

CITY OF SHAWNEE, KANSAS

TOW SERVICE PROVIDER AGREEMENT

Upon approval and execution by the City of Shawnee as provided herein, this Agreement shall be effective for a period of one year from the 1st day of January, 2020.

Pursuant to the provisions of Chapter 3.70 of the Shawnee Municipal Code, _____ (hereinafter the "Tow Company"), *[Business name] [d/b/a/, if applicable]* is hereby designated an authorized tow service provider for the purpose of, upon request by the City of Shawnee, (hereinafter the "City"), towing, removing, and storing of abandoned motor vehicles and for the purpose of obtaining proof of valid registration and ownership prior to the release of any vehicle towed by Tow Company at the direction of the City.

For and in consideration of being designated by the City as an authorized tow service provider, Tow Company and the City hereby agree as follows:

A. Statutory Requirements.

Tow Company shall be solely responsible for complying with all requirements of K.S.A. 8-1102, 8-1103, and 8-1104, the Shawnee Municipal Code, and any subsequent amendments thereto, relative to the towing, removing, or storing, of vehicles at the request of the City, and the sale or release of vehicles by the Tow Company. Tow Company shall at all times maintain a current Certificate of Public Service issued by the Kansas Corporation Commission, and a minimum of three trucks providing tow services and registered with the Kansas Corporation Commission. Tow Company shall comply with all provisions of Chapter 8.38 of the Shawnee Municipal Code, related to the discharge of pollutants, and shall remove and lawfully dispose of fuel or fluid spills, and any oil dry or other related product from any accident site.

B. Indemnification and Hold Harmless.

Tow Company, by exercising its authority pursuant to this Agreement, hereby agrees to indemnify the City and hold the City harmless from all claims, suits, actions, and proceedings of every name or description, in law or equity, for or on account of any injuries or damages received or sustained by any person, firm or corporation as a result of any act or omission of Tow Company while engaged in any action or providing any service pursuant to this Agreement.

C. Method of Operation.

Tow Company hereby acknowledges and agrees:

1. Tow Company shall obtain and maintain a current valid Business License with the City of Shawnee, and all valid licenses and permits required to lawfully operate a tow service;
2. Tow Company shall maintain current valid insurance as outlined in this Agreement, as uniformly required by the Chief of Police, in his or her sole discretion, of all other services removing vehicles from a public way at the direction of the Shawnee Police Department;
3. Tow Company shall maintain a fenced, secure storage area, and vehicles and personal property therein shall be maintained in such a manner as to safeguard such property and avoid damage to such property, and an inside storage facility for vehicles upon request of law enforcement personnel;
4. Tow Company shall maintain minimum office hours from 9:00 a.m. to 4:00 p.m., Monday through Friday, and shall have personnel available to respond from 9:00 a.m. to 12:00 p.m. on Saturday;
5. Tow Company shall at all times maintain the capability of providing multiple tow trucks per incident;
6. Tow Company shall clean all debris from accidents or vehicle breakdowns; and shall remove from the site and properly dispose of all pollutants, fuel and fluid spills, and oil dry or similar product used to remove those items; no such items shall be washed, swept, or permitted to be discharged into the street or Stormwater system;

7. Tow Company shall maintain the ability to respond on a twenty-four hours per day basis, and shall exercise its best efforts to provide an average response time of twenty five minutes or less;
8. Tow Company agrees to provide information on request to the Shawnee Police Department of any disposition of a motor vehicle removed at the request of City law enforcement personnel, including sale or release, and that any disposition of a motor vehicle removed at the request of City law enforcement personnel shall be in accordance with municipal, state, and federal law, including adherence to all applicable notice provisions;
9. Tow Company agrees that tow services shall be provided in a professional and courteous manner, and tow services personnel shall provide such services in a manner that will not bring about discredit to the City; and,
10. The failure to comply with the terms and conditions of this Agreement may, in the sole discretion of the Chief of Police or designee, result in the revocation of this Agreement and the removal of the Tow Company from the list of authorized tow service providers.

D. Insurance Requirements.

It is understood and agreed that Tow Company shall maintain and provide to Community Development, or his or her designee, proof of the following insurance protection:

1. **GARAGE LIABILITY**

Protection limits of at least \$500,000 Combined Single Limits, bodily injury and property damage. Policy must include the following:

- i. Premises & Operations Liability;
- ii. Products & Completed Operations;
- iii. All Owned, Hired and Non-Owned Autos; and
- iv. Garage keeper's Legal Liability including:
 - a. Comprehensive;
 - b. Collision;
 - c. Towing (On-Hook); and
 - d. 75,000 Limit per Garage Location; or

2. **COMMERCIAL GENERAL LIABILITY**

Protection limits of at least \$500,000 Combined Single Limits, bodily injury and property damage. Policy must include the following:

- i. Premises & Operations Liability;
- ii. Products & Completed Operations.

3. **BUSINESS AUTOMOBILE LIABILITY**

Protection limits of at least \$500,000 Combined Single Limits, bodily injury and property damage. Policy must include the following:

- i. All Owned, Hired and Non-Owned Autos Garage keeper's Legal Liability including:
 - a. Comprehensive;
 - b. Collision;
 - c. Towing (On-Hook); and
 - d. \$75,000 Limit per Garage Location.

4. **WORKERS COMPENSATION**

Protection against all claims under applicable state workers' compensation laws. The Tow Company shall also be protected against claims for injury, disease or death of employees for which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

- i. Workers' Compensation: Statutory; and
- ii. Employers Liability:
 - a. Bodily Injury by Accident: \$100,000 Each Accident;
 - b. Bodily Injury by Disease: \$500,000 Policy Limit; and
 - c. Bodily Injury by Disease: \$100,000 Each Employee

Proof of insurance must be furnished on standard Acord © certificate of insurance forms. The City is to be named as an additional insured on all required insuring agreements with the exception of Workers Compensation.

5. **INDUSTRY RATINGS**

The City will only accept coverage from an insurance carrier who offers proof that it:

- i. Is licensed to do business in the State of Kansas;
- ii. Carries a Best's policy holder rating of "A-", or better; and
- iii. Carries at least a Class VII financial rating; or
- iv. Is a company approved by the City.

E. Restrictions Related to Fees.

As a condition of being authorized to provide tow and storage services at the request of the Shawnee Police Department, Tow Company agrees it shall not charge more than the following fees for towing and storage services provided at the request of the City, and shall not charge a fee for such towing and storage services unless the fee is specifically approved and identified herein:

1. Basic charge for towing of automobiles, vans, pickup truck and motorcycles, including Wheel Lifts, Rollback and Flatbed fees; Maximum charge is \$85.00, day or night, plus \$3.00 per mile. This fee includes clean-up of all accident debris, including but not limited to the use and removal of oil dry or a similar product to clean up any fluid spills.
2. For storage charges until the owner or operator takes possession of the towed vehicle:
 - i. \$25 per day for outside storage for each calendar day.
 - ii. \$30 per day for inside storage for each calendar day. Daily charges shall be determined for each calendar day the vehicle is stored beginning at the time the vehicle is first placed in the storage lot.
 - iii. A Tow Company may charge a full day's storage fee on Saturday and Sunday only if there is reasonable access to personnel who may respond to release a vehicle on those days. Legal holidays, including any day designated as a holiday by the congress of the United States, or by the legislature of this state as set forth in KSA 35-107 and amendments thereto, are excluded.

3. For dolly use in towing motor vehicles and motorcycles: Maximum charge is \$43.00 in addition to tow service charge. A dolly fee cannot be charged unless a dolly is necessary to tow a vehicle.
4. For winching or rolling-over a vehicle, and for extraordinary labor expenses, the fee is \$100.00 per hour prorated by each one-quarter (1/4) hour. This charge is in addition to the basic tow service charge. Extraordinary expenses shall include only non-customary labor necessarily required for removal of a vehicle or mechanically necessary to prepare the vehicle for towing, and any such expense shall be described in detail on the report.
5. For the waiting time after the wrecker has been at the scene for fifteen (15) minutes when required to wait or standby, the tow service may charge a maximum of \$18.00 for each one-quarter (1/4) of an hour or any part thereof.
6. A \$25.00 an hour general labor fee may be charged for labor services, if such services would offer the customer a savings, i.e. disconnection of linkage in lieu of use of dolly. This labor fee shall be prorated at one-quarter hour intervals.
7. A single of \$12.00 fee may be charged for tarping a vehicle with broken windows or a vehicle otherwise open to the weather.
8. Towing services shall provide to each owner or other responsible person an itemized bill indicating the amount for each service provided.
9. If the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, and such person is capable of safely operating the vehicle, and such vehicle is functional, the vehicle shall upon request of such person, be disconnected from the towing or removal apparatus. That person shall be permitted to remove the vehicle without interference upon the payment of a reasonable fee of not more than \$55.00, and no other fee shall be charged.

F. Breach of Agreement and Termination.

A violation of these regulations set forth herein or other provisions of this Agreement will be deemed sufficient justification for the Chief of Police to order that the approval and authority of a towing service to respond to the request of the Shawnee Police Department be suspended or revoked. In addition the Tow Company may freely conclude such provisions are unfair or unduly restrictive. In either such event, either party may cancel or terminate this Agreement upon thirty days written notice to the other party. This Agreement may therefore be terminated or revoked by either party hereto upon thirty (30) days written notice from the party so intending to terminate or revoke this Agreement. However, in regard to the failure of Tow Company to maintain compliance with the terms and conditions of insurance set forth in Paragraph D, the parties stipulate and agree termination or revocation may occur upon delivery of written notice to the other party.

G. Assignment.

It is hereby agreed and understood that there will be no assignment or transfer of this authority or of any interest or responsibility in this appointment.

In witness whereof, the parties hereto, the City and Tow Company, affirm that they have read and understand the terms and conditions of this appointment and have executed this "Tow Service Provider Agreement" on the ____ day of

_____, _____
(City will fill this date in upon approval)

X _____
Signature for the City

X _____
Signature for Tow Company