

Control/Safety Labels - All controls shall be clearly marked to indicate proper operation, as well as any special warnings or cautions.

All tow trucks under CMPD Contract, shall clearly display in contrasting colors, the name of the tow company, address, telephone number and truck number.

Tow trucks shall not display the words "Official Police Tow" or words to that effect, without prior written approval from the Costa Mesa Police Department.

**Classes of Tow Trucks**

Tow Truck and Car Carrier Classifications: Tow truck and car carrier classifications are based on the truck chassis GVWR and the classification system used by the American Trucking Association (ATA) and truck manufacturers. Tow truck and car carrier classifications shall meet all applicable state and/or federal standards.

There will be four (4) classes of tow trucks covered under this Policy.

*Class A - Light Duty:*

The tow service operator shall maintain a minimum of five trucks with a manufacturer's gross vehicle weight rating (GVWR) of 10,000 to 19,500 pounds with wheel lift capability, and may have a car carrier. Class A equipment must include a 4 ton recovery equipment rating and 100 feet of 3/8" 6x19 cable or OEM Specifications.

A towing company that has a car carrier may be exempted from the wheel lift capability requirements; however, the car carrier must be an additional unit. A Class A (cc) one vehicle must be equipped with 10,000 to 16,000 GVWR chassis. Class A (cc) one vehicle must be

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equipped with a 16,001 to 19,500 GVWR chassis. Both must be equipped with a 3/8" 6x19 cable or OEM specifications.

*Class B - Medium Duty:*

The tow service operator shall maintain at least one tow truck with a manufacturer's gross vehicle weight rating (GVWR) of 19,501 to 33,000 pounds. The truck shall be capable of providing air to the towed vehicle. Class B equipment must include a 19,501 to 33,000 GVWR chassis and 150 feet of 7/16" 6x19 cable or OEM specifications.

The tow company may also have a car carrier; however, the car carrier must be an additional unit. A Class B (cc) must be equipped with a 19,501 + GVWR chassis and 50 feet of 3/8" 6x19 cable or OEM specifications.

*Class C - Heavy Duty:*

The tow service operator shall maintain access to at least one three axle tow truck with a manufacturer's gross vehicle weight rating (GVWR) of at least 33,000 pounds. The truck shall be equipped with air brakes and must be capable of providing air to the towed vehicle. Class C equipment must include a 33,000 to 50,000 GVWR chassis, 25 ton recovery equipment rating, and 200 feet of 5/8" cable or OEM specifications.

*Class D - Super Heavy Duty:*

The tow service operator shall maintain access to at least one three axle tow truck with a manufacturer's gross vehicle weight rating (GVWR) of at least 50,000 pounds. The truck shall be equipped with air brakes and must be capable of providing air to the towed vehicle. Class D equipment must include a 50,000 GVWR chassis, 30 ton recovery equipment rating, and 250 feet of 3/4" 6x19 cable or OEM specifications.

**Inspections**

Tow trucks - An annual inspection will be conducted to determine if the applicant's tow vehicles comply with all the provisions of Sections 24605, 25253, 27700, and 27907 of the California Vehicle Code.

1. This inspection may be done by commercial enforcement officers as directed by the Costa Mesa Police Department and shall be done on an annual basis. If so done, the inspection sheet will be forwarded to the Costa Mesa Police Department Traffic Bureau for their files. Tow trucks found in violation of the Vehicle Code Equipment Sections shall be repaired then inspected by the Costa Mesa Police Department before returning to service.

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2. Failure to correct deficiencies or equipment violations shall result in the tow service being suspended from the CMPD rotation list without further notice until the deficiency or violation is corrected.
3. The annual inspection shall consist of a Level One inspection conducted by a commercial enforcement officer and a tow truck inspection (Tow Truck Inspection Guide) conducted by either a commercial enforcement officer or officer. Upon successful completion of the inspection, a sticker or decal shall be issued by the City of Costa Mesa to the inspected vehicle. Evidence of a valid CHP inspection and current sticker will also be acceptable.
4. Tow Facility - The CMPD reserves the right to conduct an inspection at any time of the tow service facilities and/or its equipment. However, a mandatory inspection will be conducted annually.
  - If any deficiencies and/or violations are discovered during the initial inspection at the time of and for the expressed purpose of a new contract, the tow service provider may be disqualified without the courtesy of a correction period.
  - If any deficiencies and/or violations are discovered, including an inspection for a contract renewal, the tow service will be so advised in writing. The tow service will be given five (5) business days to rectify the deficiency or violation(s).
  - Exception: Any damage to wall and/or fence structures in the tow yard facility shall be repaired within twenty-four (24) hours.

**CHARGES AND LIEN SALES**

The tow service operator must be familiar with all Department of Motor Vehicle (DMV) laws and have the expertise to handle the paperwork for the Abandoned Vehicle Abatement Program (AVA), including lien sales, invoices and billing for each individual abated vehicle.

The tow service operator shall comply with the California Vehicle Code Section 10652 in reporting the storage of the vehicles over 30 days. The copy of the notice shall be forwarded to the appropriate agency.

Towing service providers shall, when disposing of unclaimed vehicles, abide by all California Code Sections pertaining thereto. Vehicles flagged by CMPD for destruction may not be sold by lien sale, but must be destroyed and certificate of destruction must be provided to the CMPD.

After seventy-two (72) hours, operator may bill the registered owner for lien sale charges, not to exceed the amount actually expended by operator. Operator shall not bill the City of Costa Mesa for such charges.

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If hook-up or service has begun and is canceled by the vehicle owner/agent, or the CMPD, charges owed (drop fee) shall be no more than one-half of the regular towing charge.

The registered owner of any vehicle that spills a fluid requiring a tow company to use absorbent may be charged the current clean-up rate by the tow service provider.

**Charges for “Evidence Hold” Vehicles**

The initial towing fee shall be billed to the registered owner of the vehicle.

Storage for evidence hold shall commence only upon notification by an authorized CMPD Officer.

All such vehicles shall be released from evidence as soon as practicable with CMPD to provide formal notification to operator as to the effective date of release. Any storage occurring after such effective date shall be charged to the vehicle’s owner(s) in accordance with scheduled rates.

Whenever a vehicle is held for evidence, the contract tow service provider will contact the CMPD by the third calendar day of storage to confirm its status. Notification will be made to a Supervisor in the appropriate Division or Bureau as indicated on the impound form.

All lien sale proceedings for stored/impounded vehicles shall be in accordance with California Vehicle Code Sections 9800 through 9808, 22851(a) through 22856, and Civil Code Sections 3067 through 3075.

The contract tow service provider shall comply with all provisions of California Vehicle Code Section 22850.3(b) for vehicles impounded pursuant to Vehicle Code Section 22850.

**FINANCIAL INTEREST**

- A. No tow service provider or applicant shall be directly involved in the towing related business of any other tow service provider or applicant within the City of Costa Mesa. Directly involved shall mean any of the following in common between tow service operators or applicants:
  - 1. Business license
  - 2. Insurance
  - 3. Tow truck or equipment ownership
  - 4. Employees
  
- B. Storage facilities sharing property with other businesses or services must be separated by conditions or barriers meeting with the approval of the CMPD as defined in the Police Tow Policy Guidelines.

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- C. No tow company may transfer or assign its Agreement with the City without the express written consent of the City of Costa Mesa.
- D. City personnel shall not be offered gratuities, and requests for gratuities shall not be honored by contract tow service providers, towing employees or associates of each towing company. A violation of this section shall be cause for suspension or termination of the towing contract.

**ROTATION RULES**

Whenever a vehicle owner is unable to specify a particular tow service, the tow service called shall be the next tow provider from the rotation list, in the proper order. The rotational list shall be under the control of the City's Telecommunications Division to ensure an equitable distribution of calls. The current method used by the City of Costa Mesa for tow rotation is based on alternation of each tow provider after a one-week period. When more than one vehicle is to be towed from an accident scene, the contract tow service provider on rotation shall have preference on service to all vehicles at an accident scene. If they cannot handle service for all vehicles, the next contract tow service provider up on rotation shall be called to assist and shall not lose their position on the rotation list.

The tow service provider shall advise the CMPD at the time of notification, if they are either unable to respond or unable to meet the required response time. If, after accepting the call, the contract tow service provider is unable to respond or will be delayed in responding, the towing company shall immediately notify the Telecommunications Division Dispatch Center.

There may be times when a tow company that was not called to a scene comes upon a collision scene where a vehicle or vehicles are blocking a roadway or a vehicle is a hazard in the roadway and a Costa Mesa Police Officer requests their assistance in clearing the roadway. In such a case, the towing company 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 tow service provider's place in the rotation.

A towing company shall not respond to a Costa Mesa Police Department call assigned to another tow service unless requested to do so by the CMPD.

**FREE SERVICES PROVIDED TO THE CITY**

**Towing Services for City-Owned Vehicles**

The tow service operator shall tow any CMPD and/or other City vehicles (under 6,000 lbs.), disabled within the City of Costa Mesa limits, at the request of City staff, free of charge. Any City vehicle weighing more than six thousand pounds (6,000 lbs.) shall be charged the standard tow rate. Towing of any CMPD and/or other City vehicles outside the City of Costa Mesa limits shall be charged the tow mileage rate only.

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In addition, the towing operator shall provide free tire change, jump start and assistance with lockout for all City vehicles requiring assistance within the city limits.

**Costa Mesa Fire Department Training Vehicles**

When possible or upon request from the Costa Mesa Fire Department (CMFD), the tow service operator shall provide the CMFD with up to two unclaimed vehicles that are ready for demolition each month, for training purposes. Tow service operator shall make arrangements with CMFD to drop-off and pick up vehicles from the CMFD training lot at 2300 Placentia Avenue, Costa Mesa, California 92627, at no charge to the City.

**RECORDS & REPORTING**

1. The tow service operator shall maintain an accurate record of all vehicles towed pursuant to this contract.
2. The operator shall maintain records of all tow services furnished. The records shall be maintained at the operator's place of business. Invoices shall at a minimum include a description of each vehicle, nature of service, start time, end time, location of call, itemized costs of towing and storage, the tow truck driver's name, and truck used.
3. The tow service operator shall file required reports and notifications with the California Department of Motor Vehicle Division in the manner required by law.
4. The tow service operator's record keeping system must allow the tow service operator to quickly and efficiently locate records and information.
5. All records for CMPD impounds and storage shall be maintained in jacket files, segregated from the files of other Law Enforcement Agencies.
6. Reports submitted shall contain information concerning services provided under this contract only.
7. At the operators primary office, business records shall also be maintained relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, Federal Communication Commission licensing (if applicable), and non-police tows.
8. The records of all vehicles impounded or stored at the direction of the City of Costa Mesa shall be available for inspection only to authorized employees or officials of the City of Costa Mesa.
9. The CMPD may inspect all operator records without notice during normal business hours.

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10. Operators shall permit the CMPD to make copies of business records at their place of business, or to remove business records for the purpose of reproduction. The CMPD shall provide a receipt for any (original) record removed from the place of business.
11. Records shall be maintained and available for inspection for four years from the date that the current contract commences.
12. Failure of the operator to comply with the inspection requirements shall be cause for suspension.
13. The tow service provider shall maintain a current list of drivers and shall furnish a copy of same to the Costa Mesa Police Department on or before the 10th day of each month. This list shall contain current information on owner(s) and drivers. Specific information furnished shall include:
  - Name
  - Residence address
  - City
  - Zip Code
  - Telephone numbers
  - Date of birth
  - Driver's license number
  - Vehicle unit number
  - Tow operator's permit number
  - Date of permit
  - Date of hire
  - Date of current list
  - Any other personnel information that may be requested by the Police Department

This information shall be supplied on a towing service personnel report form. This form must be signed and dated by a tow company representative. False and/or misleading information is cause for termination.

14. Each tow service provider shall record its time in and its time out on every official assignment. Such records shall be made available and open to examination by the City of Costa Mesa.
15. The tow service operator shall submit this daily list of towed vehicles to CMPD's Traffic Safety Bureau every month unless other mutually agreeable arrangements are made in a format agreed upon by the Traffic Safety Bureau and the tow service operator.
16. A representative from the Traffic Safety Bureau may contact the tow service operator via telephone daily to compare the tow service operator's list of towed vehicles with CMPD's list of towed vehicles.

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17. The tow service operator shall submit a report of released vehicles to the Traffic Safety Bureau upon reasonable request. The report shall contain the following information for each vehicle:

- Date vehicle was towed and beginning date of storage period
- Location of pick up
- Date and time of release
- Vehicle year
- Vehicle make
- Vehicle model
- License plate state and number
- Vehicle identification number
- Case number
- Name, address and telephone number of person to whom released
- Proof of identity provided
- Name of employee releasing vehicle

18. Towing service providers shall submit a monthly report to the Traffic Safety Bureau which shall include the following information:

- Total police impounds
- Number of times dispatched by the Costa Mesa Police Department
- Number of Costa Mesa Police Department calls resulting in impounds
- Number of calls answered in which time beyond one (1) hour was required to handle

A copy of the monthly report shall also be provided to the Finance Department with remittance of administrative fees due on or before the 20<sup>th</sup> day of each calendar month.

19. Records shall be available to the City of Costa Mesa for inspection upon request and shall contain the following information for each vehicle:

- Date and time of tow
- Location of vehicle when hooked up
- Name of tow vehicle operator
- Name and identification number of Officer requesting tow
- Storage facility name and address
- Present physical location of vehicle, if stored

20. Identification of vehicle including:

- Year, make, model, vehicle identification number, license plate state and number, color(s)

21. Release or other disposition information including:

- Date and time of release

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- Name, address and telephone number of person to whom released
- Proof of identity provided
- Name of employee releasing vehicle
- Police report number
- Fees charged

22. Records for each vehicle shall be maintained for a period of not less than four years from the date of each tow. Records shall conform to generally accepted accounting principles.

23. The tow service operator shall maintain a list of all vehicles towed under this contract during each calendar day. A calendar day begins at 12:00 AM and ends at 11:59 PM the same day. The list shall include the following information:

- Vehicle year
- Vehicle make
- Vehicle model
- License plate state and number
- Vehicle identification number
- Case number

**COMPLAINTS**

Complaints against tow service operators will be documented on a Costa Mesa Tow Complaint form. The CMPD may send out a customer survey from time to time. Complaints will be received and investigated for allegations of, but not limited to:

- Discourteous service
- Unethical business practices
- Unsafe or improper handling of stored or impounded vehicles
- Over-charging for services
- Excessive delay in responding to calls
- Unsafe towing equipment
- Violations of State Laws
- Violations of City Ordinances
- Deficient facility security
- Deficient facility storage conditions
- Failure to comply with City of Costa Mesa Tow Policy
- Failure to perform according to the Towing Agreement
- Failure to keep required records

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Complaints will be assigned to the Police Chief or his/her designee for investigation. Staff will endeavor to send a copy of the complaint and a letter requiring a response, within ten (10) business days, to the affected towing company's owner(s).

No notice shall be sent or delivered if it is determined that notification will impede or interfere with Police investigations.

The tow service provider shall respond in writing to the complaint within ten (10) business days from the date of the City's letter. Failure to respond within ten (10) business days will result in the investigating officer making a decision to the complaint based on the information available.

The investigating officer will consider all the evidence available and assign a disposition to the complaint. The disposition categories are:

- Unfounded - Incident did not occur or did occur but was lawful and within Policy.
- Inconclusive - Unable to determine if the incident did or did not occur, or unable to determine if the towing service or its employee(s) are responsible.
- Sustained - Incident occurred and was either contrary to the Towing Policy, Towing Agreement, State Laws, or City Ordinances.

The tow service provider and complainant will then be notified of the disposition of the complaint in writing.

**DISCIPLINARY ACTION**

- A. If a complaint is determined to be sustained, and the circumstances or prior record show cause for a suspension or termination of the tow service provider's service, the officer investigating the complaint will present the facts to the Police Chief's designee with a recommendation for disciplinary action.
- B. The Police Chief's designee will review the facts and the recommendations. Upon doing so, the Police Chief will either concur with the recommendation or determine another course of action.
- C. If the Police Chief arrives at a decision to suspend or terminate the services of a tow service provider, the decision will be forwarded, as a recommendation to the City Manager, whose decision will be final.
  1. The tow operator shall receive a copy of the Police Chief's recommendation at the time it is forwarded to the City Manager, and shall have ten (10) calendar days to respond in writing to the City Manager.
  2. After consideration of the Police Chief's recommendation and any timely written submission of the tow operator, the City Manager shall issue a written determination

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of whether he concurs with the decision to suspend or terminate a contract tow service provider's services. The towing company will be promptly notified in writing of the impending disciplinary action.

**TERMINATION**

The City of Costa Mesa may terminate any agreement during its term without cause by providing a thirty (30) day written notice to the contract tow service operator. The City of Costa Mesa may terminate this contract for cause five (5) days after written notice is given. The contract may be terminated for cause by the City of Costa Mesa upon the occurrence of any one or more of the following events:

1. Failure of the tow service provider to comply with any of the provisions of this Agreement.
2. Repeated and/or flagrant violations of the Vehicle Code by the tow service provider.
3. Failure of the tow service provider to maintain clean, orderly, and secure storage facilities.
4. Failure of the tow service provider to obtain and maintain a current valid license to do business in the City.
5. Repeated failure of the tow service provider to answer service calls within the agreed upon fifteen (15) minute response time.
6. Commission, by the owner or operator of the tow service provider, of any unlawful, false, fraudulent, deceptive or dangerous act while conducting its towing operation business.
7. Removal by the tow service provider, prior to police arrival, of a vehicle involved in a collision where, as a result of such collision, a person suffered death or injury; or where the driver of one of the vehicles involved in the collision, or any of the passengers of a vehicle involved in the collision, was under the influence of an intoxicant of any nature; or where there is evidence that the vehicle to be towed was involved in a hit-and-run collision.
8. Insurance coverage as required herein has either been withdrawn or lapsed or is not in force for any reason.
9. Dissolution of business or bankruptcy.
10. For assignment of this Agreement, or any right or interest stated therein, without the prior written consent of the City of Costa Mesa.
11. For any substantial or recurring deviation from the City of Costa Mesa's approved schedule of rates.
12. Failure of the contract tow service provider to maintain satisfactory service to the public or for failure to keep any towing vehicle in a safe condition and good repair.
13. Failure to comply with any requirement of CMPD.