CITY OF BIRMINGHAM

FINANCE DEPARTMENT

PURCHASING DIVISION

P-100 CITY HALL
710 NORTH 20TH STREET
BIRMINGHAM, ALABAMA 35203-2227

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November 4, 2016

INVITATION TO BID # 16-66

Sealed bids for wrecker service and storage of towed impounded vehicles for a term of three (3) years will be received by the Purchasing Agent, Room P-100, First Floor, City Hall, Birmingham, Alabama until 2:00 p.m., December 12, 2016 at which time they will be publicly opened and read.

Bidders wishing to bid can download the complete solicitation including the specifications and bid form via the internet at **www.birminghamal.com** (go to link titled **Bidding Opportunities)**, or by visiting the Purchasing Office at the address shown above, or by calling (205) 254-2265, fax (205) 254-2484 and requesting a copy be mailed to you. Any addenda will be available on the internet. Bidder is responsible for checking the website for addenda until bid opening date. Addenda will be mailed to only those vendors who were provided a copy in person or by mail.

Bids are to be submitted on the bid forms provided and must be accompanied by a bid bond, certified check or cashier's check in lieu thereof, with the City named as payee, in the amount of $10,000.00. Any and all bids, submitted without the required bid bond will be rejected and considered non-responsive. All such bonds or checks will be returned upon execution of the required contract documents or upon expiration of sixty (60) days from bid opening date, or such other date as mutually agreed upon by both the City and bidder(s) if the City requests an extension. Any bid withdrawn prior to sixty (60) days from bid opening, or any mutually agreed upon extension will result in the bidder forfeiting their bid bond.

Each bidder should submit with his bid sufficient information showing that it possesses the capability and experience to perform all services required, and any other requested information (including all contracts, options, leases, etc.) showing it either possesses or can demonstrate its ability to provide all facilities, personnel, equipment and finances to perform the contract forthwith.

The City follows a policy of nondiscrimination. No contractor with the City should discriminate on the basis of race, sex, religion or national origin. Failure by the vendor to carry out these requirements is a material breach of its obligations, which may result in its termination or such other remedy as the City deems appropriate.

The City reserves the right to reject any or all bids submitted or any part thereof, and to waive any informalities in responses. The City may deem the failure of a bidder to provide all information requested with the bid to be an informality, except the bid bond, if, upon request from the City, the bidder provides the omitted information immediately.

Quantities indicated on the bid forms are for evaluation purposes only. The City makes no guarantee as to the volume of services required under this contract.

The successful bidder will be required to execute a contract with the City in accordance with the proposed terms upon which bids are submitted. A sample copy of the proposed contract is included in the bid materials. Within ten (10) days of Notice of to Award, the successful bidder will be required to furnish a $150,000.00 performance bond to guarantee performance of the contract and a certificate of insurance documenting the required liability and other coverage specified in the contract. All bonds and insurance shall be issued by company(s) licensed and duly authorized to do business in the State of Alabama and have a rating of B+ or better according to the most current edition of Best's Insurance Reports.

Bids must be submitted in a sealed envelope marked **"SEALED BID - CITY OF BIRMINGHAM WRECKER SERVICE & STORAGE - 2:00 P.M., 12/12/16**. Bids must be hand delivered to Room P-100 First Floor City Hall, Birmingham, Alabama 35203 or mailed to P.O. Box 11295, Birmingham, Alabama 35202-1295. **(DO NOT MAIL BIDS TO ROOM P-100 FIRST FLOOR CITY HALL)**. Bids sent by any express carrier (Federal Express, UPS, Airborne, etc.) must be mailed to 710 North 20th Street and specify delivery to Room P-100, First Floor City Hall.

It is the bidder's sole responsibility to make sure that its bid is in the possession of the Purchasing Agent on or before 2:00 p.m., December 12, 2016. Bids received after this time will be considered late and will not be considered.

William E. Caffee, Assistant Purchasing Agent

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B.N. 11/13/16

Attachments:
1. General Specifications for Wrecker Service and Storage
2. Specifications, Information and Instructions for Submitting Bids and Bidder Qualifications
3. Contract Specifications for Work and Services
4. Bid Form with Attachments
5. Proposed Wrecker Service and Vehicle Storage Contract

GENERAL SPECIFICATIONS FOR WRECKER SERVICE AND STORAGE

1. The City of Birmingham is seeking bids for wrecker service and storage for a period of three (3) years. The bid will consist of one (1) contract for towing of vehicles and storage of vehicles awarded to one (1) contractor based on the lowest responsive, responsible total bid price submitted.

2. This contract may also from time to time require towing and storage of abandoned vehicles, approximately 20/month, deemed as such in accordance with State of Alabama Legislative Act #2001-229 (The Newton Bill). These vehicles will be towed and stored at the direction of the Public Works Department's Code Enforcement Division at the same prices for towing and storing of abandoned vehicles identified by the Police Department. These vehicles may be reclaimed by their owner or disposed of in accordance with the State laws governing the disposal of abandoned, unclaimed vehicles. The City will not pay any towing or storage charges for any of these vehicles that may be reclaimed by their owner. Owner will be responsible for paying all towing and storage charges directly to the wrecker company. Such payments will not be received by the City at the Police Administration Building nor will the City release any such vehicles.

3. Regarding the disposal of abandoned, unclaimed vehicles, the City estimates the number of abandoned, unclaimed vehicles to be approximately 85 small vehicles/month and 1 large vehicle/month. The City will not pay any of the towing, storage or administrative costs associated with these abandoned, unclaimed vehicles.

4. Any references to city code Sections shall mean the section as it currently exists, as it may be amended, and as it may exist or be renumbered as a result of recodification.

SPECIFICATIONS, INFORMATION AND INSTRUCTIONS FOR SUBMITTING BIDS AND BIDDER QUALIFICATIONS

The City may reject as either non-responsive or non-responsible, any bid(s) not conforming to the following requirements and/or submitted by bidders who do not meet the qualifications stated below.

1. BID REQUIREMENTS:

(a) Bids must be submitted on the blank Bid Form that is provided.

(b) Bids must be complete and specific.

(c) **Bids must be free of alterations and erasures.**

(d) Bids must be properly signed by the bidder or by a legally authorized officer or agent of the bidder.

(e) Bid must be accompanied by a bid bond, cashier's check or certified check in the amount of $10,000.00. A performance bond in the amount of $150,000.00 and a certificate of insurance will be required within ten (10) days of Notice of Award. Company(s)

issuing bonds and insurance policy(s) shall have a rating of B+ or better according to the most recent edition of Best's Insurance Report and be licensed to do business in the State of Alabama. Documentation of company's rating is to be presented by the bidder along with the performance bond and certificate of insurance.

(f) The bid must be enclosed in a sealed envelope marked "SEALED BID - CITY OF BIRMINGHAM WRECKER SERVICE AND STORAGE – 2:00 P.M., 12/12/16". The bid date and time of bid opening must also be shown on the envelope containing your bid.

(g) The bidder shall complete **Attachments A thru I** noted herein and attach those completed attachments to the enclosed Bid Form.

2. WRECKER AVAILABILITY REQUIREMENT:

To be qualified to receive an award or perform the contract, the successful bidder must satisfy this wrecker availability requirement.

The company, on a 24 hours/day, 7 days/week, and 365 days/year basis throughout the term of the contract, must have available a minimum of thirteen (13) radio equipped, properly licensed and fully operational wreckers and drivers. Drivers must be located at all times such that they can respond within specified time limits. At least two (2) of the wreckers shall be of 25 ton manufacturer rated capacity. Each bidder should complete **Attachment B** (which identifies the wreckers currently owned or controlled by the bidder) and attach it to its bid form. If the bidder does not currently control the minimum number of wreckers, it should also provide written information demonstrating its plans or ability to satisfy this requirement.

Company may choose to pre-position wreckers. The location of any pre-positioned wreckers can vary and is completely at the discretion of the company. All wreckers must be equipped with a 2 way radio, and may have Global Positioning Satellite capability, if desired by company. Arrangements to furnish thirteen (13) wreckers and drivers must be finalized within a sixty (60) day period from the date notice is given by the City to the company that its bid has been accepted. Failure to comply with this requirement within that period may constitute a basis for not awarding the contract or a default of the contract. The City retains the sole discretion to determine whether a bidder meets the minimum requirements for the number of wreckers and drivers.

3. MINIMUM EXPERIENCE REQUIREMENT:

Each bidder should include with its bid form evidence that it meets the following minimum experience requirement. **Attachment C** is provided for this purpose.

To be qualified to receive an award, the company submitting the bid must have been in the wrecker towing and storage business continuously for the last five (5) years with experience in operating a vehicle storage lot(s) with operations that have consisted of receiving, storing and releasing vehicles with a combined volume of at least 250 units per month for three (3) years of the five (5) years and a combined volume of at least 100 units per month for two (2) of the five (5) years. The company also

must have at least five (5) years experience in the wrecker or towing business operating at least five (5) wreckers at the same time with at least three (3) of those five (5) years having operated at least one (1) wrecker being 25 ton capacity or larger. The City retains the sole discretion to determine whether a bidder substantially meets these minimum experience requirements.

4. VEHICLE STORAGE LOT REQUIREMENT.

To be qualified to receive an award or perform the contract, the successful bidder must satisfy this storage lot requirement.

Throughout the term of the contract and on a 365 days a year, 7 days a week, and 24 hours a day basis, the company shall provide a vehicle storage lot meeting the minimum requirements that are set forth in the Contract Specifications section (the "Storage Lot"). Each bidder should complete and include with its bid form **Attachment D** (which evidences the location of the storage lot). If the bidder does not currently control the Storage Lot, it should also provide written information demonstrating its detailed plans or ability to satisfy this requirement.

Arrangements to satisfy this Storage Lot requirement must be finalized within a sixty (60) day period from the date notice is given by the City to the company that its bid has been accepted. Failure to comply with this requirement within that period may constitute a basis for not awarding the contract or a default of the contract. The City retains the sole discretion to determine whether a bidder meets the Storage Lot minimum requirement.

5. COMPUTERIZED RECORDS SYSTEM REQUIREMENT:

Each bidder should include with its bid form written evidence that it meets or can meet this computer records system requirement discussed below. **Attachment E** is provided for this purpose.

To be qualified to receive the award and throughout the term of the contract, the successful bidder must furnish and operate a computerized record system of adequate size and capability on which to maintain all the records, files, and transactions generated as a result of the performance of this contract. At its expense, the successful bidder shall provide to the City remote access to this computerized system via a broadband internet connection and a static IP address using Microsoft PPTP VPN connection or equivalent. The company shall provide all items necessary to properly install software and interfaces for said conversion. The City shall provide up to three (3) personal computers and printers that will interface with bidder's system. Bidder shall arrange for these three (3) personal computers to be connected to the bidder's computer system and be capable of all three (3) being utilized concurrently at the following locations: one (1) in the Finance Department at City Hall, 710 North 20th Street and two (2) in the Police Department located at the Police Administration Building, 1710 1st Avenue North. If requested by the City, the successful bidder will also provide a minimum of one (1) day of training (eight (8) hours) at all locations for the City employees who require access to and utilization of company's system and software.

Company's system must be configured to provide the following functions. The City shall have on-line access to the company's system and have the capability to read City accounts and access all other information related to the performance of the contract. Online access to towing and

storage information is to be available to the City with corresponding pull-in numbers, lot location numbers, and/or other routinely used means of identifying characteristics. Further, company must provide the City on-line access to those reports generated by the system necessary to ensure adequate performance of the contract. In addition, company agrees that, if requested by the City, it will provide the City a customized, monthly itemized statement with a corresponding summary sheet with detailed data elements. The system must allow the City to review information to verify monthly charges to the City for payment of invoices submitted by the company. City is to have the capability to print reports and documents at each remote site. Upon request, City may require company to provide detailed billing information on diskette as well as hard copy.

The company shall provide all communication and application software necessary to perform all required functions; the minimum application software shall be Tracker 2000, version 10, last revision July 11, 2016 or equivalent. At the company's location, it shall provide system and software modifications necessary for City access and required use of the company's computer system. Company must have adequate system support to minimize any system downtime and must provide for daily, offsite back up of information to ensure no loss of information due to system failure. For technical assistance or questions on remote connection to the company's computerized records system, please contact Darryl Burroughs (205) 254-2803, in the City's IMS Department.

Bidder is to provide sufficient specific information on **Attachment E** as to how, when, and by whom the implementation of its computer system shall be accomplished. On-line access for the City to that system must be fully functional within sixty (60) days after notice of acceptance by the City of the bidder's bid. Failure to comply with this requirement within such sixty (60) day period may constitute a basis for not awarding the contract or a default of the contract. The City retains the sole discretion to determine whether bidder meets the minimum computerized records system requirements.

Please note that the City will not separately reimburse company any of its costs in furnishing, installing or maintaining its computer records system, or providing remote access to it for the City. Company should factor all its costs associated therewith into its bid pricing for towing and/or storage.

6. BIDDER FINANCIAL INFORMATION:

To be qualified to receive an award, the successful bidder must have sufficient financial capacity and resources to perform the contractual obligations. **Attachment F** is provided for this purpose.

With **Attachment F which must be attached to your bid form**, each bidder must attach its most recent financial statement, setting out information which shows the company's current financial conditions and accurately reflects the net worth of the company. Such statement shall also include similar information as to any parent corporation of the bidder, and any individual, corporation, association or company under contract with the bidder to furnish any service required to or for the bidder. Any such statement(s) furnished by the company must also be certified as current by an independent accountant. Determination as to whether a company has sufficient financial capability to perform the contract shall be the sole discretion of the City of Birmingham.

7. CONTRACTS, LEASES, OPTIONS OR OTHER AGREEMENTS WITH THIRD PARTIES:

Each bidder should include with its bid form copies of any contracts, agreements, etc. with other wrecker companies that the bidder intends to utilize to provide the services and/or equipment required by the proposed contract, copies of any deeds, leases or options to lease or buy the property required by the contract for storage purposes, and copies of any and all other agreements with third parties on which the bidder intends to rely for the supply the equipment, facilities or personnel to perform the work required by the contract. **Attachment G, attached to the bid form,** is provided for this purpose. The determination as to whether these third party agreements, etc. are sufficient to perform the contract shall be made at the sole discretion of the City.

8. DETERMINATION OF SUCCESSFUL BID: The contract will be awarded to one (1) contractor based on the lowest responsive, responsible total bid price submitted. The City will apply the following principles to determine the low bid:

(a) An estimated cost will be calculated by multiplying the unit prices bid by the approximate number of units per month as indicated on the bid form. The cost extended by this method for each item of expenses set out on the bid form will be added together to arrive at an estimated monthly charge for towing City-owned vehicles, storing vehicles in the lockup area for evidence collection, towing and storing impounded vehicles later claimed by their owner, cancelled calls and jump starts / unlocks of City vehicles.

(b) Bids will be considered responsive only under the terms and conditions set forth in this invitation to bid. The City will not consider bids that propose to introduce new elements or alter the parameters in the invitation to bid. The City will exercise its good faith judgment to determine whether a bid is responsive and whether a bidder meets the requirements set forth herein to perform the obligations in the specifications and contract. This determination shall be solely the discretion of the City of Birmingham.

9. W-9 FORM:

Any potential bidder who is not currently established as a vendor in the City of Birmingham vendor file will be required to submit a completed W-9 tax form prior to any bid award. W-9 tax form may be submitted with your bid or no later than seven (7) working days of receipt of notice of intent to award.

10. BUSINESS LICENSE REQUIREMENTS:

The successful bidder must provide a copy of its current City business license prior to award of the contract. Each bidder may submit a copy of its license along with their bid. Further, the successful bidder must provide a copy of its current business license no later than seven (7) days of receipt of notice of intent to award. Failure to submit the requested information will result in revocation of the notice of intent to award.

In addition to any business licenses required by the City Business License Code for any business activity in which the successful bidder may currently be engaged, the successful bidder will be required to obtain, at a minimum, the following licenses based on the business activity required by this contract and for the length of the contract period:

Wrecker Service Activity: Schedule 170B (based on the gross vehicle weight of each wrecker used in the operation of the business).

Storing of Automobiles or Other Vehicles: Schedule 020 (based on the total number of square feet of any area held out as available for the storing or parking of automobiles or other vehicles).

Automobile Merchant: Schedule 018 (based on a percentage of gross receipts from the Sale of Vehicles that were never claimed by their owners).

Pursuant to Section 30 of Ordinance 97-183, of the City's Business License Code, any person, firm or corporation engaged in more than one of the business activities, vocations, callings or professions enumerated in said Code, and for which a license is required of each, shall pay for and take out a license for (1) each business activity, vocation, calling or profession, and (2) for each separate place or location of business.

All required municipal, county and/or state licenses and all City of Birmingham tax liabilities shall be current at time of award and shall remain current during the stated contract period. Failure to do so may be grounds for non-award/termination of the contract at the sole discretion of the City of Birmingham.

Pertinent information concerning City licensing requirements for wrecker and vehicle storage and operations is provided in Attachment H.

11. IMMIGRATION LAW:

Successful Bidder (located in the State of Alabama or located outside of the State of Alabama, but employs one or more employees within the State of Alabama)represents and warrents that it does not knowingly employ, hire for employment, or continue to employ an "unauthorized alien", as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535 (H.B.56) of the Alabama Legislature, as amended from time to time (the "Act") and that, during the performance of this contract, Vendor shall participate in the E-Verify program as required under the term of the Act. Vendor agrees to comply with all applicable provisions of the Act. As a condition for the award of any contract, Vendor shall provide documentation establishing that the Vendor is enrolled in the E-Verify program, or a signed, written statement that the Vendor does not have a presence (office or employees) in the State of Alabama. Vendor may submit applicable documentation with his/her bid or no later than seven (7) working days of receipt of notice of intent to award. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the contract/agreement and shall be responsible for all damages resulting therefrom.

CONTRACT SPECIFICATIONS FOR WORK/SERVICES

The successful company to whom the contract is awarded ("company") must provide, maintain and have available 24 hours/day, 7 days/week, 365 days a year the personnel/facilities/equipment stated below, to perform the towing, storage, and other services and work according to the specifications herein and provisions of the contract (hereinafter collectively, the "work).

The company's services can be separated into two general categories: (a) work with respect to privately-owned automobiles and vehicles (hereinafter collectively "private vehicles" or "privately-owned vehicles"); and (b) work concerning City-owned vehicles (police cars, garbage trucks, etc., hereinafter collectively "City vehicles"). The specifications for this work are detailed below:

I. SERVICES REGARDING PRIVATE VEHICLES

A. TOWING TO STORAGE LOT

1. The company, at its expense, will provide all equipment, personnel and facilities to (1) when requested by the City's Police Department ("BPD"), tow private vehicles from public streets and ways within the City limits and transport those vehicles to the storage lot (as required herein) and (2) as requested by the City's Public Works Code Enforcement Division ("Public Works"), tow private vehicles from private properties within the City limits and transport those vehicles to the storage lot in accordance with State of Alabama Legislative Act # 2001-229 (the Newton Bill).

2. The City estimates the number of abandoned, unclaimed private vehicles that will be towed and impounded, to be approximately 85 Small vehicles per month and 1 large vehicle per month. PLEASE NOTE THAT THESE ARE ESTIMATES THAT ARE PROVIDED ONLY FOR THE PURPOSE OF ASSISTING THE COMPANY IN PREPARING ITS BID. THE CITY MAKES NO GUARANTEE OF THE VOLUME OF ABANDONED, UNCLAIMED VEHICLES THAT THE COMPANY MAY BE REQUESTED TO TOW, IMPOUND AND DISPOSE OF DURING THE TERM OF THE CONTRACT. FURTHER, THE CITY DOES NOT WARRANT OR GUARANTEE ANY MINIMUM VOLUME OF REVENUE THAT THE COMPANY MAY EARN FROM TOWING, STORING AND DISPOSING OF THESE UNCLAIMED, IMPOUNDED VEHICLES OR PROVIDING ANY OTHER SERVICES OR WORK REQUIRED HEREIN OR IN THE CONTRACT.

3. Charges. For each private vehicle it removes and tows to the storage lot, the company shall document that operation in the computerized record system required herein. On a private vehicle that is 10,000 pounds GVW or less (a "Small Vehicle(s)"), the company may enter in the computer system the flat sum charge that is set forth on the Bid Form. With respect to a vehicle in excess of 10,000 pounds GVW (a "Large Vehicle(s)") the company may enter in the computer system the flat sum charge that is set forth on the Bid Form. The towing charge entered in the system is the same amount for a private vehicle whether the request is initiated by the BPD or Public Works.

4. Because of potential instability of diesel fuel prices, the City, on a monthly basis throughout the term of the contract, agrees to determine whether an adjustment to the towing charges for private vehicles set forth on the Bid Form should be made. This adjustment will be determined and, if appropriate, made in the following manner. The City will implement and allow a diesel fuel surcharge for towing of private vehicles if the average retail price of a gallon of diesel fuel exceeds the Gulf Coast PADD III price of $2.70/gallon as determined by the U. S. Department of Energy Information Administration Weekly Highway Diesel Retail Price Report. Website: EIA.DOE.GOV, click on Gas and Diesel Fuel Updates to view prices. The surcharge will work as follows: beginning the first day of the month following the start of the contract, and on the first day of every month thereafter, for every 25 cent increase in the retail diesel price over $2.70, as reported by the benchmark stated above, the price of all private vehicle bid items that are impacted by diesel fuel will be increased by one dollar ($1.00) for that month. As the price fluctuates from month to month, the number of dollars added or subtracted will vary. For example: if the bid price for towing is $35.00, and the diesel fuel price at the beginning of the first month is $3.40, then the $35.00 will be adjusted up by $2.00 to $37.00 for that month. If the diesel fuel price is at $3.00 on the first day of the second month, the $37.00 will be adjusted down $1.00 to $36.00 for that month. For any months that the diesel fuel price falls to $2.70/gallon or below, all surcharges will disappear and the bid price that was originally bid will prevail for that month.

B. ADDITIONAL CHARGES

In performing its services, company shall provide tires, dollies and other equipment necessary to protect towed private vehicles and streets, and any third persons or property owned by third persons, from injury or damage. To this end, the company, in addition to the flat rate towing charge for private vehicles, may also enter in the computer system a charge if a dolly is required to move a private vehicle, or if the drive shaft must be dropped or the axles pulled to prevent damage to such a vehicle or to the public street or way (the "Additional Charges"). The amounts entered into the computer system for these Additional Charges will be those sums set forth on the Bid Form for small vehicles or large vehicles. The Additional Charges entered in the system for a private vehicle are the same whether the request is initiated by the BPD or Public Works. **The company may only assess charges for a dolly, dropping drive shafts and for pulling axles if those operations are actually used and were reasonably required to complete the towing process. These operations are not to be utilized in lieu of or as a substitute for more appropriate towing practices.**

C. COMMUNICATION WITH POLICE

The City will provide a Motorola base station radio to the wrecker company along with a reserved radio channel to be used by BPD officers to communicate requests for wreckers directly to the company's dispatch office. This radio is only to be used to communicate between the on-scene Police officers and the company's dispatchers. **The company must maintain its own separate radio system to communicate between its dispatchers and wrecker drivers.**

D. RESPONSE TIME

Promptly upon receiving a request from any police officer of the BPD or appropriate Public Works employee to remove a private vehicle, the company shall dispatch a wrecker and undertake to transport the private vehicle to the storage lot.

Company will provide adequate resources so that the average response time between the request and arrival of a wrecker at the location of the vehicle will not be more than twenty (20) minutes, with a maximum response time of no more than forty (40) minutes, except for requests for service in the following situations: (a) service in the following outlying areas: the area south of Fire Station #32 located at 3300 Highway 280 South, areas east of the I-459/59 interchange and areas northwest of the Ensley viaduct. Response time may be longer for these outlying areas but shall not be more than sixty (60) minutes from the time of request and (b) requests during special police projects (e.g., a license check event) which, in addition to normal towing requirements, require an unusually large volume of tow-ins during a short period of time in order to meet project needs.

For service response time for private vehicles as stated above (no more than 40 minutes or no more than 60 minutes for outlying areas), these response times will be strictly enforced, except during special projects as noted. Anytime the service response time exceeds 40 minutes, except for those outlying areas mentioned above, and anytime service response time is ten (10) minutes over the stated allowable 60 minutes for service in the outlying areas, service will be determined officially late. During any consecutive three (3) month period of time, the vendor is determined officially late more than 10% of the time, that failure shall be grounds for termination of contract at the election of the City.
EXAMPLE: During a 3 month period, there were 1200 requests for service, the vendor was officially late 156 times and this means vendor was late 13% of the time. Vendor exceeded the 10% allowable percentage by 3% and would be subject to contract termination.

E. RESPONSIBILITY FOR SAFEKEEPING OF PRIVATE VEHICLES AND CONTENTS

After the company representative undertakes to remove a private vehicle, the company thereafter is solely responsible to prepare each such vehicle for towing, and tow and store each of them (and the contents therein) in a manner that protects same from damage or loss, and preserves each such vehicle (and the contents therein) in the condition that existed before the company towed the vehicle. The company's responsibility to maintain and protect the vehicle (and its contents) from damage or loss shall remain in effect until the vehicle (and its contents) is released back to the private owner, or auctioned/disposed of by the company pursuant to state law.

The appropriate BPD Officer or Public Works employee who requests the tow will inventory all items in the vehicle and list those items on the back of the pull-in card. Pull-in cards are to be provided by the wrecker service company to document all tows/service. The company wrecker drivers must verify that the BPD Officer or Public Works employee has so inventoried all items in the vehicle. If the appropriate BPD or Public Works employee has not, or will not, provide

the list of contents on back of the pull-in card, the wrecker driver must document on the back of the pull-in card that such City representative did not inventory the contents of the vehicle.
The company will be relieved of its responsibility to safeguard the contents of the vehicle only if its representative so documents on the pull-in card that the City representative failed to inventory and list items.

Please note that the BPD will have the authority at all times to search impounded vehicles to recover anything of value or significance to its operations before the vehicle is removed from the storage lot required herein. If company is concerned that damage to the vehicle may be incurred in connection with any such search, it will be the responsibility of the company to provide a locksmith, at company's own expense, to make keys to allow entry into such vehicle by a BPD representative or otherwise assist the BPD to gain entry to the vehicle by any other non-damaging means. Such entry shall occur only in the presence of BPD personnel.

F. VEHICLE STORAGE LOT REQUIREMENTS

The company will tow impounded private vehicles to a storage lot that is owned, leased or otherwise controlled and operated by the company throughout the term of the contract on a 365 day, 7 day a week, 24 hour basis (the "storage lot"). This storage lot must satisfy the minimum requirements below:

1. The storage lot shall have secure, non-see through fencing and lie within a five (5) mile radius of the Birmingham City Hall, within the City limits of Birmingham, within close proximity, by driven distance, to a state or federal highway, and consist of a minimum of 200,000 square feet of total vehicle storage space suitable for the safekeeping of all vehicles that come within the company's possession pursuant to the operations contemplated in this contract. The surface of the 200,000 square foot vehicle storage space shall be asphalt, concrete or other comparable, imperious, all-weather surface (gravel with tar poured over top is not acceptable) and approved for use on a compacted sub grade in compliance with the Building Code of the City of Birmingham. Company shall maintain the vehicle storage lot in good repair during the term of this contract. The Covered Storage Area and Secured Lockup Area (both of which are discussed below) may be contained within the 200,000 square feet storage area. If company secures a lot in excess of the 200,000 square feet minimum requirement, that area exceeding the minimum may be used for overflow storage of vehicles if necessary. *Should overflow storage become necessary during the term of the contract, billing for the overflow storage will be at the established contract rate.*

2. At or near the gate to the vehicle storage lot, company must provide a covered area as shelter for guards and visitors to the lot.

3. On a 24 hrs/day, 7 days/week, 365 day/year basis, the company shall provide adequate office staff and office space at the vehicle storage lot to allow vehicle owners to reclaim their vehicles. Further, throughout the term of the contract, company must position at least one (1) person at or near the entrance(s) of the storage lot who is authorized by the company, in accordance with instructions and regulations of the BPD, to control and limit the ingress and egress of all persons into and out of the storage area.

4. Within the storage lot, the company will provide a separate office that is reserved for the sole use of the City and is secured by deadbolt locks with access controlled by the Police Impound Officer. In this office space the City will provide a PC and printer that the Impound Officer may use. Company will provide necessary software and wiring in this office space to connect the City's PC and printer to company's computer records system, and also will provide fast access internet service (DSL) so that the Impound Officer may access the City's data network and perform investigative functions while occupying such area.

5. Provided there is sufficient and proper space available for storage of vehicles contemplated under the contract, company also may store at the storage lot vehicles other than those removed at the request of the City. Further, at all times, company must keep the vehicles stored pursuant to the contract totally separate and segregated from other vehicles, and place those vehicles in such a manner that there is adequate space for a person to be able to walk freely around each vehicle. A parking space identification system identifying each parking space must be established and maintained in good repair at all times.

6. Within or adjacent to the storage lot, the company shall provide a covered structure with a permanent roof which has either sufficient overhang or wall extension to protect vehicles placed thereunder from rain, hail, sleet, snow and other precipitation (the "Covered Storage"). Company shall configure the Covered Storage so it will accommodate as many vehicles as the vendor deems necessary for a contract with the volume of this contract. The structure shall conform to requirements of the Building Code of the City of Birmingham (including required ventilation).

7. Within or adjacent to the vehicle storage lot, company also shall provide a completely secured temperature controlled and enclosed lockup storage space (the "Secured Lockup Area"). This Secure Lockup Area shall be reserved for exclusive use by the City for storing vehicles designated by the City BPD for evidentiary or other law enforcement purposes. Company agrees that it shall not allow access to the Secure Lockup Area except when a BPD Officer is present and that Officer authorizes that access. The company shall make arrangements to configure and operate the Secure Lockup Area in the following manner:

> (a) This Area shall have at least nine (9) fully enclosed, separate cubicles each with the capability of holding a standard size auto or van. One (1) of the nine (9) cubicles should have the entire surface area (floor, walls, and ceiling) painted non-reflective black and be free of any light leakage from outside sources. Chain link fencing is acceptable for interior partitioning in the structure to enclose each of the separate cubicles of the eight (8) remaining bays. Each cubicle should be approximately 15 feet wide and 24 feet long with at least one electrical power outlet, 2 plugs/outlet. One (1) man door to the entire secured lock area is acceptable. Each cubicle must have a roll up door described in more detail below.
>
> (b) This Area shall have a double sink with hot and cold running water and a flat work/storage surface of at least 18 inches on either side of the sink;

(c) This Area shall have two (2) hose faucet connections. One can be the faucet on the double sink above if a hose can be connected to it. The other faucet should be located elsewhere in the lockup area;

(d) This Area shall have security for each cubicle by including a dead bolt locking device on each cubicle's walk-in interior door, and locking bar device on the roll up door of each cubicle that can only be opened from the inside. The Police Department shall control possession of all keys to each cubicle. If key to the lockup facility's main man door is lost or misplaced, company must immediately replace entire lock and provide new key to the Police Impound Officer;

(e) This Area shall have a stand-alone alarm system that is monitored by an outside monitoring company 24 hours/day. The minimum alarm requirements must provide security on all outside man doors and roll up doors in the facility;

(f) This Area shall have HVAC equipment to maintain heating and cooling temperature range of between 55 degrees minimum to 85 degrees maximum at all times;

(g) This Area shall have a concrete or other permanent surface for the floor;

(h) This Area shall have a lockable storage room at least six (6) feet by six (6) feet for storage of various items by the Police Department. This storage room must be located within the Secure Lockup Area;

(i) This Area shall have exterior approach ramps to all nine (9) cubicles that is covered with asphalt, concrete or other comparable, impervious, all weather surface (gravel with tar poured over top is not acceptable);

(j) This Area shall have a compressed air system with individual outlets, hoses and nozzles in each of the 9 bays. As an alternative, several portable air compressors can be positioned in the facility with hoses and nozzles available in each bay for hookup to the nearest compressor;

(k) Company shall maintain the Secure Lockup Area in a clean, well lit condition that is free of vermin and disease causing insects. The Police Department will provide access to the company for cleaning when individual cubicles are empty and free of stored vehicles. This entire Area must be cleaned by company every two (2) weeks.

(l) For use of the Secure Lockup Area, Company may enter charges into its computer system based on the rate set forth on the Bid Form. If any such vehicle that is impounded in the Secure Lockup Area is later claimed by the owner after release from this Area, the charge for storage outside this Area also may be assessed. No other extra storage charges will be allowed.

8. With its bid form the company must complete and include information on **Attachment D** concerning the storage lot. The City retains the sole discretion to determine whether a bidder meets the minimum requirements for the storage lot, Covered Storage and Secured Lockup Area. In regards to these requirements, it is not required that such lot (and the associated Covered Storage and Secured Lockup Area) be in place when the bid is submitted; however, the bidder must provide and attach to its bid sufficient specific information (e.g., an option or commitment to buy or lease real property) demonstrating how, when, and by whom the vendor will meet the lot requirements. The company must satisfy the lot requirement within a sixty (60) day period from the date notice is given by the City to the company that its bid has been accepted. Failure to comply with this requirement within that period may constitute a basis for not awarding the contract to the company or a default of the contract.

G. OPERATION OF VEHICLE STORAGE LOT

Company agrees to perform the following operations and functions in connection with its storage lot:

1. Company will store private vehicles in either of the following three (3) locations at the storage lot: (a) the uncovered portion of the storage lot; (b) under the Covered Storage that is within or adjacent to the storage lot; or (c) as requested by the BPD, within the Secure Lockup Area, as needed, for evidentiary purposes.

2. Except for vehicles placed in the Secure Lockup Area at the request of the BPD, company shall determine whether to place a vehicle in the uncovered or covered portions of the storage lot. The company is responsible for storing vehicles in the Covered Storage required herein if the interior of the vehicle is subject to being damaged by exposure to rain, snow, hail, sleet or other precipitation because of portions of vehicle roof, windows or windshield missing. Company may charge in its computer system the sums set forth on the Bid Form for each calendar day of uncovered storage or covered storage. No other extra charge for storage will be allowed. The storage charges that are entered in the company's computer system will be at the same rate regardless whether the request to impound is initiated by the BPD or by the Public Works Department.

3. Upon the request of the BPD, company shall store private vehicles that are impounded in the Secure Lockup Area for evidentiary and other appropriate law enforcement purposes. Unless the company agrees to void (i.e., not charge) for use of the Secure Lockup Area, for a particular vehicle the company will enter into the computer system the storage charge set forth on the Bid Form for each calendar day for such storage as long as the BPD requires the vehicle to remain in that Secure Lockup Facility. After the BPD releases the vehicle from the Secured Lockup Area, the company will then determine whether to place that vehicle in the covered or uncovered portion of the storage lot, and charges for covered or uncovered storage may accrue from that point.

H. RELEASE OF IMPOUNDED VEHICLES CLAIMED BY OWNERS

Company must arrange to have sufficient personnel and supporting computer system operational at the storage lot so that private vehicles can be released to their owners on a 24 hour, 7 day a week, 365 days a year basis. Different procedures apply for releasing private vehicles depending whether the request to tow and impound such a vehicle was made by BPD or by the Public Works department.

With respect to any private vehicle that is impounded at the request of the BPD, the owner of any such vehicle who desires its release first must pay to the City all towing (including any Additional Charges) and storage charges associated with the use of the uncovered storage area, the Covered Storage and / or the Secure Lockup Area that are reflected in the company's computer system, plus the additional fees mandated by City Code 1980, Section 10-14-6 (a) (1), plus all applicable administrative costs incurred by company that are required in order to comply with the State Abandoned Vehicle Law up to the point when owner reclaims their vehicle. These costs must be appropriately entered into company's computer system and may only be charged 30 days after tow in or such other period of time as the law may require.

(The procedure for compensating company in this situation is discussed in the section below.) After such payment is made, an authorization to release the vehicle, in the form approved by the Chief of Police of the City (or specified members of the BPD designated by him/her) will be generated to authorize the owner to retrieve the vehicle from the storage lot. When the owner arrives at the storage lot, company shall not release any such vehicle until it has confirmed that (i) the proper authorization to release exists, and (ii) the owner has paid to the City all required towing, storage charges, City Code Section 10-14-6(a) (1) mandated fees and administrative costs incurred in order to comply with the State Abandoned Vehicle Law. Unless approved by the BPD in writing, in no event will the company release to the owner a vehicle that either is subject to condemnation for being illegally used to transport contraband, or that is still stored in the Secure Lockup Area at the time of the owner's request.

With respect to owners of private vehicles that are impounded at the request of Public Works, no advance City approval is required before company releases or delivers any such vehicle to its owner. When owners of these vehicles desire to reclaim such a vehicle, company exclusively has the duty to directly collect from the owner, and may retain for its own account, all charges in the computer that are owed for towing, storage and administrative costs. Company may also charge and retain fees mandated in City Code Section 10-14-6(a) (1). All rates charged owner must be the same as stated on the bid form.

If any court proceeding is instituted against company to secure the release or recover possession of any vehicle that is impounded, company agrees to immediately notify City of such proceeding, and provide timely updates of each step in such proceeding. City, at its election, shall have the right to participate in any such proceeding.

I. COMPENSATION TO COMPANY FOR SERVICES WITH RESPECT TO PRIVATE VEHICLES

With respect to any private vehicle that is impounded at the request of the BPD and later claimed by its owner, the City, as discussed above, first will collect all towing and storage charges, City Code Section 10-14-6(a) (1) mandated fees and administrative costs, and authorize the release before the company releases such vehicle to its owner. Thereafter, the City will then remit payment to the company after receiving an invoice. The City will retain the administrative handling fee set forth in City's Code 1980, Section 10-14-6 (a) (1). In the event that an owner pays towing and storage charges to the City but thereafter does not reclaim or delays reclaiming his vehicle, company may assess and exclusively has the sole obligation to collect from the owner any additional storage charges that may arise after the owner settled its account with the BPD; provided that the charge for such additional storage days imposed after the owner settles his account with the City shall be at the same storage rate as stated in Bid Form.
Compensation received from the City also is deemed to include inflation of tires and / or the use of jumper cables to jump start a vehicle when needed to facilitate the removal of a vehicle which is claimed by its owner, the making of reports and furnishing of all materials, personnel, instrumentalities and facilities for performance of company's duties under this contract. Subsequent tows made at the discretion of the owner or agent of a vehicle shall be considered private tows as provided in Section 12-17-8 of the General Code of the City of Birmingham 1980 as it may be amended and company shall not charge more than the then current rates as provided in Section 10-14-6 of the City Code in excess of the rates as stated on the Bid Form.

With respect to any private vehicle that is impounded at the request of Public Works and later claimed by its owner, the City will not undertake to collect, in any manner handle funds or compensate Company for the towing and storage charges, administrative costs as well as City Code Section 10-14-6(a) (1) mandated fees from the owner in this situation. As discussed above, company is exclusively responsible for collecting all towing and storage charges from the owner in this situation.

Company acknowledges that an unspecified number of vehicles that it impounds at its storage lot will not be claimed by the owner. The City will not undertake to collect or in any manner compensate Company for any towing (including any Additional Charges) and storage charges (including use of uncovered storage area, the Covered Storage and the Secure Lockup Area) or administrative costs or City Code 10-14-6(a) (1) mandated fees that occurs with respect to any unclaimed vehicle. PLEASE NOTE THAT ESTIMATES OF NUMBER OF UNCLAIMED VEHICLES IS PROVIDED IN THE GENERAL SPECIFICATIONS FOR THE PURPOSE OF ASSISTING THE COMPANY IN PREPARING ITS BID. THE CITY MAKES NO GUARANTEE OF THE VOLUME OF UNCLAIMED VEHICLES THAT THE COMPANY MAY BE REQUESTED TO TOW, IMPOUND AND DISPOSE OF DURING THE TERM OF THE CONTRACT. FURTHER, THE CITY DOES NOT WARRANT OR GUARANTEE ANY MINIMUM VOLUME OF REVENUE THAT THE COMPANY MAY RECEIVE FROM DISPOSING OF UNCLAIMED VEHICLES.

Notwithstanding, provided the company complies with state abandon vehicle law and all procedures attendant thereto that govern the disposal of abandoned, unclaimed vehicles, company may retain the proceeds that it recovers in the process of auction or other disposal of unclaimed vehicles. The City will not pay any of the towing, storage or administrative costs associated with vehicles that are auctioned or disposed of by company. ***The City will not allow auction or disposal of any vehicle until company has notified the City in writing that all the requirements of the State Abandoned Vehicle Law have been complied with and vehicle can be disposed. Until such time, CONTROL of vehicle remains with the City. However, vehicles towed at the request of the Public Works Department do not require City approval prior to auction or disposal.***

Please note that the BPD will have the authority to search unclaimed vehicles to recover anything of value before the company disposes of any such vehicle. If company is concerned that damage to the vehicle may be incurred in connection with any such search, it will be the responsibility of the company to provide a locksmith, at company's own expense, to make keys to allow entry into such vehicle by a BPD representative or otherwise assist the BPD to gain entry to the vehicle by any other non-damaging means. Such entry shall occur only in the presence of BPD personnel.

J. CITIZEN'S RIGHT TO USE ALTERNATE WRECKER SERVICE

Company may be requested to tow vehicles that are damaged in accidents that occur in the City limits. However, the company is not granted an exclusive right to tow and impound all vehicles that are damaged in such accidents. The City's policy with respect to towing such vehicles is as follows:
Citizens have the right to request any qualified wrecker company to be called to the scene of an accident and remove their damaged vehicle. If the citizen does not express or is incapable of expressing an interest in using a particular wrecker company, the City will contact the city's wrecker company and request that it remove the damaged vehicle(s) from the accident scene.

K. BILLING FOR CANCELLED CALLS

On an unspecified number of occasions, either of the following may occur: (i) the BPD may request that a wrecker be dispatched to a given location to tow a private vehicle and the Police Department subsequently cancels that request after the company has incurred significant travel expense to perform service; or (ii) the BPD may request that a wrecker be dispatched to a given location and, for whatever reason, the company is not afforded the opportunity at that location to tow and impound a vehicle (collectively herein, "Cancelled Calls"). Company may invoice the City for such Cancelled Calls at the rate set forth on the Bid Form.

II. SERVICES RELATED TO CITY VEHICLES

Throughout the term of the contract, Company will provide the following services with respect to police cars, garbage trucks, or other City owned vehicles (hereinafter, "City Vehicles")

A. TOWING OF CITY VEHICLES

Any appropriate representative of the City may request that company tow a damaged or inoperable City Vehicle from a location in the City limits to another location in the City limits that the representative designates.

1. For each City vehicle it tows, the company may enter in the system the applicable flat sum charge that is set forth on the Bid Form for a City Vehicle that is 10,000 or less pounds GVW (a "Small Vehicle(s)") or in excess of 10,000 pounds GVW (a "Large Vehicle(s)").

2. Because of potential instability of diesel fuel prices, the City, on a monthly basis throughout the term of the contract, agrees to determine whether an adjustment to the towing charges for City vehicles set forth on the Bid Form should be made. This adjustment will be determined and, if appropriate, made in the following manner. The City will implement and allow a diesel fuel surcharge for towing of city vehicles if the average retail price of a gallon of diesel fuel exceeds the Gulf Coast PADD III price of $2.70/gallon as determined by the U. S. Department of Energy Information Administration Weekly Highway Diesel Retail Price Report. The surcharge will work as follows: beginning the first day of the month following the start of the contract, and on the first day of every month thereafter, for every 25 cent increase in the retail diesel price over $2.70, as reported by the benchmark stated above, the price of all city vehicle bid items that are impacted by diesel fuel will be increased by one dollar ($1.00) for that month. As the price fluctuates from month to month, the number of dollars added or subtracted will vary. For example: if the bid price for towing is $35.00, and the diesel fuel price at the beginning of the first month is $3.40, then the $35.00 will be adjusted up by $2.00 to $37.00 for that month. If the diesel fuel price is at $3.00 on the first day of the second month, the $37.00 will be adjusted down $1.00 to $36.00 for that month. For any months that the diesel fuel price falls to $4.50/gallon or below, all surcharges will disappear and the bid price that was originally bid will prevail for that month.

B. ADDITIONAL CHARGES

In performing its services, company shall provide tires, dollies and other equipment necessary to protect towed city vehicles and streets, and any third persons or property owned by third persons, from injury or damage. To this end, the company, in addition to the flat rate charge for towing city vehicles, may also enter in the computer system a charge if a dolly is required to move a city vehicle, or if the drive shaft must be dropped or the axles pulled to prevent damage to such a vehicle or to the public street or way (the "Additional Charges"). The amounts entered into the computer system for these Additional Charges will be those sums set forth on the Bid Form for small city vehicles and large city vehicles.

The company may only assess charges for a dolly, dropping drive shafts and for pulling axles if those operations are actually used and were reasonably required to complete the towing process. These operations are not to be utilized in lieu of or as a substitute for more appropriate towing practices.

C. CALLS FOR JUMP STARTING AND/OR UNLOCKING CITY VEHICLES

Company agrees to respond to requests by the City to jump start or unlock any size City Vehicle that is inoperable or inaccessible. When the company's representative arrives at the location of the inoperable or inaccessible city vehicle, company agrees to furnish jumper cables or other appropriate equipment for the type Vehicle so that its personnel can make reasonable commercial efforts to jump start or unlock the vehicle. If those efforts are successful, the successful bidder may charge the amount set forth on the Bid Form for jump starting or unlocking any size vehicle.

However, if the company is unsuccessful in jump starting/unlocking a City Vehicle and towing of that vehicle is required, company agrees to then tow the subject vehicle to any location in the City that its representative requests, and may enter into the company's computer system the towing charge for city vehicles contemplated herein. If a small vehicle is towed, Company may only bill the City the rate bid for towing a small vehicle. If a Large Vehicle is towed, the company may charge the large vehicle rate. In cases where the company's efforts to jump start or unlock a city vehicle are not successful and towing is required, the company will not be paid for the attempted jump start or unlock. (In no event may the company assess charges or be paid for both an unsuccessful jump start/unlock and subsequent towing of the same City Vehicle.)

D. BILLING FOR CANCELLED CALLS

On an unspecified number of occasions, a City representative may request that a wrecker be dispatched to a given location to tow or jump start/unlock a City Vehicle, and the City representative subsequently cancels that request after the company incurred significant travel expenses to perform service (collectively herein, "Cancelled Calls"). Company may invoice the City for such Cancelled Calls on City Vehicles at the rate set forth on the Bid Form.

E. RESPONSE TIME

Promptly upon receiving a request from any appropriate City representative to tow or jump start/unlock a City Vehicle, the company shall dispatch a wrecker and undertake to provide the requested service and transfer the city vehicle to any City owned facility as directed by the appropriate city representative.

Company will provide adequate resources so that the average response time between the request and arrival of a wrecker at the location of the City vehicle will not be more than as follows:

(i) twenty (20) minutes, with a maximum response time of no more than forty (40) minutes, if the City Vehicle in involved in an accident or is impeding traffic;

(ii) two (2) hours (unless located in the outlying areas designated in subpart (iii) below); or

(iii) three (3) hours if the City Vehicle is located in the following outlying areas: the area south of Fire Station #32 located at 3300 Highway 280 South, areas east of the I-459/59 interchange and areas northwest of the Ensley viaduct.

City acknowledges that response times may be greater if its request for service are made during special police projects (e.g., a license check event), or if the volume of public safety wrecker calls is extraordinary.

F. COMPENSATION FOR SERVICES RENDERED FOR CITY VEHICLES

Company may invoice the City, and the City will pay, for services provided with respect to City Vehicles pursuant to rates stated in the Bid Form and the payment terms set forth in the contract.

III. EXCEPTIONAL RECOVERY COSTS

In addition to the charges for services that are set forth on the Bid Form, each bidder shall submit with its bid a list of unit prices that it may charge for extraordinary material, equipment, manpower and services which may be required on an occasional, non-routine basis when performing work in connection with private vehicle and City Vehicle tows (collectively, "exceptional recovery costs"). **Attachment I** is provided for this purpose.

With Attachment I, each bidder shall provide an itemized price list showing the exceptional recovery costs for the items listed below. That price list is to have two (2) columns: one column reflecting the cost for extraordinary services for privately owned vehicles, and the second column reflecting those costs for services for City Vehicles. **NOTE: Exceptional recovery charges for vehicles later claimed by their owner shall not exceed 100% of the exceptional recovery charges charged to the City for City Vehicles.**

Exceptional recovery charges involve the extraordinary use of resources to tow tractor trailers, or any other extraordinary towing situations not covered by Section 12-17-8 of the City Code as amended. Those extraordinary items may include, but are not limited to, the following:

(a) Per mile charge for towing service required outside the Birmingham City limits. Charge applies only to the mileage beyond the City limits. Rate can be different for different size wreckers.

(b) Hourly charge/unit (wrecker plus driver equals a unit) required within the City limits for exceptional recoveries where the on-site time required for the unit exceeds thirty minutes. Charge would only apply for time on site in 15 minute increments in excess of the first thirty minutes. List rates for different size wreckers. Hourly charges apply to exceptional recoveries only, and are not applicable to normal towing situations. Any winching charges are considered a part of the hourly rate/unit during an exceptional recovery. **NOTE: No winching charges are allowed on a normal towing situation.**

(c) Hourly charge paid in 15 minute increments for air cushioned/air bag recovery.

(d) Cost of bag of oil dry.

(e) Hourly charge paid in 15 minute increments for forklift, backhoe, skid steer, dump truck, tractor, etc. with operator used for exceptional recoveries.

(f) Hourly charge for lowboy trailer and tractor with driver paid in 15 minute increments, only if no other means of towing the disabled vehicle is reasonably feasible. If vendor's lowboy is unavailable for an unreasonable period of time, and a lowboy is required, vendor must subcontract this requirement; however, the City will only pay the hourly charge provided regardless of the subcontractor's charge.

(g) Refrigerated trailer rental/day including fuel.

(g) Per axle charge to cage brake chambers, or add air to release brakes.

Before Company may charge for any of these extraordinary recovery costs, the City or the vehicle's owner or authorized agent must authorize their use in advance. These prices for extraordinary recovery costs will be firm for the life of the contract, and they will not be considered as factors in determining the low bidder for award of the contract.

IV. OTHER MISCELLANEOUS CONTRACT REQUIREMENTS

1. Company will provide a locked box located in its on premises office ***at the storage lot*** marked "Complaints" for owners of private vehicles or members of the public to submit written complaints about services on forms approved by the City. Company shall furnish the Inspection Services Division of the BPD a key to this box. Approved Complaint forms shall be maintained in the company's office at all times, and shall be given to any owner of private vehicles or person who wishes to register a complaint about any aspect of the wrecker service.

2. Company shall post a sign in a conspicuous place at its on premises office ***at the storage lot*** stating the following: (i) ALL rates that may be charged for towing and storage of vehicles pursuant to Section 12-17-8 of the General City Code 1980, as amended; and (ii) the telephone number of the Inspection Services Division of the Birmingham Police Department as a means for any owner of private vehicles or other person to telephone and report complaints about wrecker services. Such sign shall be a minimum of 16" X 20" in size.

3. In performing its towing and storage services, company shall exercise diligence and care to prevent injury or damage to each towed vehicle (private or City), any part or parts thereof, the contents of each such vehicle, and to any third person or property owned by a third person. Further, the company shall be liable for the loss, injury or damage to any vehicle under its control (including the parts or contents thereof) or any injury or damage to any third person or property owned by any third person, that arises from the negligent acts or conduct of company's agents, servants or employees, or results from fire, theft or other casualty to any vehicles under company's control.

4. The company shall provide a written report to the City of any injury, damage to or loss of any vehicle or its contents or parts within its control pursuant to the operations of the contract or to any third person or property owned by any third person, within eighteen (18) hours of any such injury, damage to or loss. The report shall state the nature, extent and manner or circumstances of the occurrence of such injury, damage or loss.

5. Company agrees that the charges it renders for towing and storage services will comport to Section 12-17-8 of the General City Code 1980, as amended, and that it will comply with the requirements therein.

6. Effective Date of Contract. After Notice of Award of the contract to the successful bidder, the effective date of contract shall be mutually agreed and stated in the contract. Unless otherwise agreed, the effective date shall not be more than sixty (60) days from the date contract is signed by the Mayor of the City of Birmingham.

7. Performance Bond Requirement. Within ten (10) days following the Notice of Award of the contract, the successful bidder is required to furnish a performance bond in the amount of $150,000.00 to secure the company's faithful performance of its obligations under the contract.

8. Insurance Requirement. Within ten (10) days following the Notice of Award, the successful bidder is required to secure the required insurance, and furnish the City a certificate of insurance and other proof of coverage in compliance with the Insurance provisions of the proposed contract.

9. Non-Discrimination/Use of Disadvantaged Business Enterprises. Contractor acknowledges that it will comply with the provisions of the contract related to Non-Discrimination and its use of Disadvantaged Business Enterprises. Contractor acknowledges and agrees that, consistent with federal law and City's public policy, it will encourage disadvantaged business enterprise (DBE) participation to the extent permitted by law. A "disadvantaged business enterprise" is a for-profit small business concern (i) at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and (ii) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In accordance with federal law, a "socially and economically disadvantaged individual" includes African Americans, Hispanic Americans, Native Americans, Asian-Americans, women, and any additional groups designated as socially and economically disadvantaged by the Federal Small Business Administration.

10. UNPAID, DELINQUENT OR OVERDUE CHARGES. Successful bidder acknowledges and agrees that the City has the right to deduct from total amount of consideration to be paid, if any, to the successful bidder under this agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties and other amounts due the City from the successful bidder.

11. Administration of this contract after award will be performed primarily by representatives from the Police Department, Public Works Department and Equipment Management Department as delineated in Section 10 of the draft contract, to include providing notifications, cure notices, show cause notices, etc. to the company as necessary to address and resolve contract non-compliance issues. Representatives will also be responsible for maintaining documentation of contract non-compliances and at any time one or more of these representatives feel the company's non-compliances are negatively affecting the performance of the contract may contact the City Purchasing Agent and Law Department and request termination of the contract.

BID FORM - WRECKER SERVICE & STORAGE CONTRACT

To: Purchasing Agent
City of Birmingham, AL

Submitted below is my firm bid for Wrecker Service and Storage for the Term of the proposed contract in accordance with your invitation to bid and specifications dated November 4, 2016.

I. SERVICES RELATED TO PRIVATELY OWNED VEHICLES

A. TOWING CHARGES FOR PRIVATELY- OWNED VEHICLES LATER CLAIMED BY OWNER AT THE REQUEST OF EITHER THE CITY'S POLICE DEPT OR PUBLIC WORKS DEPT

	UNIT PRICE	EXTENSION	TOTAL
Small Private Vehicles (10,000 pounds GVW or less) **(Approx. 239 calls per month)**:	$_____	$_____	
Large Private Vehicles (more than 10,000 pounds GVW) **(Approx. 1 call per month)**:	$_____	$_____	
Additional Charges Required For:			
Dolly Charges **(Approx. 0 calls per month)**:	$_____	$_____	
Charge to drop drive shafts or to pull axles:			
Small Private Vehicles **(Approx. 0 calls per month)**:	$_____	$_____	
Large Private Vehicles **(Approx. 1 call per month)**:	$_____	$_____	
Total Towing and Additional Charges for Privately Owned Vehicles Later Claimed By Owner:			$_____

B. STORAGE CHARGES FOR PRIVATEY OWNED VEHICLES LATER CLAIMED BY OWNER IMPOUNDED AT STORAGE LOT AT THE REQUEST OF EITHER THE CITY'S POLICE DEPT OR PUBLIC WORKS DEPT:

	UNIT PRICE	EXTENSION	TOTAL
Uncovered storage (**Approx. 1200 storage days per month**):	$_____	$_____	
Covered storage (**Approx. 200 storage days per month**):	$_____	$_____	
TOTAL FOR STORAGE FOR PRIVATE VEHICLES LATER CLAIMED BY OWNER;			$_____

C. STORAGE CHARGES FOR PRIVATE VEHICLES STORED IN THE SECURE LOCKUP AREA FOR EVIDENTIARY PURPOSES AT REQUEST OF POLICE DEPT

	UNIT PRICE	EXTENSION	TOTAL
Storage charge for use of Secure Lockup Area (**Approx. 40 storage days per month**):	$_____	$_____	$_____

D. CHARGE FOR CANCELLED CALLS FOR PRIVATLY OWNED VEHICLES (**Approx. 150 calls per month**):	UNIT PRICE	EXTENSION	TOTAL
	$_____	$_____	$_____

E. ADMINISTRATIVE COST INCURRED BY COMPANY IN ORDER TO COMPLY WITH THE STATE ABANDONED VEHICLE LAW FOR PRIVATELY OWNED VEHICLES LATER CLAIMED BY OWNER (APPROX. 60/MONTH):	UNIT PRICE	EXTENSION	TOTAL
	$_____	$_____	$_____

PROVIDE AN ITEMIZED LISTING OF ALL ITEMS OF COST FOR EACH INCLUDED IN THE ADMIN. COST:

_____	$_____
_____	$_____
_____	$_____
_____	$_____
_____	$_____

II. SERVICES RELATED TO CITY VEHICLES

A. TOWING CITY VEHICLES TO LOCATION
IN CITY LIMITS DESIGNATED BY CITY

	UNIT PRICE	EXTENSION	TOTAL
Small City Vehicles (10,000 pounds GVW or less) **(Approx. 58 calls per month)**:	$_____	$_____	
Large City Vehicles (more than 10,000 pounds GVW) **(Approx. 17 calls per month)**:	$_____	$_____	
Additional Charges Required For:			
Dolly charges **(Approx. 0 per month)**:	$_____	$_____	
Charge to drop drive shafts or to pull axles:			
Small City Vehicles **(Approx. 0 calls per month):**	$_____	$_____	
Large City Vehicles **(Approx. 7 calls per month):**	$_____	$_____	
Total Towing and Additional Charges for City Vehicles			$_____

		UNIT PRICE	EXTENSION	TOTAL
B.	Charge for Jump Starts and Unlocks **(Approx. 12 calls / month):**	$_____	$_____	
C.	Charges for Cancelled Calls on City Vehicles **(Approx. 10 calls per month):**	$_____	$_____	$_____

TOTAL OF ALL SERVICES PROVIDED FOR PRIVATE VEHICLES AND CITY VEHICLES $_____

PLEASE EXECUTE THE FOLLOWING CERTIFICATION AND RETURN IT WITH THE COMPLETED BID FORM AND COMPLETED ATTACHMENTS A-G and I

BID CERTIFICATION

Should this bid be accepted by the City of Birmingham, the undersigned certifies and agrees that it will enter into a contract with the City of Birmingham for wrecker service and storage in substantially the form provided herein. Further, the undersigned agrees to comply with the specifications and conditions in the bid materials and contract. We understand that if our bid is accepted, our failure to enter into a contract with the City will result in forfeiture of our bid bond, and declaration of our company as a non-responsible bidder for a period of time to be determined by the Purchasing Agent.

In submitting this Bid, the undersigned bidder also warrants as follows: that its bid is not made on behalf of for the benefit of an undisclosed party; that the bidder has not, directly or indirectly, induced any other bidder to submit a sham bid or to refrain from making a bid; that the undersigned has not discussed prices or other terms of bids to be submitted by other bidders, or has not otherwise colluded with any other bidder; and that the undersigned has not paid or agreed to pay to any party, either directly or indirectly, any money or other thing of value for assistance or aid rendered to any City employee or third person to procure the contract or be awarded for the privileges provided in this invitation. The undersigned further warrants all of the information contained in the bid may be relied upon by the City of Birmingham in awarding the contract for wrecker service and storage, and all information contained herein (including that reflected on the Attachments to the Bid Form) is true and correct.

I hereby certify that we do not discriminate in employment of our personnel against any persons on account of race, creed, color, sex, or national origins, and acknowledge and agree that the City encourages minority – and women – owned business participation to the maximum extent possible. This policy includes Historically Underutilized Business Enterprises such as architectural firms, engineering firms, investment banking firms, other professional service providers, and construction contractors as part of the City's business, economic and community revitalization programs.

BID DATE

COMPANY

STREET ADDRESS

POST OFFICE BOX

CITY STATE ZIP

EMAIL ADDRESS

NAME

TELEPHONE

SIGNATURE

FAX

TITLE

TAX ID NUMBER

ATTACHMENT A – GENERAL COMPANY INFORMATION

Name of Company/Firm:

(a) Name _____

Address _____

City, State & Zip _____

(b) Telephone Number _____

(c) Principal Office Address _____

(d) Place of Incorporation _____

Date of Incorporation _____

(e) Official Representative _____

(f) The following is a complete and accurate list of officers and directors of said company:

	NAME	ADDRESS	TELEPHONE NO.
President	_____	_____	_____
Vice Pres.	_____	_____	_____
Secretary	_____	_____	_____
Treasurer	_____	_____	_____
Local Mgr./ Agent	_____	_____	_____

Identify any stockholder who controls over 1/3 of the outstanding stock:

NAME	ADDRESS	TELEPHONE NO.
_____	_____	_____
_____	_____	_____

Please state if the company is a sole proprietorship, partnership or some form other than a corporation. Provide specific information as to the sole proprietor and each partner.

NAME	ADDRESS	TELEPHONE NO.
_____	_____	_____
_____	_____	_____

If any other person, firm or company other than that identified above will play a significant role in either the submission of bids or performance of the contract, provide specific information concerning that person, firm or company.

NAME	ADDRESS	TELEPHONE NO.
_____	_____	_____
_____	_____	_____

If additional space is required to complete this Attachment, please provide that information on an attachment.

ATTACHMENT B – WRECKER AVAILABILITY REQUIREMENT

We control and operate the following tow-in wreckers of the make, model, year and capacity indicated.

MAKE	MODEL	YEAR	MANUFACTURED RATED CAPACITY	TWO-WAY RADIO YES	NO

If the required number of wreckers are not controlled by the bidder when it submits its bid, please provide information in the space below (or on an attachment if extra space is needed) evidencing how the company will satisfy this wrecker availability requirement no later than 60 days of award of the contract.

_____

_____

_____

_____

ATTACHMENT C - MINIMUM EXPERIENCE REQUIREMENT

Please provide information in the space below (or on an attachment if extra space is needed) demonstrating that the company satisfies the minimum experience requirement set forth in the Contract Specifications.

_____

_____

_____

_____

_____

ATTACHMENT D – STORAGE LOT REQUIREMENT

Please provide information in the space below (or on an attachment if extra space is needed) demonstrating that the company satisfies the Storage Lot requirement set forth in the Contract Specifications.

_____

_____

_____

_____

(For example, we presently control, or will control within 60 days of award of the contract, a vehicle Storage Lot containing _____ square feet, that is located at the following address:

_____

_____

_____

We represent that this Lot also includes a permanent covered storage structure to accommodate as many vehicles as deemed appropriate to provide the requested covered storage, a covered lockup facility with 9 separate evidence collection bays, and otherwise complies with the specifications and contract requirements for the Storage Lot.

If the company does not already control the specified Storage Lot, provide information in the space provided below (or on an attachment if extra space is needed) evidencing its method, plan or other information evidencing how it will satisfy this requirement no later than 60 days of award of the contract.

_____

_____

_____

_____

_____

ATTACHMENT E - COMPUTERIZED RECORDS SYSTEM REQUIREMENT

Please provide information in the space below (or on an attachment if extra space is needed) evidencing that the company satisfies the computerized records system requirement, or be able to satisfy this requirement no later than 60 days of award of the contract.

_____

_____

_____

_____

_____

ATTACHMENT F - BIDDER FINANCIAL INFORMATION

Please attach the bidder's most recent audited financial statement.

Additionally, in the space below (or on an attachment if extra space is needed), please provide any other information requested in the Bidder Financial Information section of the Contract Specifications or that the bidder desires the City to consider to assist the City in determining whether the bidder satisfies the financial capability requirement.

_____

_____

_____

_____

_____

ATTACHMENT G - CONTRACTS, LEASES, OPTIONS OR OTHER AGREEMENTS WITH THIRD PARTIES

Please attach hereto any contracts, leases, options or other agreements with third parties on which the bidder intends to rely for the supply of equipment or facilities, or for personnel perform the work required by the contract. In the space below (or on an attachment if extra space is needed), please provide any pertinent explanatory information concerning these contracts, leases, options or other agreements with third parties that it wishes the City to consider.

_____

_____

_____

_____

_____

170B - WRECKERS -

(a) Each and every person, firm or corporation operating or causing to be operated within the City of Birmingham any wrecker for the towing of automotive vehicles within the City of Birmingham, or coming into the City of Birmingham to take a vehicle out, for hire or reward shall pay, for each wrecker of not more than

12,000 pounds gross vehicle weight	$24.00
12,001 to 42,000 pounds of gross vehicle weight	48.00
Over 42,000 pounds of gross vehicle weight	60.00

For the purpose of this schedule, gross vehicle weight shall mean the empty weight of the wrecker plus the heaviest load to be carried.

(b) Where parking and/or storing is engaged in as an adjunct to operating a business under the provisions of this schedule, a separate license shall be obtained under Schedule 020, Subsections (a) and (b), of this Business License Code.

020 - AUTOMOBILE STORING OR PARKING -

Each person engaged in the business of storing and/or parking automobiles or other vehicles, whether operable or inoperable, whether attended or not, for a fee or other charge, and/or holding out space as available for such storing and/or parking, whether used or not, shall pay a license as follows:

(a) Where the space available for such parking and/or storing is 7,500 square feet or less $200.00

(b) Where space available exceeds 7,500 square feet, the license amount is $200.00 ***plus*** an amount calculated as follows: For each 3,000 square feet or fractional part thereof of space in excess of 7,500 square feet $110.00

(c) Where the area available for automobile parking is more than four times the ground area and where more than one-half of the parking spaces are available for transient parking (commonly known as a parking deck $200.00

(d) Where only trailers are parked (commonly known as house trailers), the license is to be one-fourth of the amount calculated using items (a & b) above, with a minimum license in any case for trailer parking of $110.00

The term "***available space***" as used in this schedule means all floor or ground space, including driveways used in connection with said business, except ramps and/or elevators used in the movement of vehicles from one level to another, and which is held out as available for storing and/or parking automobiles or other vehicles, whether used or not.

Any person operating an automobile storing and/or parking area of less than 2,500 square feet and on less than ten (10) occasions during the last preceding year shall be exempt from the payment of any license under this schedule.

018-AUTOMOBILE MERCHANT

a. Each person, firm or cooperation engaged in the sale or purchase for resale of new or used automobiles, trucks, or other self-propelled vehicles not specifically licensed under any other license schedule shall pay a license of 2/10 of 1% of the gross receipts, less credit for vehicles taken as trade- in, from said business from the previous year with a minimum license of $200.00.

b. "Gross receipts", as used in this schedule, shall include receipts from the sale of parts, tires, accessories, and labor and/or service charges derived from the operation of a shop for the care and service of automobiles, trucks, or other self-propelled vehicles in connection with said merchant's or dealer's operation or dealership.

c. NO LICENSE SHALL BE ISSUED to an automobile or motor vehicle dealer unless and until applicant has obtained and presented to the Revenue Division at the time of application, a valid State of Alabama Motor Vehicle Dealer's Regulatory License pursuant to Title 40, Chapter 12, Article 8, Code of Alabama 1975.

No license will be issued unless and until applicant has met the following requirements:

(1) Approval by the Birmingham Police Department upon proof of compliance with all applicable laws and ordinances;
(2) Proof of proper insurance on file in City Clerk's Office pursuant to Section 12-17-26, General Code of the City of Birmingham 1980, as amended and as it may be amended;
(3) Vehicle Inspection by the Birmingham Police Department and approval thereof, upon compliance with the applicable laws and ordinances; and,
(4) Proper zoning of business location.

License stickers issued by the department shall be prominently displayed on any wrecker operating within the City of Birmingham. It shall be unlawful to operate any wrecker within the City of Birmingham without having met the requirements outlined in this section.

ATTACHMENT I – LIST OF EXCEPTIONAL RECOVERY COSTS:

Please attach your list of Exceptional Recovery Cost items. Charges for these items are discussed in the Contract Specifications.

Please note that, because of the non-routine nature of these charges, the City will not consider the prices quoted for these items as factors in determining the low bidder for award of the contract.

WRECKER SERVICE AND VEHICLE STORAGE CONTRACT

THIS WRECKER SERVICE AND VEHICLE STORAGE CONTRACT (the "Contract") is made and entered into by and between the CITY OF BIRMINGHAM, ALABAMA, a municipal corporation (hereinafter "City"), and _____ (hereinafter "Company").

W I T N E S S E T H:

WHEREAS, in connection with Invitation to Bid and Specifications # 16-66 (the "Bid"), the City has conducted a competitive bid process and selected a contractor to provide the towing, storage and related services and work specified in the Bid and referenced in this Contract (collectively, the "Work"); and

WHEREAS, Company is being awarded the right to perform the Work contemplated in the Bid.

NOW WITNESSETH, in consideration of the mutual covenants and benefits herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

Section 1: **Scope/Exclusive Right**. At its sole expense, Company agrees to provide all facilities, personnel, material and equipment necessary to perform the Work. The Bid, specifications and requirements in the Bid, and this Contract hereinafter collectively may be referenced as the "Contract."

Company agrees to perform the Work in accordance with the specifications and requirements in the Bid and comply with other obligations and requirements in the Bid and in this Contract. The Contract Requirements and Specifications are incorporated herein and attached as **Exhibit A.**

During the Term (as defined below), except as provided in the Contract, Company shall have the exclusive right and privilege of performing the Work within the City of Birmingham; provided, however, nothing in this Contract shall prevent or preclude the City from utilizing its own equipment and personnel to perform towing related services for City owned vehicles.

Section 2: Term/Early Termination. Unless terminated sooner as provided herein, the term of this Contract shall commence on _____ __, 2016 (the "Effective Date") and continue in effect thereafter for a period of three (3) years, subject to the availability of funding.

The City may terminate this Contract before the expiration of its Term upon the occurrence of any of the following:

(a) If Company defaults on a material obligation to the City under the Contract (a "Default"), and Company fails to correct or remedy the Default within seven (7) days after the City's provision of written notice of Default to Company. The failure of the Company to timely perform the Work or comply with the specifications set forth in the Bid or this contract shall be considered an event of Default. This termination remedy is in addition to any other remedy or right provided to the City in the Contract or available by law that arises from a Default; or

(b) At its convenience and without the occurrence of a Default by Company, the City may terminate this Contract by providing Company written notice of intent to terminate at least sixty (60) days before the end of the first twelve month period of this Contract, or the second twelve month period that follows the Effective Date; or

(c) Funding of this contract is solely provided from the General Fund Budget of the City of Birmingham. At any time the City fails to appropriate funds, for this contract, City shall give the contractor written notice within (30) days of the passage of the budget of the City's failure to appropriate funding for the contract. Contract shall terminate at that time. City shall only be obligated for payment of goods and services already provided at the time of termination.

(d) Company fails to provide wrecker service in a consistent and timely manner as addressed previously in the bid document, on page 11, item D. Response Time.

The company may terminate this contract before the expiration of its term if after the first twelve (12) months of the contract has expired, the company, upon six (6) months written notice to the City, may terminate the contract at any specified date.

Section 3: <u>Subcontracting</u>. Company may retain and subcontract with another wrecker company(ies) to assist Company to perform its towing services and requirements set forth in this Contract. In the event that Company desires to so utilize the services of another wrecker company, the following understandings apply:

(1) Subcontractor must have facilities and equipment located in, and authorized to do business in the City of Birmingham;

(2) Company must provide the City written notice of its intent to use a subcontractor(s), and the City must in advance consent and approve the use of each subcontractor in writing. City may refuse to consent to Company's retention of a proposed subcontractor for any reason;

(3) Company must have a written contract with the subcontractor to perform the service, and subcontractor must agree in that written contract to comply with all requirements herein that relate to the performance of the Work;

(4) Company must furnish the City with copies of any subcontract within thirty (30) days of becoming effective. A current list indicating any contractual services used by the Company in the performance of this Contract must be furnished to the City at least every ninety (90) days;

(5) At all times Company shall remain responsible to the City for the actions, conduct and performance of any subcontractor (and any of its agents, employees or representatives), and any Work performed by a subcontractor shall be considered as having been rendered by the Company and directly provided by it;

(6) Any wreckers provided under subcontract and/or leased which are used to satisfy the 13 wrecker availability requirement in the Contract must be available 24 hours per day, 7 days a week, 365 days a year; and

(7) If the Company subcontracts any service required by this Contract under circumstances where no occupational license tax is paid to the City, Company agrees to pay City an amount equal to one-half (1/2) of one percent (1%) of the total monthly payments made to

such subcontractor(s) by the Company. Company shall deduct such amount in lieu of tax from the total monthly billing it invoices to City under this Contract.

Section 4: Reports.

If requested by the City's Director of Finance or Chief of Police (or their designated representatives), the Company shall furnish the City daily, monthly and annual reports of all City related transactions reflected in the Company's computer records system in a commercially reasonable format or on forms furnished by the City.

Section 5: City's Right of Inspection.

Upon reasonable advance notice from the City's Chief of Police, Company agrees to allow City representatives to enter the storage lot or other Company's premises and conduct a comprehensive inspection thereon to evaluate Company's compliance with its operational requirements hereunder.

Section 6: Audit/Company's Retention of Records.

Upon reasonable advance notice from the City's Director of Finance, Company, at its expense, agrees to allow inspection of facilities and produce financial records maintained by it with respect to transactions contemplated under this Contract and otherwise participate in a periodic audit designed by the City to evaluate whether Company is properly accounting or completing financial transactions that are authorized and contemplated hereunder.

To facilitate any such financial audit, Company agrees that, for a period of no less than two (2) years following the termination of this Contract, it will maintain all accounting, billing or other financial records (including, but not limited to, bills rendered to owners of private vehicles or documents supporting charges to the City) that Company generates and maintains in connection with its performance of its services hereunder.

Section 7: Indemnification/Insurance:

(a) Indemnification for Claims. Company agrees to defend, indemnify, and hold harmless the City of Birmingham, and its agents, employees and officials (hereinafter the "Indemnitees") from and against from and against all demands, actions, damages, judgments, expenses (including, but not limited to, attorneys' fees, expert fees, court costs and other litigation costs), losses, damages, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property, or those for financial loss or damages) (collectively herein "Claim(s)") by any third parties (including any employee, subcontractor or representative of the Company, hereafter a "Company Representative") that arise out of, relate to, result from, or are attributable to any of the following: (a) any conditions in or about the City-owned properties or Work sites that Company or any Company Representative may enter or encounter in performing their services or Work; any (b) any act, omission or conduct by Company or any Company Representative that arises from or relates to its (or their) performance or failure to perform its (or their) responsibilities and Work under this Agreement; provided that Company's indemnification obligation to the City under this provision shall not exceed the amount of the limits of the general liability and automobile insurance policies set forth herein. This indemnification obligation includes Claims by third parties that are caused in part by the negligence of an Indemnitee; provided, nothing herein shall obligate Company to indemnify any of the Indemnitees for Claims resulting from the sole negligence or from the willful misconduct of the Indemnitees. Any indemnity obligation of company under this contract shall survive the expiration or termination of this contract.

(b) Claims by Company against the City. If the City commits a default or fails to perform a material obligation owed to Company hereunder, terminates this Agreement for its convenience or otherwise terminates it before its expiration, the City's sole obligation and liability to Company arising from such breach or termination is limited to payment of Company for Work and services it rendered prior to such breach or early termination. The portion of the fee payable to the Company at the time of Default or termination will be calculated in proportion to services actually performed when Company receives notice of termination.

(c) Insurance Requirements:

(1) For the duration of this Contract and for limits not less than stated below, the Company shall maintain the following insurance:

1. Garage/Premises Liability. This insurance shall have minimum limits of $1,000,000.00 per occurrence for Bodily Injury and $1,000,000.00 per occurrence for Property Damage and policy must include Broadened Coverage – Garages Endorsement (CA2514).

2. Garage Keepers Legal Liability. This insurance shall have minimum limits of $150,000.00 per occurrence for Property Damage.

3. Comprehensive General Liability: This insurance shall cover all operations performed by or on behalf of the Company, with policy limits of not less than $2,000,000 combined single limit and aggregate for bodily injury and property damage, per occurrence. This insurance shall cover liability for damages to third party for personal injury, death and property damage, and also shall extend to damage, destruction and injury to City owned or leased property and City personnel caused by or resulting from the acts, operations or omissions of the Company, its officers, agents, employees or contractors in performing its Work.

4. Comprehensive Automobile Liability: Insurance covering owned and rented vehicles operated by the Company, with policy limits of not less than:

- Bodily injury and property damage	$10,000.00 combined single limit and aggregate per occurrence.
- Uninsured/Underinsured Motorist	$100,000.00 per occurrence
- On Hook	$1,000,000.00 per occurrence

5. Workers' Compensation and Employers Liability as required by statute.

All such insurance shall be provided by a policy or policies issued by a company or companies qualified by law to engage in the insurance business in the State of Alabama with a rating of B+ or better according to the most current edition of Best's Insurance Reports.

The Company may use umbrella or excess liability insurance to achieve the required coverages, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of Company herein.

The City's bid number (16-66) must appear on any/all copies of the Certificate of Insurance.

(2) City Additional Named Insured. Except for the Workers Compensation coverage, all coverages shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of Company or the performance of its Work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability, but shall allow coverage for the City to the fullest extent provided by the policies. Such additional insured coverage shall be at least as broad as Additional Insured endorsement form ISO, CG 2010 and CG 2037.

(3) Policies Primary. All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

(4) Waiver of Subrogation. Company shall require the carriers of the above-required insurance coverage to waive all rights of subrogation against the City, and its officers, employees, agents, contractors and subcontractors. Further, Company hereby waives any rights of subrogation against the City. All general or automobile liability coverage provided herein shall not prohibit the Company or its employees, agents or representatives from waiving the right of subrogation prior to loss or claim.

(5) Proof of Coverage. Before the commencement of Work hereunder, the Company shall provide to the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. These certificates shall provide that such insurance shall not be changed, terminated or expire without thirty (30) days advance notice to the City.
In the event City is not notified that any of the coverage required herein is to be cancelled or changed in such a manner as not to comply with the requirements of this Contract, the Company shall, within fifteen (15) days prior to the effective date of such cancellation or change, obtain and provide the City with binder (s) of insurance evidencing the re-establishment of the insurance coverage required herein.

Section 8. Bid Form.

A copy of the Bid Form submitted by the Company is attached as **Exhibit B**. Provided the Company performs its Work pursuant to the requirements of this Contract, Company may charge for its various services at the rates set forth on its Bid Form.

Section 9. Payment of Invoices by City.

Payments by the City under this contract shall be made within twenty (20) days of receipt of properly itemized invoices (separate invoices are required for city vehicles and shall be mailed to Equipment Management Department as noted on City's Purchase Order and privately owned vehicles claimed by their owners which shall be provided to General Accounting, Audit/Reconciliation section) for contracted services rendered by company during the previous month. Provided, however, that on any vehicle which is stored in the secured lockup facility or not yet picked up by its owner, no payment will be made to the company until the end of the month in which the vehicle is moved from the lot's secured vehicle lockup facility and/or claimed by its owner.

Notwithstanding any provision herein, Company acknowledges and agrees that the City has the right to deduct from total amount of consideration to be paid, if any, to the Company under this Contract all unpaid, delinquent, or overdue license fees, taxes, fines, penalties and other amounts due the City from the Company.

Section 10 : Contract Representatives

Each party shall appoint a representative(s) who shall coordinate with the other party on matters pertinent to the performance of the Work and administration of this Contract (the "Contract Representative(s)").

The City's Contract Representatives are:

James Treadaway
Impound Officer, Police Department
Stationed at Company's Storage Lot
205-324-5418 or 205-966-6903
Email: james.treadaway@birminghamal.gov

With Copy To:

Ron Nickel
Purchasing Agent
710 20th Street North, Room P100
Birmingham AL 35203
205-254-2901
Email: ron.nickel@birminghamal.gov

Captain Cory Hardiman
Field Operations, Police Department
1710 1st Avenue North
Birmingham, AL 35203
205-254-1715
Email: cory.hardiman@birminghamal.gov

With Copy To:

Ron Nickel
Purchasing Agent
710 20th Street North, Room P-100
Birmingham AL 35203
205-254-2901

Email: ron.nickel@birminghamal.gov

Deborah Dubose
Public Works Department
1029 33rd Street North
Birmingham, AL 35234
205-254-2061
Email: deborah.dubose@birminghamal.gov

With Copy To:

Ron Nickel
Purchasing Agent
710 20th Street North, Room P-100
Birmingham AL 35203
205-254-2901
Email: ron.nickel@birminghamal.gov

Cedric Roberts
Department of Equipment Management
515 6th Avenue South
Birmingham, AL 35205
205-254-6590
Email: cedric.roberts@birminghamal.gov

With Copy To:

Ron Nickel
Purchasing Agent
710 20th Street North, Room P-100
Birmingham AL 35203
205-254-2901
Email: ron.nickel@birminghamal.gov

The Company's Contract Representative is:

_____
_____
_____ AL, 35
(205)_____
Email:_____

The Contract Representative (s) designated above shall have the authority to act on behalf of its organization to transmit instructions and receive information. Either party may designate a Contract Representative other than the person named above upon provision of written notice to the other.

Section 11 : Notices.

Any notice required hereunder shall be sufficiently given when sent to the appropriate Contract Representatives via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to that party.

Section 12: Non-Discrimination/ Disadvantaged Business Enterprises.

(a) Company (and its employees, agents and any subcontractors) shall not discriminate on the basis of race, color, national origin, or sex in the performance of the services contemplated hereunder or its own employment practices. Failure by the Company to carry out these requirements is a material breach of its obligations, which may result in its termination or such other remedy as the City deems appropriate.

(b) Company acknowledges and agrees that, in its performance of the Work and consistent with federal law and City's public policy, it will utilize and encourage participation by disadvantaged business enterprise (DBEs) to the extent permitted by law. A "disadvantaged business enterprise" is a for-profit small business concern (i) at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and (ii) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In accordance with federal law, a "socially and economically disadvantaged individual" includes African-Americans, Hispanic Americans, Native Americans, Asian-Americans, women, and any additional groups designated as socially and economically disadvantaged by the federal Small Business Administration.

Section 13: Other Representations and Warranties.

As additional inducement to the City for it to enter the Contract, Company makes the following additional representations and warranties:

(a) that it will perform the Work in a good and workmanlike manner;

(b) that, on the Effective Date and throughout the Term of this Contract, it shall have in place and utilize a written policy concerning the testing of Company employees for drug use. This policy shall outline the procedures used to test current employees as well as potential new employees for the Company, and actions to be taken when drug use is discovered. Company shall provide a copy of its written policy to the City before the Contract is signed;

(c) that, if Company conducts business through a corporation, limited liability corporation, or other similar organization,

(i) it is a duly organized and existing entity that is authorized to perform business under the laws of the State of Alabama, and has the power to enter into and to perform and observe its agreements and covenants in the Contract.

(ii) all actions required to be taken by or on behalf of Company to execute the contract, and to perform its covenants, obligations and agreements hereunder, have been duly taken. Those actions may include a resolution duly adopted by its governing body.

(iii) the execution and performance of the Contract by Company do not constitute and will not cause the breach or violation of any contract, lease, franchise, permit or agreement of any nature to which Company is a party.

(d) that it has not employed or retained any firm, entity or person to solicit or secure its selection to enter into this contract, and that it has not paid or agreed to pay any fee, commission, percentage, gift or other consideration to any such firm, entity or person that is contingent upon or resulting from the award or making of this Contract. The City, at its sole discretion, may terminate the contract without liability for breach of this warranty.

SECTION 14: Miscellaneous Provisions.

(a) Before commencing the Work, Company, at its own expense, will obtain all licenses, permits or other governmental authorizations needed to complete the Work, including without limitation, a business license issued by the City (collectively, "Licensing"). Company further agrees to maintain that Licensing throughout the performance of its Work.

(b) Throughout the Term of this Contract, Company agrees to comply with all regulations and laws concerning the performance of the work, including, but not limited to, laws concerning the safety, inspection, maintenance, and operation of its wreckers and other equipment used to perform the Work, and laws regarding the employment and use of qualified and licensed drivers to perform the work.

(c) Throughout the Term of this Contract, company shall maintain all Municipal, County, and/or State licenses and all City of Birmingham tax liabilities current. Failure to do so will be grounds for default as herein stated.

(d) With respect to any goods or equipment used by Company to perform its Work for the City, Company warrants that it owns, is licensed or has the right to utilize such equipment, including all intellectual rights attendant thereto. To the fullest extent permitted by law, Company shall defend, indemnify, and hold harmless the City (and its representatives) from and against all actions, damages, judgments, losses, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs) and claims for patent, copyright or other infringement of intellectual property rights arising out of, related to, or resulting from Company's breach of this warranty.

(e) Company is an independent contractor of the City. This Contract does not create any partnership, joint venture or principal-agent relationship between the City and Company. Further, the City retains no control or authority with respect to its means and methods in which the Company (or any of its employees, representatives or subcontractors) performs the Work.

(f) The Company shall not assign this Contract, or any of its rights, obligations or the benefits hereunder, to any other party without prior written approval of the City, which approval may be withheld for any reason. In no event will this Contract be assigned to an unsuccessful bidder who was rejected because they were not a responsive or responsible bidder.

(g) The Contract is made only for the benefit of the City and Company. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.

(h) This Contract (which includes the Bid, and the specifications and requirements in the Bid) and the Exhibits to this Contract comprise the entire agreement between the parties. These terms herein supersede all prior negotiations, representations or agreements, either written or oral, concerning the subjects herein, and any such negotiation concerning those matters is merged into this Contract. This contract may be amended or modified only by written instrument signed by both parties.

(i) This Contract may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. An electronic or facsimile copy of the executed contract or counterpart shall be deemed, and shall have the same legal force and effect as, an original document.

The company must fully and completely comply with all the duties and obligations to be performed by it under the contract. The City's past forbearance or waiver of any obligations of any other wrecker contractors pursuant to any similar, previous agreement is not effective or binding and will not excuse performance under the contemplated contract.

(k) If any provision of this contract is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of it shall remain in full force and effect.

(l) Dispute Resolution. The parties will use their good faith efforts to resolve any dispute or claim between the parties arising from the performance or failure to perform their respective obligations under this agreement (a "Dispute"). Those efforts will include escalation of the Dispute to the senior manager/official level of each party. However, if the parties are unable to amicably resolve any Dispute, the dispute resolution mechanism shall be litigation in a court of competent jurisdiction that is located in Jefferson County, Alabama. The parties waive any right to a trial by jury in any legal action between them that is instituted to resolve a Dispute.

(m) Attorney Expense. If (i) either party should employ attorneys or incur other expenses in any legal action regarding a Dispute, and (ii) City secures a final judgement in the City's favor before a court of competent jurisdiction or obtains other relief from an administrative body related thereto against the Company, Company will pay the City its reasonable attorney's fees and other reasonable expenses that are incurred in that action.

(n) Limitation of Liability/Exclusion of Consequential Damages. COMPANY AND THE CITY AGREE AND ACKNOWLEDGE THAT, IN THE EVENT EITHER ASSERT OR MAKE ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE OTHER ARISING FROM AN ALLEGED BREACH OF THIS AGREEMENT OR AN ALLEGED FAILURE TO PERFORM ANY OF THEIR RESPECTIVE OBLIGATIONS HEREUNDER, THE MAXIMUM AMOUNT THAT EITHER MAY RECOVER FROM THE OTHER AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO ACTUAL DAMAGES THAT DIRECTLY ARISE FROM THAT BREACH AND ARE PROVEN IN A COURT OF LAW. COMPANY AND THE CITY AGREE AND ACKNOWLEDGE THAT THE COMMERCIAL TERMS HEREIN WERE PROPOSED AND BASED ON THE ASSUNPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT NEITHER WOULD HAVE ENTERED INTO THIS AGREEMENT WITHOUT ITS INCLUSION. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR OTHER SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS. NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO LIMIT, MODIFY OR AFFECT THE COMPANY'S INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT.

(o) Offset for Overdue Fees, Taxes, Etc. Pursuant to Executive Order of the Mayor of Birmingham No. 76-09 (effective as of August 21, 2009), Company acknowledges and agrees that the City has the right to deduct from the total amount of consideration to be paid, if any, to Company under this Agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties and other amounts due the City from Company.

(p) "Buy Local". Company agrees that in connection with any portion of the Work, it will make commercially reasonable efforts to buy and/or lease supplies, materials and equipment from vendors located within the corporate limits of the City of Birmingham and it will encourage any subcontractor of the Company, if any, to buy and/or lease supplies, materials and equipment from vendors located within the corporate limits of the City of Birmingham.

any subcontractor of the Company, if any, to buy and/or lease supplies, materials and equipment from vendors located within the corporate limits of the City of Birmingham.

(q) Local Hiring. Company agrees to make, and to cause its subcontractors, if any, to make commercially reasonable efforts to hire qualified residents of the City of Birmingham to fill available positions with respect to the Work.

(r) In the event of a conflict between any term, specification or provision in the bid documents and those in this Contract, the provisions in this contract shall control and govern.

IN WITNESS WHEREOF, the aforesaid parties have hereunto set their signature on the _____day of _____, 2016.

CITY OF BIRMINGHAM, A MUNICIPAL CORPORATION:

BY:_____
Its Mayor

DATE: _____

ATTEST:

_____
City Clerk

COMPANY

_____

BY:_____

ITS: _____ (Official Title)

DATE: _____

APPROVED AS TO FORM BY LAW DEPARTMENT:

_____
Assistant City Attorney / Date

Exhibit A – Contract Specifications and Requirements for Work and Services

See attached.

Exhibit B – Bid Form Submitted by Company

See attached.