



# Agenda Item

## City Council

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**Item #:** 3.14.

**6/8/2021**

**File #:** 21-0278

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**TO:** Honorable Mayor and Members of the City Council

**THRU:** Rick Otto, City Manager

**FROM:** Thomas C. Kisela, Chief of Police

### **1. SUBJECT**

Agreement with Truxyz Inc., doing business as Tows R Russ; Archie's Towing; and Southside Towing for Towing and Storage Services.

### **2. SUMMARY**

Proposals for a three-year Towing and Storage Service contract were received and opened on April 5, 2021. Four bidders responded to the request for proposals. Qualified bidders recommended by the Orange Police Department are as follows: Tows R Russ, Archie's Towing, and Southside Towing. Applicant, Alberto's Towing, did not meet the minimum requirements.

### **3. RECOMMENDED ACTION**

1. Approve the agreement with Tows R Russ, Archie's Towing, and Southside Towing and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Approve Fee Schedule for Contracted Tow Companies, effective July 1, 2021.

### **4. FISCAL IMPACT**

None.

### **5. STRATEGIC PLAN GOALS**

Goal 1: Provide for a safe community

- a: Provide staffing and resources to deliver services that ensure public safety.

### **6. DISCUSSION AND BACKGROUND**

The Orange Police Department utilizes private towing companies for the removal, storage and impounding of vehicles during the normal course of business. The department is also authorized to remove certain vehicles from the roadway and off-street parking facilities pursuant to provisions of the California Vehicle Code. These services are provided through a towing and storage contract with independent towing companies licensed to conduct business in the City.

The Official Police Towing and Storage Agreement outlines the equipment, vehicle and performance requirements for those companies who desire to contract with the City to provide towing and storage services. The agreement also provides for oversight of the services provided and fees charged for services, including insurance and indemnification of the City, as well as provisions for the review and

investigation of complaints, and suspension or termination of individual agreements.

The City's contractual agreement with providers of towing and storage services, maintained under the direction of the Police Department, expires on June 30, 2021. The department solicited a Request for Proposal (RFP) No. 20-21.39 for Police Towing and Storage Services which was posted and distributed on March 4, 2021 on the City's website and the Orange County Register. RFP 20-21.39 was open for 29 days, with a closing date of April 1, 2021. Four proposal were received from prospective tow companies, each proposal was carefully reviewed and evaluated by a panel of veteran Police Department employees.

The Police Department visited each location and conducted on-site inspections. Each rater independently evaluated the tow companies according to the requirements and standards set forth in the RFP and the Orange Police Department Policy Manual, Policy No. 502 (Policy 502). The scores were compiled and averaged. The subsequent criteria was included in the RFP and assisted the panel in determining our top three candidates.

- Service Requirements: The Company must abide by the requirements set forth under Policy 502. Those requirements include, but are not limited to 24-hour/7-day availability, 20 -minute response time, live dispatch, approved rate schedule, valid City of Orange business license, security practices, open for inspection at any time during business hours.
- Facility and Equipment Requirements: On-site office for billing and vehicle release, regular 8:00 am - 5:00 pm business hours, storage capacity for 100 vehicles, approved fencing, and secure storage area for evidence. Light and Medium-duty tow trucks are required; Heavy-duty trucks are recommended, but not required.
- Qualification of Personnel: Experience of employees and management in towing procedure, qualifications of office staff to ensure proper vehicle tracking, billing and recordkeeping, and longevity of tow drivers is part of the criteria.
- Prior Experience: Years in business, experience type, and years of service in police towing and storage.
- Accident and Damage Claims History: Self-explanatory.
- References: Other law enforcement agencies, bank, and personal references.

Below is a list of tow truck companies and the overall scores based on the above evaluation criteria.

1. Archie's Towing	97%
2. Tows R Russ	95%
3. Southside Towing	93%
4. Alberto's Towing	56%

Refer to Attachment "A" for the summary of tow evaluations.

Based upon the review of the bids and evaluation results, the Orange Police Department recommends the following tow companies: Archie's Towing, Tows R Russ, and Southside Towing.

As part of the RFP process, each tow company submitted their request to increase the tow fees. This request was made by the tow companies as business costs have increased over the last 10 years. The Fee Schedule for Contracted Tow Companies was last updated in 2011. During the 2011

contract renewal period, tow fees were determined upon review and comparison of fee agreements authorized in surrounding jurisdictions. In 2016, tow companies did not submit a formal written request to increase tow fees but verbally expressed interest in increasing fees at the expiration of the three-year agreement in June 2019. The current towing and storage providers agreed to continue operating without interruption under the terms and guidelines of the expired contract with the intent of increasing tow fees during the 2021 towing and storage bidding process. The below proposed fees were determined by averaging the rates submitted by each tow company, a complete list of fees can be found in the attached Fee Schedule for Contracted Tow Companies.

<b><u>Contracted Tow Services</u></b>	<b><u>Current Fees</u></b>	<b><u>Proposed Fees</u></b>	<b><u>Change in Cost</u></b>
Emergency Tow with Driver & Standby Time			
Light Duty (Flat Rate)	\$150	\$215	\$65 (43% Increase)
Medium Duty (Flat Rate)	\$200	\$260	\$60 (30% Increase)
Heavy Duty (Flat Rate)	\$250	\$360	\$110 (44% Increase)
Service Call	\$75	\$100	\$25 (33% Increase)
Gate Fees			
Weekends & Holidays	\$75	\$100	\$25 (33% Increase)
Storage			
Standard Vehicle	\$40/day	\$60/day	\$20 (50% Increase)
Trucks	\$50/day	\$70/day	\$20 (40% Increase)
Police Evidence Holds	\$40 tow & \$1/day	\$1/day*	

\*Correction to current Evidence Hold fee.

To determine if proposed fees are reasonable, fees should not exceed those fees and rates charged for similar services provided in response to requests initiated by a public agency, including, but not limited to, the California Highway Patrol (CHP) or local police departments. Police agencies included in the review to assess tow fees are the CHP, Tustin Police Department, Newport Beach Police Department, and Costa Mesa Police Department. The listed agencies currently contract with one or more of the Orange Police Department's recommended tow companies. An average tow fee was computed to compare with the department's proposed fees, the comparison is shown in the below table.

<b><u>Tow Service</u></b>	<b><u>Average Tow Fee</u></b>	<b><u>Proposed Fee</u></b>	<b><u>Increase</u></b>	<b><u>% Change</u></b>
Light Duty	\$208	\$215	\$7	3.4%
Medium Duty	\$233	\$260	\$27	11.5%
Heavy Duty	\$351	\$360	\$9	2.5%

Tow fees provided by the CHP are highest amongst the agencies listed as tow fees are in accordance with industry standards and are renewed annually to adjust for cost each year. Tustin tow fees are amongst the lowest and have not been renewed since 2016. While proposed fees are slightly higher than the average, the department anticipates tow fees will average out as agencies renew their respective towing contracts to align with industry standards.

It is the recommendation of the Police Department to award Archie's Towing, Tows R Russ, and Southside Towing a three-year agreement that includes an option to extend the agreement for an additional two years. The recommended tow companies will adequately serve the needs of the Police

Department.

## **7. ATTACHMENTS**

- Official Police Towing and Storage Agreement
- Fee Schedule for Contracted Tow Companies
- Police Department Policy No. 502
- Attachment A - Tow Company Evaluations

## OFFICIAL POLICE TOWING AND STORAGE SERVICE AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_ day of, \_\_\_\_\_ 2021, by and between the City of Orange, a municipal corporation ("City"), and \_\_\_\_\_, a California corporation ("Towing Service").

### RECITALS

A. The Orange Police Department ("Police Department") requires the aid and assistance of towing services on a regular basis in the performance of its duties, including response to and investigation of vehicular accidents.

B. As a means for providing the necessary towing service, the City has approved the use of certain, towing service companies who have agreed to contract with the City to furnish the requisite towing service pursuant to the requirements of the City's Police Department, as set forth in the terms and conditions contained herein.

C. Official Police Towing and Storage Services ("OPTS") means a towing company selected by the City to be used on-call and on a rotating basis for any police situation where a tow truck is required.

D. In order for a towing service company to perform as an OPTS service provider for the City's Police Department, the towing service company must enter into a contractual agreement with the City and must be designated by the City as an OPTS service provider.

E. In furtherance of this objective, the City desires to retain Towing Service and Towing Service desires to accept and be retained by the City, as an independent contractor, for purposes of providing police towing services for the City's Police Department.

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

### AGREEMENT

To ensure the efficient performance of police towing services for the City's Police Department, Towing Service hereby agrees to the following OPTS service requirements, specifications, terms, and conditions:

#### **1. OPTS Designation; Independent Contractor**

A. City hereby designates Towing Service as an OPTS service provider for the City's Police Department.

B. The services which are the subject of this Agreement are not in the usual course of City's business and City relies Towing Service's representation that it is independently engaged in the business of providing such services and is experienced in performing the work.

C. At all times during the term of this Agreement, Towing Service shall be an independent contractor and not an employee of City. City shall have the right to control Towing Service only insofar as the result of the services rendered pursuant to this Agreement. City shall not have the right to control the means by which Towing Service accomplishes services rendered pursuant to this Agreement. Towing Service shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Agreement. Towing Service shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Towing Service acknowledges that it and any subcontractors, agents or employees employed by it shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

**2. OPTS Service Provider Obligations.** Towing Service agrees to comply with the following OPTS service provider terms and conditions:

A. Towing Service shall abide by all guidelines and requirements set forth in Orange Police Department Policy 502, attached as Exhibit "A" and incorporated herein by reference.

B. In the event the City chooses to operate an impound yard, the OPTS agrees to transport designated vehicles to the City-operated impound facility. Fees for towing/transporting of such vehicles will be paid to Towing Service by the City at the end of each month.

C. Towing Service shall respond to requests for OPTS service within 20 minutes from the time such request is received and shall promptly notify the City's Police Department if this response time cannot be met.

D. Towing Service shall not release any vehicles impounded by the City's Police Department without a release signed by the City's Police Department.

E. Towing Service shall notify the City's Police Department of any impounded vehicles being stored within the City pursuant to private party impound requests prior to leaving the City limits or within 30 minutes of vehicle storage, whichever occurs first.

F. All personal property located within impounded vehicles shall be surrendered to the property owner upon request after obtaining a property release form from the Police Department and upon presentation of proper identification unless the vehicle is to be held for evidence.

G. Towing Service shall not report to the scene of an accident or assist a disabled vehicle unless summoned by a law enforcement officer or in response to a request from the person in charge of the disabled vehicle. This provision is intended to prohibit OPTS service providers from engaging in practices commonly referred to in the tow service business as "soliciting, monitoring, cruising or poaching."

H. Towing Service shall furnish to the City by the tenth (10<sup>th</sup>) day of each month during the term of this Agreement a list of its currently employed drivers.

**3. Standards for OPTS Service Provider.** Towing Service agrees to comply with the following OPTS service provider standards:

A. Equipment

1. Company Information: Towing Service name, address and phone number shall be displayed on both sides of the tow truck in letters not less than two and one-half (2-1/2) inches in height.

2. Lights: Trucks must, at all times, be equipped with such headlights, tail lights, red reflectors, stop lights, warning lights, and other lights as required by California law, plus one white utility light (adjustable or portable); and may be equipped with such other lights as the Towing Service may desire which are not forbidden by law.

3. Additional Equipment: Trucks must be equipped with all equipment required by law and Orange Police Department Policy 502 for tow trucks engaged in towing services.

4. Additional Requirements for Towing Service:

(a) Towing Service must have at least two regular duty trucks of one-ton capacity with rear dual wheels. One of the rigs must be a flatbed. Towing Service must also have one medium duty truck with a GVWR of 19,501 to 33,000 pounds. One heavy duty three-axle truck with a GVWR of at least 33,000 pounds is recommended but not required.

(b) Trucks must be equipped with red flares, lanterns or reflectors, hand tools, crow-bar, rope, broom, shovel, dustpan, fire extinguisher (the dry chemical type), portable red tail lights and stop lights for towed vehicles, equipment for opening locked vehicles, and safety snubber chain. Towing Service shall have at least one set of dollies readily available at all times, and one motorcycle sling.

(c) Towing Service shall have one truck equipped with a winch of sufficient size and capacity to retrieve vehicles, which have gone over embankments, off roadways, or into other inaccessible locations, which is equipped with safety dogs or equivalent braking devices. The winch and cable must have the ability to reach three hundred (300) feet.

B. Standard Rules of Operation for OPTS Service

1. Requests for OPTS service response and the removal of traffic hazards may be made through the Police Department.

2. All City police officers are specifically prohibited from soliciting for or recommending any garage or tow service either directly or indirectly.

3. Towing Service shall not advertise or in any way publicize any official or other connection with the City, nor shall Towing Service advertise any address or telephone number of the City as a location to call for vehicle towing and storage service.

4. If more than one towing service company/garage is designated as an OPTS service, the system of calling for service shall be on a rotating basis as established by the Chief of Police.

5. If telephones are the means of communication for receipt of calls from the Police Department, Towing Service 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 City's Police Department in writing with effective the date of the change.

6. Any additions to or deletions from the tow truck fleet of Towing Service shall be immediately reported, in writing, to the Police Department.

7. Any change in operating locations of Towing Service shall be reported, in writing, to the City's Police Department at least thirty (30) days prior to such change.

8. Towing Service shall be staffed to ensure that there is an attendant on call, capable of responding to police requests for OPTS service as well as present or available for release of vehicles to the public twenty-four (24) hours a day, seven (7) days a week. Towing Service must be available during those hours specified and in the necessary numbers to operate the OPTS service equipment. If the Towing Service's telephone is not answered before 10 rings, or if the line is busy when called by the Police Department, Towing Service will be by-passed and the next OPTS service provider in rotation shall be called.

9. If an Official Police Towing and Storage Service is unavailable, or in case of disaster or emergency, the City reserves the right to call other tow services with adequate capabilities, which are not under contract or agreement with the City. Determination of these conditions shall rest solely with the Police Department.

10. After being dispatched by the Police Department to the scene, Towing Service shall cooperate with police officers in removing hazards and illegally parked vehicles as requested. It is the duty of the police officers to determine when such a vehicle should be impounded or moved and Towing Service shall abide by their decision.

11. Only tow trucks bearing the name of Towing Service shall be dispatched to the scene of need.

12. Towing Service shall conduct its business in an orderly, ethical, businesslike manner and use every means to obtain and keep the confidence of the motoring public.

13. Vehicles impounded by the Police Department for special investigation shall be held in maximum security 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.

14. Towing Service 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.

15. Towing Service shall be responsible for the acts of its employees while on duty and for damage to vehicles while in their possession.

16. Notwithstanding any provision or language that might indicate to the contrary, in responding to a call from the Police Department, Towing Service shall have no claim against the City 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 that such person will be financially responsible.

17. All vehicles stored or impounded as a result of a "tow ordered by the Police Department" shall be made available to the owner of the vehicle or his/her representative, any insurance agent, insurance adjuster, or any body shop or car dealer, for the purpose of estimating or appraising damages, except vehicles stored or impounded with a "Police Hold."

18. Each Towing Service 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.

19. The records of all vehicles impounded or stored at the direction of the City shall be available for inspection only to authorized employees or officials of the City of Orange.

20. Towing Service shall submit a monthly report to the designated Tow Officer, which shall include the following information:

- (a) Total police impounds.
- (b) Number of times dispatched by the Police Department.
- (c) Number of Police Department calls resulting in impounds.
- (d) Number of calls answered in which time beyond one hour was required to handle.

21. The equipment and performance of Towing Service shall be subject to periodic review and/or inspection by the Chief of Police or his/her designee.

22. Towing Service trucks shall be equipped with two-way radio or telephone or other acceptable communications equipment. Citizen's Band Class D is not acceptable.

23. 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 shall meet the requirements as set forth in Department Policy

502.3 and will be inspected and approved by Police Department Crime Prevention and Traffic Personnel.

24. Adequate impound space shall be provided to accommodate vehicles held as evidence for the purposes of processing for physical evidence.

(a) Impound space shall be protected by an enclosure consisting of four walls, a roof and a door with a locking device for the protection from the elements of weather and other forms of contamination.

(b) Protection shall also be provided to preclude evidence contamination by employees and other individuals during normal business hours.

25. Towing Service office and storage lots shall be located within the City limits.

26. Towing Service shall comply with the appropriate sections of the California Business and Professions Code with regard to unauthorized charges or repair work on the vehicle in its charge.

27. Towing Service shall, when disposing of unclaimed vehicles, abide by all California laws pertaining thereto.

28. All vehicles stored or impounded as a result of a "tow ordered by the Police Department" shall be towed directly to an OPTS storage lot unless the Police Department or other person legally in charge of the vehicle requests that it be taken to some other location.

#### **4. Schedule of Rates**

A. Towing Service agrees that the towing fees it charges for OPTS service shall be those standard fees approved by the City as set forth in Exhibit "B" or as they may be later amended. The City will keep a copy of this fee schedule on file in the Office of the Traffic Bureau. Towing Service also agrees to post the schedule of fees at its place of business and to make copies of the schedule available for review, upon request, by City Police Department personnel or any person for who tow service is provided. The City reserves the right to modify the schedule of fees at any time.

B. Towing Service shall charge one-half the normal rate for any vehicle owned by the City and operated by a City employee or agent.

C. Towing Service shall charge one-half the normal rate for tow interruptions (i.e., vehicles released to owner or agent prior to removal, but after arrival of the tow company).

#### **5. Insurance.**

A. Towing Service shall carry workers' compensation insurance as required by law for the protection of its employees during the progress of the work. Towing Service understands

that it is an independent contractor and not entitled to any workers' compensation benefits under any City program.

B. Towing Service shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: the greater of (1) Two Million Dollars (\$2,000,000) per occurrence, or One Million Dollars (\$1,000,000) with a Two Million Dollar (\$2,000,000) aggregate; or (2) all the insurance coverage and/or limits carried by or available to Towing Service. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

C. Towing Service shall maintain during the life of this Agreement, the following minimum amount of automotive liability insurance: the greater of (1) a combined single limit of One Million Dollars (\$1,000,000); or (2) all the insurance coverage and/or limits carried by or available to Towing Service. Said insurance shall cover bodily injury, death and property damage for all owned, non-owned and hired vehicles and be written on an occurrence basis.

D. Each policy of general liability and automotive liability shall provide that City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Towing Service under this Agreement. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 5.A and 5.B, above, shall apply to City as an additional insured. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth herein shall be maintained for the duration of the Agreement.

E. Towing Service shall provide the City with a certificate of insurance setting forth the above referenced minimum insurance coverage prior to performing any towing services pursuant to this Agreement. The certificate shall also provide that the City shall receive thirty (30) days' notice of unqualified cancellation or amendment of such policies.

F. Towing Service agrees to submit to the City a certificate of Workers' Compensation Insurance to cover its employees as required pursuant to the provisions of Divisions 4 and 5 of the California Labor Code. Towing Service also agrees to use only those subcontractors who are also covered by Workers' Compensation Insurance pursuant to the provisions of Division 4 and 5 of the California Labor Code.

G. Towing Service shall be responsible for any damage to persons or property arising in connection with the performance of services rendered pursuant to this Agreement.

**6. Indemnification.** Towing Service agrees to indemnify and hold the City harmless from and against any and all loss, costs, damage and expense, including but not limited to reasonable attorneys' fees, and any and all claims or demands arising from any act, activity or omission of the tow service undertaken pursuant to the terms of this Agreement, including, all costs and expenses incurred by the City in negotiating, settling, defending or otherwise protecting against claims and demands. This indemnification is not modified by the insurance requirements in Section 5.

7. **Term.** Except as otherwise provided herein, this Agreement shall remain in effect for a period of three years unless terminated by the City as provided herein. This Agreement may be reviewed at the conclusion of the initial three-year term and extended for up to two (2) additional years by mutual written agreement of all parties.

8. **Termination**

A. This Agreement may be terminated by the City upon the occurrence of any one or more of the following events:

1. Failure of Towing Service to comply with any of the provisions of this Agreement.
2. Repeated and/or flagrant violations of the Vehicle Code by Towing Service.
3. Failure of Towing Service to maintain clean, orderly, and secure storage facilities.
4. Failure of Towing Service to obtain and maintain a valid City business license.
5. Commission, by the owner or operator of Towing Service, of any unlawful, false, fraudulent, deceptive or dangerous act while conducting its towing operation business.
6. Removal by Towing Service, 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.
7. Insurance coverage as required herein has either been withdrawn or lapsed or is not in force for any reason.
8. Dissolution of business or bankruptcy.
9. Assignment of this Agreement, or any right or interest stated therein, without the prior written consent of the City.
10. Substantial or recurring deviation from the City's approved schedule of rates.
11. Failure of Towing Service to maintain satisfactory service to the public or for failure to keep any towing vehicle in a safe condition and good repair.
12. Failure to comply with any requirement of Orange Police Department Policy 502.

B. Termination of this Agreement by City shall be effective upon written notice by City to Towing Service at the address provided herein.

C. Upon termination of this Agreement by City, Towing Service shall no longer have the right to engage in OPTS service for the City's Police Department for a period of time determined by the Chief of Police.

**9. Maintenance and Inspection of Records.** In accordance with generally accepted accounting principles, Towing Service shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the "records") pertaining to the costs of and completion of services performed under this Agreement. City and its authorized representatives shall have access to and the right to audit and reproduce any of Towing Service's records regarding the services provided under this Agreement. Towing Service shall maintain all such records for a period of at least three (3) years after termination or completion of this Agreement. Towing Service agrees to make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days' notice from City, and copies thereof shall be furnished if requested.

**10. Compliance with all Laws/Immigration Laws.** Towing Service shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement, including immigration laws.

**11. Governing Law and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of California and Towing Service agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

**12. Integration.** This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

**13. Notices.** Any notices required or permitted under this Agreement shall be in writing and shall be delivered personally or sent by U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

To City: City of Orange  
Attn: Chief of Police  
1107 N. Batavia  
Orange, CA 92867

To Towing Service: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**14. Successors and Assigns.** This Agreement, or any part thereof, may not be assigned by a party without the express written consent of the other party. If consent is so granted, all obligations and covenants made under this Agreement shall bind and inure to the benefit of any successors and assigns of the respective parties, whether or not expressly assumed by such successors or assigns. Any attempted assignment or delegation in derogation of this section shall be void.

**15. Waiver of Breach.** If a party waives enforcement or fails to act promptly to enforce any provision of this Agreement upon any event of breach by the other party, such waiver shall not automatically extend to any continuation of the breach or to any other or future events of breach.

**16. Amendment.** No modification, amendment, addition to, deletion, or alteration of the terms of this Agreement, whether written or verbal, shall be valid unless made in writing and formally approved and executed by all parties.

**17. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

**[Remainder of page intentionally left blank; signatures on next page]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

**“Towing Service”**

**“City”**

CITY OF ORANGE, a municipal corporation

\*By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Mark A. Murphy, Mayor

\*By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Pamela Coleman, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mary E. Binning, Sr. Asst. City Attorney

**\*NOTE:**  
-- City requires the following signature(s) on behalf of the Towing Service:  
-- (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR  
-- The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to City.

**EXHIBIT “A”**

**POLICE DEPARTMENT POLICY 502  
TOW COMPANY GUIDELINES AND ROTATION TOW LISTING**

**[Behind this sheet]**



**EXHIBIT “B”**

**FEE SCHEDULE**

**[Behind this sheet]**

**ORANGE POLICE DEPARTMENT  
FEE SCHEDULE FOR CONTRACTED TOW COMPANIES  
Effective 7/1/21**

<b>TOWS</b>	<b>FEES</b>
Emergency Tow with driver	Lt. Duty \$215.00 Flat Rate Med. Duty \$260.00 Flat Rate Heavy Duty \$360.00 Flat Rate
Service Call – Motorist Assist only (i.e. flat tire, lock out, gas, jump start)	\$100.00 Flat Rate
OPD request to scene with hookup and no tow (including evidence tows)	½ of Tow Flat Rate
OPD request to scene with no hookup or tow	Replaced to top of list

When TOWING SERVICE responds to a police rotation call, whether or not the truck is used is of the necessary class or greater to fulfill the duties as requested, TOWING SERVICE shall be compensated at the rate established for the lowest class of truck necessary to fulfill the duties required and not at the rate for the truck used to complete same.

**GATE FEES**

Normal business hours of 8:00am to 5:00pm Monday through Friday	No Charge
Weekends and National Holidays; 5:00pm to 8:00am	Gate Fee of \$100.00 (charged once)

**LIEN SALE FEES (California Vehicle Code 9800-9803)**

TOWING SERVICE may impose lien sale proceedings and related fees on vehicles taken into their custody in accordance with the California Vehicle Code and the California Evidence Code.

**ORANGE POLICE DEPARTMENT**  
**FEE SCHEDULE FOR CONTRACTED TOW COMPANIES**  
**Effective 7/1/21**  
Continued

**SERVICES**

**FEES**

Standby Time/Extended Service (not tow driver's fault)	Lt. Duty	\$215.00 / hour*
	Med. Duty	\$260.00 / hour*
	Heavy Duty	\$360.00 / hour*

\* to be billed after first hour in 15 minute increments

Towing Vehicles out of town Scene of pickup to destination	Hourly rate to be charged in 15 minute Increments
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**STORAGE**

**FEES**

Standard Vehicle (SUV's Included) or Motorcycle	\$60.00 / day
Trucks (over 26,000 GVWR), trailers (over 10,000 GVWR), boats and RV's:	\$70.00 / day
Storage and tow charges	\$1.00 / day storage

**Pursuant to the OPTS, the Police Department reserves the right to modify the schedule of fees at any time. The fee schedule has been modified to be effective 7/1/21.**

# Tow Company Guidelines and Rotation Tow Listing

## 502.1 PURPOSE

The purpose of this policy is to establish guidelines, standards and requirements for tow companies contracting with the OPD. The purpose of this policy and the Tow Service Agreement is as follows:

- (a) To ensure that members of the motoring public are protected from unethical or unfair business practices by City of Orange contracted tow companies,
- (b) To provide police tow companies with an equitable system for the distribution of calls,
- (c) To provide police tow companies with clear and concise requirements and standards,
- (d) To ensure consistency in the interpretation, administration and enforcement of the Tow Service Agreement,
- (e) To provide a fair and equitable means to resolve disputes between police tow companies and the Orange Police Department.

**NOTE:** This policy makes reference to the Tow Service Agreement. The Tow Service Agreement should be referenced for specific language.

### 502.1.1 POLICY

- (a) Whenever the driver or owner of a vehicle, through the police department, requests a particular club, association or tow service to care for his vehicle, the garage or tow service requested shall be called if that tow service can respond in a reasonable amount of time. If a vehicle is a hazard in the roadway then a rotational tow service may be called to remove the vehicle from the roadway, at the driver's expense. All other requests for police tow services made by police department personnel will be considered a rotation call.
- (b) Whenever a driver does not request a particular garage or tow service, a police tow service shall be called in order from a rotation list. The Communications Center of the OPD shall maintain the rotation list. When more than one vehicle is to be towed from an accident scene, the first towing service on rotation shall have preference to service all vehicles at the accident scene. If they cannot handle the service for all vehicles, the next tow service on the rotation list shall be called.
- (c) A call to a police tow service shall constitute one turn on the list and the police tow service shall be moved to the bottom of the list. This includes when the company fails to answer the phone, is unable to respond or is canceled due to excessive response time. If it is determined that tow service is not needed and is canceled by OPD, up to and including arrival at the scene, there shall be no charges and the tow service will be placed back on top of the list.

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1. If the tow service is canceled by the owner or driver of a vehicle, prior to the police towing service taking possession of the vehicle, there shall be no charges for towing. The tow service shall immediately notify the OPD Communications Center and advise them of the cancellation. The tow service will then be placed back on the top of the list.
2. If service, other than towing, has begun and is canceled by the driver or owner of a vehicle, charges owed shall be no more than one-half of the regular towing charge. No lien shall arise from the service unless the tow service has presented a written statement to the vehicle's owner, or their agent, for the signed authorization of services to be performed.
  - (a) The tow service shall not attempt to take possession of the vehicle in order to establish a lien for any non-towing services performed, or begun, and subsequently canceled.
- (d) The rotation list shall be used when an officer stores or impounds a vehicle.
- (e) All OPD employees are prohibited from directly or indirectly soliciting services for, or recommending, any tow service. **Exception:** In the event that a big rig tow is requested then a rotational tow service, who maintains such a vehicle, may be called out of rotation.
- (f) All officers storing or impounding a vehicle shall complete a CHP Form 180 and shall give a copy to the tow driver prior to the vehicle being towed from the scene.
- (g) Officers authorizing the storage/impounding of a vehicle shall notify the driver or owner of the vehicle (if present) where it is being stored.

#### **502.2 TOWING SERVICES**

- (a) All tow services shall equip and maintain their tow trucks in accordance with the provisions set forth in the California Vehicle Code, Title 13 or the California Code of Regulations and the specifications contained in this policy and the Tow Service Agreement.
- (b) The tow service shall provide a business office (billing site) for contract administration purposes and the release of vehicles. This office shall be located within the city limits of Orange and shall be staffed by either the contractor or a person who has the authority to conduct business and make decisions on behalf of the contractor during the hours of 8:00 am to 5:00 pm, Monday through Friday (excluding holidays).
- (c) Tow operators shall comply with the California Vehicle Code in reporting the storage of vehicles over 30 days. The police department shall be furnished a copy of all reports required by the Department of Justice. The copy of said report may be delivered to the police department by regular mail, or in person, to the attention of an OPD Traffic Bureau Tow Truck Administrator.
- (d) The tow service shall provide 24-hour, 7-day-a-week towing service within the city limits of the City of Orange.

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- (e) Contracted police tow companies must arrive at the scene within 20 minutes of being called by OPD personnel, except for big rigs whose maximum response time is 45 minutes.
- (f) Towing service is required to have direct two-way communications or an FCC license for a master control dispatching radio. The radio shall be manned at all times.
- (g) Telephone lines must be sufficient to receive police calls. If the telephone is not answered before ten rings, or if the line is busy, the tow service being called will be bypassed and the next tow service in rotation will be called. Telephone answering services are not allowed, unless all after-hour calls are answered directly by a night dispatcher without a transferring intermediate.
- (h) The towing service shall possess a valid City of Orange Business License.
- (i) Pursuant to the Orange Municipal Code, all tow drivers shall obtain a driver's permit. Tow drivers shall wear the permit in plain view during all service calls within the limits of the City of Orange.
- (j) Since contract tow companies are indirectly associated with the OPD, each contract tow company shall be required to furnish their tow drivers with a distinctive company uniform. Each uniform shall have the firm name, as well as the tow drivers name or I.D. number in a conspicuous place. A detachable nameplate may be worn in place of the embroidered name. No wording, designs, photos, gestures or anything else that could be considered offensive or obscene to the general public shall be displayed on any part of the uniform. Each driver shall have sufficient uniforms so as to maintain a neat, well-groomed and professional appearance at all times. All drivers shall be in uniform before any towing or service operation for the City of Orange begins.
- (k) A towing service shall not respond to an OPD call assigned to another tow service unless requested to do so by the police department.
  - 1. A tow service that comes upon a scene may be requested by an officer to move a vehicle to a safe location or remove debris on the roadway. There will be no charge for this service and the tow rotation will not be affected.
  - 2. Nothing in this section is intended to prevent an assigned contract tow service from requesting assistance when needed at a scene. Assistance shall be limited to specialized equipment not readily available to the contract tow service and only after the contract tow service has arrived and evaluated the scene. In no way does this section allow a contract tow service to send another tow service in its place.
- (l) The towing service shall advise OPD at the time of notification, if they are either unable to respond, or unable to meet the maximum response time. If, after accepting the call, the towing service is unable to respond or will be delayed in responding, the towing service shall immediately notify the police department's Communication Bureau. The towing service will then be moved to the end of the rotation list. At no time will a contract tow service assign an Orange Police Department request for service to another tow service.
- (m) No vehicle stored/impounded at the direction of the OPD shall be released without written approval from the police department (OPD Form A-2 shall be used).

## *Tow Company Guidelines and Rotation Tow Listing*

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- (n) No vehicle shall be moved or towed where an immobilization device has been affixed by OPD personnel.

### **502.3 STORAGE SECURITY RESPONSIBILITY**

Tow services must provide adequate secure storage for vehicles and property. Minimum standards shall consist of the following:

- (a) **Open area storage** - The perimeter wall or fence of the storage/impound lot shall be at least 6' high and be made of block, wrought iron or chain link. There shall be a minimum of three strands of barbed wire or razor ribbon around entire fenced area. It shall be installed in such a manner so as to discourage access over the top of the fence or wall. The maximum gap between the bottom of the fence/gate and pavement/ground is 6". The bottom of the fence should be reinforced with 9 gauge or larger wire to discourage access underneath. All doors or gates entering the lot shall be equipped with a locking mechanism or device. Fencing and locking specifications and design shall meet approval of the Planning Department, OPD Crime Prevention Bureau and the City Design Review Board.
- (b) **Inside enclosure** - Shall consist of four walls, a roof, and a door with a locking device for protection from the elements 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 two full-sized passenger vehicles. If the tow service utilizes a portion of an indoor garage for inside storage, the space designated for the storage of police impounds shall be secured from the public.
- (c) Prior to the utilization of a new storage facility that was not listed on the application for rotation tow listing; the towing service shall obtain the approval of the Chief of Police or his/her designee and furnish the new address 15 days in advance for inspection.
- (d) There shall be adequate lighting to illuminate the entire storage/impound lot, as well as all structures thereon. Outside lighting shall be inspected and receive approval by an OPD Crime Prevention Specialist.
- (e) Adequate open storage space shall be provided to accommodate stored, impounded and disabled vehicles resulting from police calls for tow services. The minimum capacity of such a lot shall be 100 vehicles.
  - 1. All stored/impounded and disabled vehicles must, as soon as possible from the time of pickup, be put into a fenced and secured storage lot and remain inside a storage lot until released or otherwise disposed of.
- (f) All vehicles impounded for the California Vehicle Code (missing or altered VIN numbers), shall be placed in an area of the impound lot that will allow for the vehicle to be inspected by police personnel. This requirement is necessary for the first ten days of the impound.
- (g) When a vehicle is impounded, the tow service will place the word "Hold" or other similar notation on the windshield of the vehicle along with the date of impound and tow drivers I.D. number.
  - 1. The responsibility for determining and placing the word "Hold," or other similar notation on the windshield of the vehicle, will be that of the tow truck driver at

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the time he places the vehicle in storage. The tow truck driver's signature on the CHP Form 180 acknowledges the type of storage or impound marked by the officer.

- (h) Any damage to the wall and/or fence structures that compromises security shall be repaired within 24 hours to insure proper protection for stored vehicles.
- (i) The tow service shall be held responsible for all vehicles, personal property and vehicle accessories stored within its storage facility. The City of Orange, its officers, agents and employees shall be relieved of all responsibility. It is the responsibility of the driver to confirm the accuracy of damage and property listed on the CHP Form 180 prior to signing it.
- (j) The tow service shall notify the OPD prior to the removal of property from an impounded vehicle and place a receipt in the impounded vehicle. The requirement to notify the police department, prior to the removal of property, may be waived by the Chief of Police or his/her designee if it is determined that proper safeguards and procedures are utilized by the tow service.
  - 1. This requirement may not be waived in cases where a vehicle has been impounded for evidence or investigation. In this case, no property will be moved, tampered with, or removed from the vehicle.
  - 2. The tow service shall release personal property from an impounded vehicle at the request of the vehicle owner or their agent. If such a release is made, the tow service shall notify the police department.
    - (a) Personal property is considered to be items that are not affixed to the vehicle.
- (k) All stored/impounded vehicles shall be stored and released from the tow company's billing site.
- (l) The tow company will release the vehicle to the owner or their agent, without charge, whenever a vehicle is impounded as evidence under the California Vehicle Code and the owner is determined not liable for the towing and storage charges per the California Vehicle Code. In these instances, which will be determined by the police department, the tow company will bill the City of Orange.
- (m) If the police department mistakenly impounds or stores a vehicle, or fails to properly notify the owner, the vehicle will be released to the owner at no charge with the approval of the police department. The tow service will bill the Orange Police Department for 50% of the storage and tow fees. The Orange Police Department will determine if the vehicle was stored/impounded improperly.
- (n) Vehicles that are a hazard to public health and safety, as described in the California Vehicle Code, shall not be released, towed or pushed onto a public street without the express permission of the on-duty watch commander at the OPD. Vehicles with registration expired over six months in violation of the California Vehicle Code, shall not be released, placed upon a public street or towed unless on a flatbed truck. If the vehicle is a hazard and is to be placed on private property by the tow service, at the request of the vehicle owner, the tow service must first obtain written permission from the property owner.



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- (o) If, upon release, a vehicle is found to be disabled due to a dead battery, flat tire or other minor mechanical malfunction, the owner of the vehicle shall have the option of having another tow company move the vehicle. At the owner's request, the police tow provider may provide tow service and charge the normal applicable fees. At no time, shall the police tow service charge additional storage fees if another tow service is requested to take the vehicle and the vehicle is removed on the day of release.

#### **502.4 TOW TRUCK CLASSIFICATIONS**

All equipment specifications for every class of tow truck listed within this section of the manual can be found in the OPD form entitled, "Tow Service Agreement Equipment Specifications." All service, safety and equipment requirements for every class of tow truck listed within this section of the manual can be found in the OPD form entitled, "Tow Truck Inspection Guide." There shall be no deviations.

(a) **Class A** - light duty tow:

1. The tow service shall maintain a minimum of two tow 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,
2. A tow service that has a car carrier may be exempted from the wheel lift capability requirements; however, the car carriers must be additional units to the company's wheel lift tow trucks,
3. Since Class A tow trucks (light duty conventional wheel lifts) handle approximately 90% of the towing and service calls on our highways, this class of truck must be better equipped than Class B, C or D tow trucks,
4. Each Class A tow truck shall be equipped, at a minimum, with the following (as well as the items listed on Attachment A & B),
  - (a) Wheel lift towing equipment with a minimum lift rating of 3,000 pounds. All tow equipment shall include proper safety straps,
  - (b) Boom with a minimum static rating of 5,000 pounds,
  - (c) Winch cable - 8,000 pound rating on the first layer of cable,
  - (d) Winch cable - 100', 3/8-inch diameter, with a working limit of 3,500 pounds,
  - (e) Towing slings rated at 3,000 pounds minimum,
  - (f) Tow chains 5/16" alloy or OEM specs., J/T Hook Assembly,
  - (g) Amber warning lights with front and rear directional flashing capability with an on/off switch in cab (Required on all tow trucks - Amber light bar preferred. Light bar must be affixed to top of cab or securely mounted

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- above cab, where it can be clearly seen in all directions - must comply with height requirements),
  - (h) Power outlets (hot boxes), front and rear mounted, with outlets compatible to 12-volt booster cables with minimum 25' cables,
  - (i) Heavy duty, 60+ AMP battery,
  - (j) Suitable cab lighting,
  - (k) Trailer hitch capable of housing a 1 7/8" ball and 2" ball,
  - (l) One (1) 1 7/8" ball and one (1) 2" ball,
  - (m) Rear work lights,
  - (n) Safety chain D-Ring or eyelet mounted on rear of truck.
5. The tow truck driver shall be required to complete a pre-operation inspection of their tow truck, as well as inventory the required equipment prior to the start of each shift. An inspection/inventory sheet shall be completed prior to the start of each shift. The sheets must be kept on file at the tow company's office and available for inspection by OPD employees, upon request. Any item missing or safety equipment violation must be replaced/repared prior to the start of the shift. It shall be the tow company's responsibility to make sure the inspection is performed and completed,
6. **Note:** this section is required for all classes of tow trucks.
- (b) **Class B** - medium duty, Class C - heavy duty and Class D - super heavy duty:
- (a) The tow service 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.
  - (a) The tow service may also have a car carrier; however, the car carrier must be an additional unit.
- (c) **Class C** - heavy duty:
- 1. The tow service may maintain 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,
  - 2. The tow service shall enroll all three axle tow trucks in the California Highway Patrol's Bi-annual Inspection of Terminals (BIT) Program and shall comply with all BIT requirements.
- (d) **Class D** - super heavy duty:

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1. The tow service may maintain 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,
  2. The tow service shall enroll all three axle tow trucks in the California Highway Patrol's Bi-annual Inspection of Terminals (BIT) Program and shall comply with all BIT requirements,
  3. To properly and safely tow and service the wide variety of vehicles being operated on the highway, a towing procedure may require the use of auxiliary equipment specifically designed for the purpose. This auxiliary equipment should be used when recommended. A listing of service and auxiliary equipment for each classification can be found in the OPD form entitled, "Tow Service Agreement Equipment Specifications."
- (e) Identification labels and vehicle markings.
1. Each piece of towing equipment shall have a label or I.D. tag permanently affixed to the equipment in a prominent location to identify the manufacturer's serial number, model and rated capacity. Manufacturer's specification pamphlets may serve in lieu of rating plates if the rating plates are illegible or damaged. It is the tow company's responsibility to provide the police department with this information and a copy of same shall be kept in a safe place in the cab of the tow truck.
  2. All controls to operate the tow truck shall be clearly marked to indicate proper operation as well as any special warnings or cautions.
  3. All tow trucks under city contract, shall clearly display in contrasting colors, the name of the tow company, address, phone number, truck number and the words "Official Police Tow," on both sides of the vehicle. The tow service shall be required to keep all markings, title and logos clean and in readable condition.
  4. Assigned truck numbers shall be placed on both sides of the tow truck. The numbers shall be placed above the midpoint in height on the vehicle and shall be of 2" minimum height.
  5. If a tow service terminates its agreement with the city, or is terminated, the tow service shall remove all descriptions from equipment showing any affiliation with the City of Orange and or the OPD.

#### **502.4.1 TOWING OF OVERWEIGHT, OVERSIZE VEHICLES, EQUIPMENT - PERMIT REQUIRED PER THE CURRENT O.M.C.**

- (a) It is unlawful for any person, firm, association or corporation to move or operate upon any highway in the City of Orange, any vehicle, combination of vehicles, mobile

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equipment or load which weighs or measures in excess of the weight, width, height or length permitted by Division 15 of the California Vehicle Code, unless an application has been filed with and a permit issued by the Director of Public Works for the City of Orange.

- (b) **Tow trucks** - Disabled legal vehicles or legal combination of vehicles may be towed on city highways to the nearest appropriate place of repair, or to the nearest secure storage area that is appropriate for the vehicle or load, whichever is closest and most accessible. It is not the intent of this section to allow these vehicles to be towed to their ultimate destination for convenience, unless that destination meets the above criteria.
- (c) Disabled legal vehicles or combination of vehicles, when connected to a tow truck may exceed legal gross weight (refer to the California Vehicle Code). When one end of a truck or truck tractor of legal weight is elevated by a tow truck, the drive axles of the tow truck and/or the drive axle or axles of the disabled vehicle may exceed legal axle or axle group weight limitations. If any axle or axle group exceeds legal weight, movement is limited to the approved city truck routes or a route approved by the City of Orange Traffic Engineer.
- (d) **Towing permit loads and/or vehicles** - Disabled vehicle or combination of vehicle whose movement is authorized by a transportation permit or any disabled vehicle or combination of vehicle which because of damage has incurred distortion in width or height thereby causing an excess in legal dimensions may only be moved at the direction of a peace officer or an extra legal load permit issued by the City of Orange Department of Public Works.
  - 1. **Note:** All tow companies are required to purchase an annual transportation permit from the Department of Public Works, and shall send a copy of same to the OPD for filing within ten days after receipt of permit. All conditions of the permits must be followed.
- (e) **Possession of permit** - The permit shall be carried in the vehicle to which it refers at all times while the vehicle is being moved within the highway limits and shall be open to inspection by Orange Police Department personnel, any California Vehicle Safety Alliance Officer, authorized agent of the City of Orange, or any other officer or employee charged with the care and protection of such highways per refer to the California Vehicle Code.

#### 502.4.2 TOW TRUCK DRIVERS

- (a) The tow service shall ensure that only qualified and competent tow drivers respond to calls initiated by the OPD. Tow truck drivers shall be sufficiently experienced in the tasks of tow truck operations and proficient with all required equipment to provide safe and proper service. All tow truck operators must be capable of demonstrating their tow operating abilities upon request of any peace officer. Additionally, the drivers will be required to exercise good, sound judgment in carrying out their duties. Any driver found working without being properly trained and qualified will be prohibited from further duty and the tow services contract may be terminated immediately. Tow truck drivers shall be at least 18 years-old and possess the following minimum class driver's license:

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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.
- (b) The Class A (1) license must be endorsed to allow operation of special vehicle configuration 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:
1. VEHICLE TYPE OF CARGO - Pulling more than one trailer,
    - (a) Class License - A
    - (b) Endorsement Code - T
  2. VEHICLE TYPE OF CARGO - Transporting passenger for hire,
    - (a) Class License - A or B
    - (b) Endorsement Code - P
  3. VEHICLE TYPE OF CARGO - Tank vehicle,
    - (a) Class License - A or B
    - (b) Endorsement Code - N
  4. VEHICLE TYPE OF CARGO - Hazardous materials,
    - (a) Class License - A, B, or C
    - (b) Endorsement Code - H
  5. VEHICLE TYPE OF CARGO - Tank vehicle with hazardous materials.
    - (a) Class License - A, B, or C
    - (b) Endorsement Code - X
- (c) 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.
- (d) Empty buses can be towed without the passenger transport endorsement, but the tow truck driver must have the passenger transport endorsement if they drive the bus, even without passengers.
- (e) Tow truck drivers may obtain a Class A driver's license which is restricted to towing other vehicles.
  - (a) The actual driving of damaged vehicles or vehicles being serviced requires that the Class A license not be restricted to towing vehicles.
- (f) In order to obtain an unrestricted Class A license, the applicant must pass the driving test in a conventional type Class A vehicle (tractor, and semi-trailer, truck and trailer, etc.).

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- (g) Commercial vehicle operators or operators of vehicles requiring a special certificate must possess both the appropriate license and certificate and be in possession of a valid medical card.
- (h) The towing service and its drivers shall, at all times, keep itself fully informed and comply with all existing and future federal, state, and local laws and ordinances applicable to the towing service.
- (i) The tow service shall maintain a current list of drivers and shall furnish a copy of same to the OPD on, or before, the 10th day of each month. This list shall contain current information on owner(s) and drivers. They will furnish residence address, city, zip code, and phone numbers, date of birth, driver's license number, unit number, tow operator's permit number, date of permit, date of hire, date of current list and any other personnel information that may be requested by the police department. This information shall be supplied on a Towing Service Personnel Report (OPD Form T-77). A tow company representative must sign this form. False and/or misleading information is cause for termination. The list shall be legible and mailed to the police department, not faxed.
- (j) Drivers having a poor driving record and who remain in the employment of the towing service as drivers, when said towing service has knowledge of that driving or should have known, will constitute grounds for suspension or termination of the towing service from the rotation list. This includes drivers leasing equipment of said tow companies.
  - (a) A driving record reflecting more than three citations involving moving violations of the California Vehicle Code within the preceding two years constitutes a poor driving record.
  - (b) A driving record reflecting two convictions for driving while under the influence of intoxicating liquor or narcotic/drugs or both, or one conviction for driving under the influence of an intoxicating liquor or narcotic / drugs or both, while operating a tow truck, within the preceding two years constitutes a poor driving record.
  - (c) The OPD maintains strict drug and alcohol policies. Any tow truck driver found working under the influence of drugs or alcohol will be dismissed immediately or arrested.
- (k) The tow service 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.
- (l) Operators of tow trucks shall be photographed, fingerprinted and a background investigation check conducted by the OPD. The tow driver shall obtain an operator's permit from the Business License Division of the Finance Department, in accordance with the current Orange Municipal Code. This permit shall be carried at all times while engaged in tow service operations, and shall be presented upon demand of police personnel or a citizen whose vehicle is being serviced or towed.
- (m) Tow drivers shall not enter into a closed roadway or closed accident/crime scene (i.e. cones, flares, barricades, crime scene tape or vehicles blocking roadway) until directed to do so by police personnel at the scene.

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#### 502.4.3 GENERAL SPECIFICATIONS

- (a) Equipment limitations:
  - 1. All towing equipment, recovery equipment, and carrier ratings are based on structural factors only. Actual towing, carrying, and recovery capacity may be limited by the capacity of the chassis and the optional equipment selected.
- (b) Towing limitations:
  - 1. The criteria to determine the safe towing limits for a truck are,
    - (a) The total weight of the truck, including the lifted load, must fall within the Manufacturer's Gross Vehicle Weight Rating (GVWR) and not exceed either the Front or Rear Axle Weight Ratings (FAWR, RAWR),
    - (b) The truck must meet all applicable state and/or federal standards,
    - (c) For proper steering and braking, the front axle load must be at least 50% of its normal or unladen weight after the load is lifted.
- (c) Recovery equipment rating:
  - (a) The basic performance rating of the recovery equipment is the weight the equipment can lift in a winching mode, when the boom is static at a 30-degree elevation with the load lines vertical and the lifting cables sharing the load equally, measured with a live load (weight or load cell).
  - (a) The structural design of the recovery equipment must have a higher load capacity than the performance rating(s).
  - (b) Winches shall conform to or exceed the specifications set forth by the Society of Automotive Engineers (SAE) Handbook, SAEJ706.
  - (c) All ratings for cable and chain assemblies are for the undamaged assembly condition. All cable and chain assemblies should be the same type, construction and rating as specified by the Original Equipment Manufacturer (OEM) for the equipment.
- (d) Safety chains:
  - 1. Safety chains shall be rated at no less than the rating specified by the OEM.
- (e) All tow trucks shall display signs on both sides containing the tow company name, one business address and telephone number. The signs shall be permanently affixed and in compliance with the requirements of refer to the California Vehicle Code.

#### 502.5 RATES

- (a) Fees charged for response calls originating from the Orange Police Department shall be reasonable. The fees charged will be contained in the City of Orange Tow Service Agreement.

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- (b) The schedule of rates charged by the tow service shall be available in the tow truck and shall be presented upon demand to person(s) for whom the tow services were provided, or their agent, or any OPD officer at the scene.
- (c) The rate for towing shall be computed from portal to portal from the place of business. The time expended for towing shall be charged at a rate not to exceed the hourly rate. There shall be no additional charges for mileage, labor, etcetera. However, vehicles being towed out of the city may be charged additional fees (refer to the Tow Service Agreement). The customer will be charged a specified amount per mile from scene of pick-up to destination. Any secondary towing requested by the customer may be negotiated by the tow service in accordance with their private business practices. However, the tow service or their tow truck driver shall inform the customer if there is any difference in the rate for the secondary tow service and provide a general verbal estimate of what the final cost will be.
- (d) When a tow service responds to a police rotation call, whether or not the truck used is of the necessary class or greater to fulfill the duties as requested, the tow service shall only be compensated at the rate established for the lowest class of truck necessary to fulfill the duties required and not at the rate for the truck used to complete same.
- (e) Charges for the towing and storage of combination vehicles is considered excessive when one tow truck tows a truck tractor and a set of semi trailers, and the owner or their agent is charged for three separate tows. This is considered one tow. If a tow truck is sent to the scene of an overturned tractor/trailer rig and another tow truck is needed for clean-up and recovery operations, the tow service will be allowed to collect fees for the additional tow truck at the hourly rate for the class of tow truck and shall be billed in 15 minute increments. If three tow trucks are used (i.e. one tow for the truck tractor and one each for the semi trailers), the tow service will be allowed to collect fees for three separate tows.
  - 1. Charges for storage shall be based on the overall length of the combination of vehicles.

#### 502.5.1 FEES FOR SPECIAL OPERATIONS

- (a) For special operations involving Class B, C, or D tow trucks, the tow service shall submit to the Orange Police Department the proposed fees for vehicle recovery operations and load salvage operations. Fees shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person. Charges in excess of one hour shall be charged in 15-minute increments.
- (b) Hourly rates shall be established for the following:
  - 1. Auxiliary equipment (i.e. air bags, converter gear/dolly, additional trailers, etc.),
  - 2. Contracted equipment (i.e. air bags, converter gear/dolly additional trailers, forklifts, scoop loaders, etc.),
  - 3. Hourly rates for contract labor:
    - (a) Personnel in excess of one driver per tow truck,



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- (b) Driver of customer vehicle (in lieu of towing this vehicle).
- (c) The police department shall approve the fees for these types of operations based upon prevailing rates for like services performed by other tow services within the county.
- (d) The tow service shall not participate in any special operations at the request of the police department unless their rates for special operations have been approved by the police department.
  - (a) A "vehicle recovery operation" is an operation involving the process of up-righting an overturned vehicle which would require the use of auxiliary equipment, due to size or location of the vehicle. This will normally be limited to operations requiring a Class B, C, or D tow truck.
  - (b) A "load salvage operation" is any operation involving the recovery of a load which has been spilled, or the off-loading and reloading of a load from an overturned vehicle performed in order to up-right the vehicle. This will be limited to operations involving a Class B, C, or D tow truck.
- (e) The total fees charged for after normal business hours (commonly known as a gate fee) release shall be at a flat rate as specified in the Tow Service Agreement, and shall only be allowed if there is no person on-duty at the storage facility for release and a call-back is required.
  - (a) An employee on-duty as a dispatcher or security guard shall be exempt as long as they are performing only their primary job duties.
  - (b) For the purposes of this policy, "normal business hours" shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

#### 502.5.2 STORAGE FEES

- (a) Storage fees shall be approved by the Orange Police Department based upon prevailing rates charged by other tow companies for like services within the county.
- (b) The tow service shall display, in plain view at all cashiers stations, a sign as described in the California Civil Code, disclosing all storage fees and charges in force, including the maximum storage rate.
- (c) Vehicles stored 24 hours or less shall be charged for no more than one day storage. Thereafter, each day of storage shall be calculated by calendar day.
- (d) The tow service or any employee, shall accept a valid bank credit card or cash, at the customer's discretion, for payment of towing and/or storage.

#### 502.5.3 FINANCIAL RECORDS

- (a) No contracted tow service or applicant shall be directly involved in the towing related business of any other contracted tow service or applicant within the City of Orange. Directly involved shall mean anything in common between contracted tow companies or applicants with regard to any of the following:

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1. Business licenses,
  2. Insurance,
  3. Tow truck or equipment ownership,
  4. Employees.
- (b) Storage facilities owned by a towing service, and shared with another towing service, shall only be approved if the owner/operator charges for the space exclusively on a flat monthly rate rather than a vehicle-by-vehicle basis, or combination thereof.
- (c) The sale or transfer of controlling interest in a company may terminate the agreement with the City of Orange without cause. Should termination occur, the new owner(s) may apply for rotation tow listing at the discretion of the city, at the beginning of a new contract.

#### 502.5.4 BUSINESS RECORDS

- (a) The tow service shall maintain records of tow services furnished related to the execution of the tow service agreement, including a description of vehicles, nature of service, dates and times, location of calls, total itemized costs of towing and storage, and driver's name. The OPD may inspect all tow company records, without notice, during normal business hours. If requested by a tow service, the police department will furnish them with the computer-generated activity on the Police Rotation Tow List. All requests must be reasonable.
1. Records shall be maintained and available for inspection for a period of two years plus the current term of the City Agreement.
- (b) The tow service shall also maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable Public Utilities Commission (PUC) operating authorities, local operating authorities, Federal Communications Commission (FCC) licensing and non-Orange Police Department requested tows.

#### 502.5.5 INSPECTIONS

- (a) Tow Trucks:
1. Physical inspection indicates that the applicant's tow vehicles comply with all equipment and/or safety requirements of the California Vehicle Code, this policy and the Tow Service Agreement,
  2. Such inspection is to be conducted by the department's commercial enforcement officer, a Traffic Bureau supervisor, or his/her designee, on an annual basis. The California Highway Patrol may do this inspection. If so done, the inspection sheet will be forwarded to the Traffic Bureau for their files. If done by department personnel, the Tow Truck Inspection Guide shall be used. Tow trucks found in violation of the Vehicle Code shall be repaired immediately and shall not return to service until approved by the department's commercial enforcement officer, a Traffic Bureau supervisor, or his/her designee.

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- (b) Tow Facility:
  - 1. The OPD reserves the right to inspect tow service facilities and/or its equipment at any time. Inspections will, at a minimum, be conducted annually. However, inspections shall be conducted when the city contract expires and the tow service wishes to renew its agreement with the city. A formal report shall be filed on OPD Form T-75,
  - 2. Other city departments, county, state, and federal agencies may be called to assist with any inspection.
- (c) If any deficiencies and/or equipment violations are discovered, the tow service will be so advised in writing. The tow service will be given seven calendar days to rectify the deficiency and/or violation. This applies to all facilities or equipment, other than tow trucks, found in violation of the California Vehicle Code and damage to the fence or wall structures as previously noted in the current policy manual..
- (d) Failure to comply with the above requirements shall result in the tow service being suspended from the police department rotation list until the deficiency and/or violation is corrected.
- (e) Refusal to allow any inspection relating to tow trucks, equipment, administrative/billing site, storage facilities or business records, shall be cause for immediate suspension.

#### **502.5.6 REMOVAL AND DISPOSAL OF DEBRIS**

On traffic collision calls, each tow service shall clean-up and remove all debris from the collision as required by police personnel at the scene. No vehicle shall be moved, nor shall any debris be swept or picked-up, until the investigating officer or a supervisor has given approval to do so. Once removed, all debris shall be disposed of in a proper manner. In no event shall debris be deposited in the wrecked vehicles, left on the street or on the sidewalk.

- (a) Each tow truck that is approved for police towing shall have two metal trashcans with tightly secured or locking lids. One can will be used for trash and debris and the other shall contain sand or absorbent. Each can shall not have a capacity of less than 5-gallons.
- (b) Hazardous material spills and related debris shall be handled by the Orange Fire Department. Minor oil, diesel and fuel spills will continue to be handled by the tow drivers. All state and federal EPA Guidelines shall be followed.

#### **502.6 COMPLIANCE WITH LAW**

- (a) The contractor and their tow truck drivers shall comply with federal, state and local laws and ordinances, which include, but are not limited to, the requirements included in this order.
- (b) Any felony conviction of the contractor or any actions by the contractor that would reflect unfavorably upon the OPD shall be cause for denial of an application or termination of the Tow Service Agreement.

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- (c) Any felony conviction of an employee or any actions by the employee that would reflect unfavorably upon the Orange Police Department shall be cause for the removal of the employee from the list of current OPD rotation tow truck drivers.
  - 1. Any contractor or employee charged with a felony crime shall be placed on administrative leave until the case is adjudicated.

#### 502.6.1 COMPLIANCE WITH AGREEMENT AND DEPARTMENTAL ORDER

- (a) The contractor must agree, as a condition of inclusion on the rotation tow list, to comply with the terms and conditions of this policy and the Tow Service Agreement. Furthermore, the contractor must agree that failure by the contractor or their agents to comply with these terms and conditions shall be cause for a written reprimand, suspension or termination. Orange Police Department personnel will investigate alleged violations of this policy or the Tow Service Agreement.
- (b) In order to remain on the rotation tow list, each contractor shall sign a copy of this policy indicating they have received a copy and have read and understood the rules, regulations and requirements.
  - 1. Said copy shall be placed in the contractor's tow file, in the Traffic Bureau of the OPD.

#### 502.6.2 DISCIPLINARY ACTIONS

- (a) Complaint investigation:
  - 1. The tow company liaison supervisor or his/her designee shall investigate and document all complaints against rotation tow contractors made by the public, OPD employees and allied agencies.
    - (a) The required documentation should include the following information:
      - 1. The identities of the tow service and/or tow driver(s), the complainant and any witnesses,
      - 2. A brief summary of the nature of the complaint,
      - 3. A listing of all pertinent facts,
      - 4. A listing of the conclusions reached as a result of the investigation.
    - (b) The tow service shall be notified of the findings within 30 calendar days following completion of the complaint investigation.
    - (c) If, during the course of an investigation, the contractor severs its relationship with the OPD, the investigation of the complaint will continue until completed.
      - 1. The report and findings will be retained for five years.
    - (d) All records concerning violations of the agreement shall be retained for a period of five years from the date of the violation.

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(b) Disciplinary action:

1. Disciplinary action for violations of this policy, the Tow Service Agreement, or any federal, state or local ordinances may result in a written reprimand, suspension or removal.

(c) Demerit point system:

1. The tow company liaison supervisor or Tow Review Board may apply administrative sanctions depending on the type of offense and or misconduct. Sanctions shall remain on the contractor's record for the life of the current contract.

(d) The following demerit point schedule shall be used when applying administrative sanctions.

1. Criminal - misdemeanors
  - (a) Each Violation = 50 demerit points
2. Vehicle Code - misdemeanors
  - (a) Each Violation = 50 demerit points
3. Vehicle Code - misdemeanor equipment violations
  - (a) Each Violation = 10 demerit points
4. Vehicle Code - infraction
  - (a) Each Violation = 5 demerit points
5. Vehicle Code - critical item equipment violations
  - (a) The following equipment violations are subject to ten (10) demerit points per violation:
    1. Any steering components worn or defective,
    2. Brake lights not working on tow truck or drag lights, when towing a vehicle,
    3. No low-air warning device on the air brake system,
    4. Brake lines or hoses that are worn or defective,
    5. Brakes out of adjustment by 20% or more,
    6. Defects in the frame of the vehicle or in the tow bed of the vehicle,
    7. Any cracks in wheel rims,
    8. Worn or defective winch cable,
    9. Overhead warning lights missing or defective,
    10. Parking brake system defective or not adequate for load or grade,
    11. Winch not properly secured to vehicle (cracks in welds or loose bolts),

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12. Wheel lift assembly defective,
  13. Bed safety locks worn, damaged or missing,
  14. Safety chains worn or damaged,
  15. Front tires worn less than 2/32 of tread,
  16. Air loss (unapplied) 2 PSI per minute for three vehicles or more in combination,
  17. Air loss (applied) 3 PSI per minute single vehicle, 4 PSI per minute for combination of two vehicles, or 6 PSI per minute for three vehicles or more in combination.
6. Criminal felonies - administrative leave until case is adjudicated.
    - (a) If the case results in a conviction, the contractor will immediately be released from the contract.
  7. Public service - citizen complaints (sustained)
    - (a) 25 demerit points per violation
  8. Administrative infractions (refer to the policy manual regarding Tow Company Guidelines and Rotation Tow Listing, and the Tow Service Agreement)
    - (a) 15 demerit points per violation
- (e) The tow service liaison supervisor or Tow Board shall have the authority to increase demerit points based upon the severity of the circumstances or frequency of similar violations.
  - (f) Demerit points shall be removed from the tow company's records after one year from date of violation.
  - (g) Suspension schedule
    1. 100 demerit points = 30 days suspension
    2. 150 demerit points = 60 days suspension
    3. 200 demerit points = Removal from rotation list
      - (a) Once removed, the tow service will not be allowed to reapply for the rotation tow list for a period of five years from the date of removal.
  - (h) A violation of overcharging shall be cause for immediate suspension. The Chief of Police or his/her designee shall determine the period of the suspension. The suspension will remain in effect until the period of suspension is completed and the tow service presents proof that reimbursement has been made to the aggrieved customer(s).
  - (i) A violation of the Bi-annual Inspection of Terminals (BIT) Program requirements shall be cause for immediate suspension. The Chief of Police or his/her designee shall determine the period of the suspension. The suspension will remain in effect until the period of suspension is completed and the tow service presents proof of compliance with the BIT requirements.

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- (j) Failure of the tow service to reimburse the vehicle or property owner for damage or loss that occurred while the vehicle was in their possession shall result in a suspension. The Chief of Police or his/her designee shall determine the period of suspension. The suspension will remain in effect until the period of suspension is completed and the tow service has presented proof of reimbursement.
- (k) Nothing herein shall be deemed to prohibit the police department from immediately suspending any tow operator/contractor whose conduct, or conduct of their employee(s), is deemed to be a danger to the motoring public, or who has engaged in conduct constituting a gross violation of this policy and/or the City Tow Service Agreement.
- (l) Any violation of this policy by a tow driver or towing service shall be documented on OPD Form T-76 and forwarded to the Traffic Bureau for administrative follow-up. The public shall be given OPD Form T-79 for citizen complaints.
- (m) When a formal complaint is filed with the OPD, the tow company liaison supervisor or his/her designee shall, within ten working days, mail, fax or deliver to the affected tow service a copy of OPD Form T-76 or T-79, or a letter informing the owner(s) of the complaint(s).
- (n) The tow service shall respond to the complaint(s) in writing within ten working days upon notification of a complaint. Any and all documents related to the complaint(s) shall be submitted with the tow company's formal response letter.
  - (a) **EXCEPTION:** No documents or notice shall be mailed, faxed or delivered if it is determined that notification will impede or interfere with a police investigation.
- (o) After careful review of the tow service response by the Traffic Bureau sergeant, the police department shall notify the tow service in writing of any proposed disciplinary action. The tow service may request, in writing to the Chief of Police and within seven calendar days of the receipt of the notification, a review by the Towing Review Board.
- (p) The police department shall schedule the review meeting as soon as practicable and in no case beyond seven days from the request for a review.
- (q) If the tow service (operator/contractor) fails to request a review or fails to attend a scheduled review meeting, the proposed sanction(s) will take effect immediately, or as scheduled.

#### 502.6.3 TOWING REVIEW BOARD

- (a) The City of Orange Towing Review Board has been created and empowered to examine misconduct or offenses by contract tow providers.
  - 1. The Board shall consist of a Traffic Bureau lieutenant, a Traffic Bureau sergeant and City of Orange purchasing officer or his/her designee. The investigator may be included, if requested by the Traffic Bureau lieutenant.
  - 2. If legal counsel represents the tow service, the towing service shall inform the Board (OPD or General Services) in writing at least five working days prior to

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their scheduled hearing. The City Attorney's Office shall be notified and may represent the city during the review process.

- (b) The following shall apply to the conduct of the review meeting:
  - 1. The review is an informal administrative hearing,
  - 2. The reviewing officer should tape record the review meeting and provide a copy of the tape recording to the tow operator or their attorney upon request,
    - (a) Appropriate fees may be charged for the copy of the tape recording.
    - (b) The appellant may tape record the review.
  - 3. The appellant may present testimony of related experts, tow truck association representatives, or other qualified persons,
    - (a) Witnesses shall limit their testimony to the facts of the case being heard.
  - 4. The appellant may present evidence on their behalf,
    - (a) This evidence must relate directly to the facts being considered.
  - 5. The reviewing officer should utilize the department's investigative report of the case being heard rather than the direct testimony of the department's witnesses,
  - 6. After reviewing the case, the Board shall either sustain, not sustain or unfound the allegation(s) charged,
  - 7. Based on its findings, the Board may concur with the disciplinary action recommended by the Tow Company Liaison Supervisor or may increase or decrease the penalty, or reinstate to the police rotation tow list,
  - 8. The Board's decision shall be presented to the Chief of Police or his/her designee for review. The Chief of Police or his/her designee may concur with the Board's findings, modify the recommended sanctions, or take any other reasonable action necessary to protect the public and uphold the integrity and professional image of the City of Orange and the OPD,
  - 9. The police department shall notify the tow service, in writing, of its decision within seven calendar days of the date of the hearing.



## Tow Contract Evaluation Scoring - Attachment A

<b>Tow Company</b>	<b>Tow Yard (30 points max)</b>	<b>Evidence Holding (15 points max)</b>	<b>Trucks (25 points max)</b>	<b>Drivers (15 points max)</b>	<b>Misc (15 points max)</b>	<b>Total Average Score</b>
Archie's Towing	30	12.75	25	15	13.875	96.625
Tows R Russ	27.5	15	25	15	12.625	95.125
Southside Towing	29	15	25	15	8.6	92.6
Alberto's Towing	14.25	0	16.875	15	10	56.125