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RESOLUTION NO. 77-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN EMERGENCY SERVICES AGREEMENT FOR MUTUAL ASSISTANCE AND AUTOMATIC AID BETWEEN THE CITY OF RIVIERA BEACH AND PALM BEACH COUNTY FOR THE PROVISION OF MUTUAL AID ASSISTANCE AND AUTOMATIC AID; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach and Palm Beach County desire to enter into an agreement for the provisions of mutual aid assistance and automatic aid; and

WHEREAS, both parties deem it mutually advantageous to enter into this agreement to provide assistance in times where the need created may be too great for either party to deal with unassisted or where a closest unit response is agreeable and in the public interest.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:

Section 1: The Mayor and City Clerk are authorized to execute an Emergency Services Agreement with Palm Beach County for the provisions of Mutual Assistance and Automatic Aid.

Section 2: A Copy of agreement is attached hereto and made a part thereof.

Section 3: This resolution shall take effect upon its passage and adoption by City Council.

PASSED and APPROVED this 15 day of July, 2009.

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RESOLUTION NO. 77-09
PAGE 2

THOMAS A. MASTERS
MAYOR

(MUNICIPAL SEAL)

ATTEST:

C RIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

DAWN S. PARDO
CHAIRPERSON

JUDY L. DAVIS
CHAIR PRO-TEM

BILLIE E. BROOKS
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. BROOKS

REVIEWED AS TO LEGAL SUFFICIENCY

CITY ATTORNEY
CITY OF RIVIERA BEACH

DATE: 1(2/09

| | |
|---|---|
| D. PARDO | AYE |
| J. DAVIS | AYE |
| B. BROOKS | AYE |
| C. THOMAS | AYE |
| S. LOWE | AYE |

**EMERGENCY SERVICES AGREEMENT**
**FOR MUTUAL ASSISTANCE AND AUTOMATIC AID**
**BETWEEN**
**PALM BEACH COUNTY AND THE CITY OF RIVIERA BACH**

**THIS AGREEMENT** is made and entered into this 15 day of 11 ,2009, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter the "County"), by and through its Board of County Commissioners and the CITY OF RIVIERA BEACH, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter the "City").

**WHEREAS,** each of the parties to this Agreement presently maintains a Fire-Rescue Department with fire rescue equipment, fire fighting personnel, emergency medical equipment, emergency medical personnel, and other emergency capabilities; and

**WHEREAS,** it is deemed mutually advantageous to enter into this Agreement providing for mutual assistance/automatic aid in times of emergency where the need created may be too great for either party to deal with unassisted or where a closest unit response is agreeable and in the public interest; and

**WHEREAS,** Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their power by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities.

**NOW, THEREFORE,** it is agreed by and between the parties that each will render mutual assistance and automatic aid to the other under the following stipulations, provisions and conditions:

**Section 1. Request for Aid!Assistance:** Emergency mutual assistance/automatic aid will be given when properly requested so long as rendering the aid and assistance requested will not plate the assisting party in undue jeopardy. Notwithstanding anything herein that may be

construed to the contrary, the parties understand and agree that it is not the intention of the parties to subsidize the nonnal day-to-day operations or shortages in staffing or equipment of the other party and that the mutual assistance/automatic aid provided hereunder is intended to be mutual in nature. Automatic aid shall be rendered to the extent provided for in automatic aid plans and procedures approved by the parties' Fire Chiefs pursuant to Section 3 herein. The party requesting aid and/or assistance shall provide the following infonnation at the time the request is made:

a. The general nature, type and location of the emergency; and

b. The type and quantity of equipment and/or personnel needed; and

c. The name and rank of the person making the request.

All requests shall be directed through the respective parties' emergency communications center. The following officials of the participating parties are authorized to request aid and assistance under this Agreement: the respective Fire Chiefs, Assistant or Deputy Fire Chiefs, or Incident Commanders.

**Section 2. Representative and Contract Monitor:** The County representative and contract monitor during the perfonnance of this Agreement shall be the Fire Rescue Administrator, whose telephone number is 561-616-7001. The City representative and contract monitor during the perfonnance of this Agreement shall be the Fire Chief, whose telephone number is 561-845-4104.

**Section 3. Command Authority:** In the event of an emergency which requires additional assistance, the Fire Chief of the jurisdiction in which the incident is located, or in his absence, the Assistant or Deputy Fire Chief or the Incident Commander, will direct the activities at the scene where the emergency exists, but personnel responding to the call will remain under the command of their own officers at all times. Each party shall retain control over its personnel and the rendition of services, standards of perfonnance, discipline of officers and employees, and other matters incidental to the perfonnance of services. Each party authorizes

its Fire Chief to meet with the other party's Fire Chief and develop automatic aid plans and procedures, including areas to be serviced and type and/or level of response, when the Fire Chiefs have determined that improved response times or other forms of efficiency within their respective jurisdictions and/or service areas may be achieved. The Fire Chiefs are also authorized to promulgate necessary administrative regulations and orders to implement and administer these plans and procedures.

**Section 4. Ability to Respond:** Each party may refuse to respond to a request for aid/assistance in the event it does not have the required equipment or manpower available or if, in its sole judgment, compliance with the request would jeopardize the protection of its own jurisdiction or personnel.

**Section 5. Employee Functions:** No employee of either party to this Agreement shall perform any function or service which is not within the employee's scope of duties as defined or determined by the employee's employer.

**Section 6. Employee Claims, Benefits, etc.:** No employee, officer, or agent of either party shall, in connection with this Agreement or the performance of services and functions hereunder, have a right to or claim any pension, workers' compensation, unemployment compensation, civil service, or other employee rights, privileges, or benefits granted by operation of law or otherwise except through and against the entity by whom they are employed. No employee of either party shall be deemed the employee of the other, for any purpose, during the performance of services hereunder.

**Section 7. No Assumption of Liability:** Neither party to this Agreement nor their respective officers or employees shall be deemed to have assumed any liability for the negligent or wrongful acts or omissions of the other. Further, nothing herein shall be construed as a waiver of sovereign immunity.

**Section 8. Liability for Injury:** All the privileges and immunities from liability, exemptions from law, ordinance and rules, and all pensions and relief, disability, workers'

compensation and other benefits which apply to the activity of the officers or employees of either party when performing their respective functions, within the territorial limits for their respective agencies, shall apply to the same degree and extent to the performance of such functions and duties extraterritorially. Liability for injury to personnel, and for loss or damage of equipment, shall be borne by the party employing such personnel, and owning or possessing such equipment.

**Section 9. Indemnification:** Each party shall be liable for its own actions and negligence and, to the extent permitted by law, County shall indemnify, defend and hold harmless the City against any actions, claims or damages arising out of County's negligence in connection with this Agreement and the City shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the City's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

**Section 10. Remuneration:** All costs associated with providing mutual assistance/automatic aid services under this Agreement shall be the responsibility of the agency rendering aid/assistance. Neither agency specified here shall seek reimbursement of costs associated with the rendering of mutual assistance/automatic aid services from the other agency.

The parties further agree that the agency rendering aid/assistance may request reimbursement for any expenditure of goods or services directly from the persons, parties, or company involved in, causing, or responsible for, the incident at the sole discretion of the agency rendering aid or assistance. The agency rendering aid/assistance for emergency medical services that requires transport service may request reimbursement for the transport service from the patient. The agency rendering service will handle insurance claims and collection in accordance with their policies and procedures and shall be in accordance with the latest Federal Medicare guidelines, if applicable.

If the rendering agency invoices the responsible party for the incident for reimbursement of the goods and services provided, a copy of such invoice shall be forwarded to the requesting agency as a matter of courtesy, provided however that the parties will not be required to provide copies of transport fee invoices to the other party and shall not otherwise use or disclose Protected Health Information ("PHI") or Electronic Protected Health Information ("e-PHI") except as permitted by the Health Insurance Portability and Accountability Act ("HIPAA"), the regulations promulgated thereunder, and any other applicable laws and regulations, all as may be amended from time to time.

**Section 11. Effective Date and Term:** This Agreement shall take effect on October 1, 2009 and shall remain in full force and effect for a period of no less than seven (7) years, expiring on September 30,2016, unless sooner terminated as provided herein.

**Section 12. Notice of Termination:** Either party to this Agreement may, upon sixty (60) days prior written notice to the other, terminate this Agreement for any reason or for no reason at all.

**Section 13. Capital Improvement Plans:** Both parties to this Agreement, on an annual basis, shall exchange Capital Improvement Plans indicating projected location(s) and anticipated time frames for construction of future fire stations within their respective jurisdictions and/or service areas. It is understood that these plans may be modified subsequent to submission and said plans are subject to subsequent funding allocations and approvals.

**Section 14. Assignment of Rights:** Neither party shall assign, transfer or convey, in whole or in part, its rights, duties, or obligations without the prior written consent of the other.

**Section 15. Modification and Amendment:** No modification, amendment, or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

**Section 16. Entirety of Agreement:** This Agreement represents the entire understanding of the parties and supersedes all other negotiations, representations, or

agreements, either written or oral, relating to this Agreement.

**Section 17. Equal Opportunity:** Each party represents and warrants that it will not discriminate in the performance of services hereunder and that its employees and members of the general public benefitting from services hereunder will be treated equally and without regard to race, sex, sexual orientation, color, religion, disability, age, marital status, national origin or , ancestry.

**Section 18. Annual Appropriations:** Each parties' performance and obligation under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for the purposes hereunder.

**Section 19. Remedies:** This agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**Section 20. Records:** Each party shall maintain all records pertaining to the services delivered under this Agreement for a period of at least three (3) years. Each party shall maintain records associated with this Agreement, including, but not limited to, all accounts, financial and technical records, research or reports, in accordance with Florida law.

**Section 21. Joint Preparation:** The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely or as a matter of judicial constraint, be construed more severely against one of the parties than the other.

**Section 22. Notice of Suits:** Each party agrees to notify the other of any claim, or the initiation of any legal proceeding against it which relates, in any manner, to the aid or assistance provided by the other party. Each party will cooperate with the other in the defense of any suit

or action arising out of, or related to, the aid or assistance rendered under this agreement.

Section 23. Notices: All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to the County shall be mailed to:

Palm Beach County Fire Rescue
Fire Rescue Administrator
405 Pike Road
West Palm Beach, FL 33411

and if sent to the City shall be mailed to:

City of Riviera Beach Fire Department
Fire Chief
600 West Blue Heron Blvd.
Riviera Beach, FL 33404

Each party may change its address upon notice to the other.

Section 24. Captions: The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 25. Filing: A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

Section 26. Enforcement Costs: Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties; provided, however, that this clause pertains only to the parties to this agreement.

Section 27. Delegation of Duty: Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.

Section 28. Severability: In the event that any section, paragraph, sentence, clause, or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**IN WITNESS WHEREOF,** the undersigned parties have caused these presents to be signed by their duly authorized officers on the day and year first written above.

**ATTEST:**
**SHARON R. BOCK,**
**Clerk & Comptroller**

By: _
Deputy Clerk

**PALM BEACH COUNTY, FLORIDA,**
**BY ITS BOARD OF COUNTY COMMISSIONERS**

By: _
John F. Koons, Chainnan

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By: _
County Attorney

**APPROVED AS TO TERMS AND CONDITIONS**

By: _
Fire-Rescue

**ATTEST:**

By: _____
City Clerk

**CITY OF RIVIERA BEACH, FLORIDA**

By: _____
Thomas Masters, Mayor

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By: _____
City Attorney

**APPROVED AS TO TERMS AND CONDITIONS**

By: _____
Department Director

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RESOLUTION NO. 78-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING TOTAL SETTLEMENT OF THE MATTERS OF AUSTIN BOWE V. CITY OF RIVIERA BEACH IN THE AMOUNT OF $60,121.00 AND $10,000.00 RESPECTIVELY AS COMPLETE AND FINAL SETTLEMENT OF INDEMNITY COMPENSATION, FURTHER LIABILITY FOR FUTURE MEDICAL CARE AND REHABILITATION TO THE CLAIMANT, AND $17,000.00 FOR PAST DUE ATTORNEY FEES AND COSTS; FURTHER AUTHORIZING PAYMENT FROM THE CITY'S WORKERS' COMPENSATION SETTLEMENT ACCOUNT NUMBERS 602-0539-513-0-1405 AND 602-0539-513-0-4508 TO BE REIMBURSED BY THE INSURANCE CARRIER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Mr. Austin Bowe suffered an on the job injury on January 3, 2002 and August 9, 2005; and

WHEREAS, Mr. Bowe retired on July 12, 2006 and has continuously obtained medical care over the past three (3) years for his workers' compensation injuries; and

WHEREAS, the City's Workers' Compensation Attorney, the City's Insurance Administrator, and City Attorney have agreed that the City should settle these claims.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

Section 1. That the City Council hereby authorizes settlement in the matters of Austin Bowe v. City of Riviera Beach Claim #03-02394MAD in the amount of $60,121.00 and Claim #05-027163MAD in the amount of $10,000.00 for payment of indemnity compensation, further liability for future medical care and rehabilitation to the claimant, and $17,000.00 in past due Attorney's fees and costs for Claim #03-028394MAD for a total amount of $87,121.00.

Section 2. That the settlement amount of $87,121.00 shall be paid from the City's Workers' Compensation Settlement Account No. 602-0539-513-0-1405 and 602-0539-513-0-4508, said amount to be reimbursed by the insurance carrier and paid after Mr. Bowe executes a general release in favor of the City.

Section 3. This Resolution shall take effect upon its passage and approval by the City Council.

**PASSED and APPROVED this 15 day of July ,2009.**

APPROVED:

THOMAS MASTERS
MAYOR

DAWN PARDO
CHAIRPERSON

JUDY L. DAVIS
CHAIR PRO-TEM

ATTEST

BILLIE E. BROOKS
COUNCILPERSON

(MUNICIPAL SEAL)

CEDRICK A. THOMAS
COUNCILPERSON

CARRIE E. WARD, MASTER
CITY CLERK

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: J. DAVIS

SECONDED BY: B. BROOKS

D. PARDO AYE

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

Rachel Johnson for Pamela R

CITY ATTORNEY
CITY OF RIVIERA BEACH

Date 7/7/2009

**STATE OF FLORIDA**
**DIVISION OF ADMINISTRATIVE HEARINGS**
**OFFICE OF THE JUDGE OF COMPENSATION CLAIMS**
**PALM BEACH COUNTY DISTRICT**

EMPLOYEE:
Austin Bowe
14409 76th Rd.
Loxahatchee, FL 33470

REPRESENTED BY:
William Contole, Esq.
WIITALA & CONTOLE, P. A.
Post Office Box 14125
631 U. S. Highway One,
Ste 310
North Palm Beach, FL 33408

EMPLOYER:
City of Riviera Beach
600 W. Blue Heron Blvd.
Riviera Beach, FL 33404

REPRESENTED BY:
Gary M. Schloss, Esquire
Hayes, Schloss & Alcocer, P.A.
4365 Northlake Blvd.
Palm Beach Gardens, FL 33410

SERVICING AGENT:
Gallagher Bassett Services, Inc.
Post Office Box 18219
West Palm Beach, FL 33416

OJCC CASE #:05-027163MAD
VENUE: Palm Beach -
D/A: 08/09/05

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SETTLEMENT AGREEMENT & RELEASE PURSUANT TO
F.S.440.20(11) (c),2003

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The parties to this Release, to wit: **AUSTIN BOWE** (Date of Birth 03/27/73) (hereinafter collectively referred to as the "Releasor") and **CITY OF RIVIERA BEACH.** (hereinafter collectively referred to as the "Releasee") hereby agree as follows:

WHEREAS, Releasor was an employee of **CITY OF RIVIERA BEACH** on 08/09/05.

WHEREAS, Releasor is no longer employed by the **CITY OF RIVIERA BEACH** at the time of entering into this settlement agreement.

WHEREAS, Releasor has alleged he sustained an injury arising out of his employment with the **CITY OF RIVIERA BEACH** and has filed a workers' compensation claim or is otherwise claiming workers' compensation benefits against Releasee as the result of work related accidents which occurred on 08/09/05 and said claims are subject to the provisions of Chapter 440, Florida Statutes, or otherwise alleged to be covered by Chapter 440, Florida Statutes.

WHEREAS, Releasee has paid benefits to Releasor pursuant to Chapter 440.

WHEREAS, the parties wish to compromise and settle all claims Releasor may have against the Releasees as a result of or arising out of any work related accident including but not limited to those referenced herein;

NOW, THEREFORE, the parties agree as follows:

1. Releasor, for and on behalf of each and all of their respective present, former, and future successors, heirs, executors, administrators, guarantors, attorneys, representatives, insurers and assigns (all of whom are also hereinafter collectively referred to as the "Releasor"), for and in consideration of the lump sum of TEN THOUSAND DOLLARS ($10,000.00) ("the Lump Sum") and other good and valuable consideration, to be paid to Releasor does hereby release,

acquit, and forever discharge Releasee, and if Releasee is a corporation, all of its respective present, former and future officers, directors, stockholders, trustees, nominees, attorneys, agents, employees, consultants, insurers, brokers, finders, heirs, executors, administrators, personal representatives, managers, predecessors, successors, representatives and assigns (all of whom are also hereinafter collectively referred to as the "Releasee(s)") of and from any and all claims, demands, actions, suits, causes of action, controversies, costs, expenses, damages, judgments, losses and liabilities of whatever kind or nature, in law, equity, statutory or otherwise, whether known or unknown, which against them, or any of them, Releasor now has, had, may have had, or can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which were or might have or could have been asserted In connection with, arising out of, or in any way relating to any injuries resulting from or claimed to be the result of any work-related accident including those referred herein, including but without in any respect limiting the generality of the foregoing, any and all claims for or rights to past, present and future benefits under Chapter 440, Florida Statutes including any claims for attorney's fees.

The settlement amount referred to herein shall be allocated as follows:

| | | |
|---|---|---|
| **a)** | **Past & Future Compensation Benefits** | **$ 1,000.00** |
| **b)** | **Future Medical Benefits of the type typically covered by Medicare** | **$ 5,000.00** |
| **c)** | **Past & Future Medical Benefits of the type NOT typically covered by Medicare.** | **$ 2,250.00** |
| **d)** | **Fee to William Contole, Esq.** | **$ 1,750.00** |
| **e)** | **Costs payable by Claimant to William Contole, Esq.** | **$ 0.00** |
| | **TOTAL:** | **$10,000.00** |

2. It is the intent of the undersigned Releasor that this is a complete, full, comprehensive and final release of any and all liability of the parties released herein arising from or relating to any and all injuries arising out of any work related accident including the accidents referenced herein, including any and all liability of Releasee for any act performed or omitted by, or on behalf of the parties released herein prior to the date hereof relating to any and all injuries arising out of any work related accidents including the accidents referenced herein. The Releasor agrees that this settlement shall constitute an election of remedies by the Releasor with respect to the Releasee herein.

3. On account of the accident of 08/09/05, the Releasee may have a cause of action against a third party tortfeasor(s). The Releasor is aware of the Releasees' lien rights in any recovery

against any third party tortfeasor(s) for workers' compensation benefits paid as authorized under Florida Statute 440.39. The Releasor understands that the Releasees retain its lien rights in any such recovery notwithstanding the settlement and this Release. The Releasor shall protect the Releasees' lien rights and notify the Releasees in writing of any recovery from, or the filing of a complaint against, any alleged third party tortfeasor(s).

4. The undersigned Releasor hereby expressly warrants, represents and covenants to the parties released herein that Releasor is presently the legal owner and holder of the claims or causes of action released hereby, and that it has not heretofore expressly or impliedly assigned, transferred, pledged or otherwise disposed of any such rights, claims, demands, or causes of action being described herein and released hereby.

5. The Releasor has been represented by William Contole, Esq. in connections with this matter who is entitled to a fee to be paid by the Releasor for legal services rendered. The Releasor shall pay ONE THOUSAND SEVEN HUNDRED AND FIFTY DOLLARS ($1,750.00) and Releasor's attorney agrees that said fee is a reasonable fee for such services, resolves all claims for attorney's fees that Releasor's attorney may have against the Releasee(s) for securing this settlement, and is greater than

guidelines for the determination of a reasonable fee as set forth in Florida Statute 440.34(1). In addition thereto, the Releasor shall also reimburse the Releasor's attorney ZERO DOLLARS ($0.00) for costs.

Notwithstanding the provisions of Florida Statute 440.34, the Releasor and not the Releasee(s) is responsible for the payment of Releasor's own attorney's fees, and all claims for attorney's fess and costs to any part are hereby satisfied and released.

Releasor also agrees that there are no other claims or liens for fees filed by any other attorney, and if a claim or lien is or has been made, the Releasor agrees to resolve said claim or lien, and the Releasor agrees to hold the Releasee harmless if a claim for fees arises. The Releasor and their attorney agree that this settlement agreement and release discharges the Releasee from any liability for fees for services rendered on Relesor's behalf. The fees and costs shall be paid from the settlement proceeds thereby making the net settlement amount EIGHT THOUSAND TWO HUNDRED AND FIFTY DOLLARS ($8,250.00).

6. In reaching this agreement the parties have, pursuant to Section 440.20(11)(d) Florida Statutes, as amended 2003, considered the issue of child support arrearages. The Releasor warrants as follows (mark as appropriate):

a. There are no arrearages owed by Releasor for child support: _____

b. There are arrearages owed by Releasor for child support, in the total amount of $ _____

If outstanding child support is shown above, the Releasor has allocated $ _____ of the lump sum to be paid by Releasor towards the payment of such arrearages. Counsel for Releasor shall be responsible for ensuring such child support allocation is paid to the proper agency toward Releasor's arrearage.

7. Releasor and Releasee(s) acknowledge(s) that whereas Section 440.20 (11) (d), as amended *2003,* also requires that the Judge of Compensation Claims consider whether the settlement allocation provides for the appropriate recovery of child support arrearages. It is the intent of the parties that this settlement agreement and release shall not be valid and enforceable and that Releasee shall not be required to disburse settlement proceeds until the settlement agreement and release is executed by Releasee and Releasor, and all Court approvals as to attorney's fees and child support allocations are obtained. Therefore, Releasor and Releasee agree that the statutory 14 day period will begin to run from the date of the mailing of the Court Order approving the fee and allocation for the recovery of child support arrearages, or receipt by Releasee(s) of a signed

Settlement Agreement, whichever occur last. However, the parties agree that earlier payment shall satisfy the applicable statutory period and the Releasor's attorney agrees to hold the settlement proceeds in escrow until all conditions are met, including the satisfaction of all liens for attorney fees. If these conditions are not met, Releasor's attorney shall not disburse any funds, but will immediately return to Releasee(s) those funds being held in escrow.

8. The Releasor represents that no services, medicines, medical appliances, or x-rays of any kind were received by the Releasor from any Veterans Hospital, Naval or military hospital, or any other medical institution maintained by the United States Government, as a result of the accident and injuries described herein. The Releasor further represents that no medical bills or services have been paid to Releasor or on Releasor's behalf by Medicaid or Medicare as a result of any injuries arising out of and during the course and scope of Releasor's employment with the Releasee herein. If Releasor has received any benefits as a result of their work related injuries from any State of Federal Insurance or benefits program, such as Medicaid or Medicare, the Releasor understands that it is their responsibility to reimburse them for any payment they may have made.

9. The Releasor has considered that many common medical expenses are not paid or reimbursable under certain group health policies of the Federal Medicare Program. The Releasor also understands that he is, or may in the future be entitled to Medicare benefits. The Releasor understands that it is not the intent of this settlement to shift the responsibility for the Releasor's future medical care to the Federal Government and the Releasor agrees that the sum of FIVE THOUSAND DOLLARS ($5,000.00) from the lump-sum settlement shall be allocated for payment of those medical costs which are covered under Medicare which are related to the industrial injuries. This allocation is based on the workers' compensation fee schedule. The Releasor understands that all payments to providers are to be adjusted accordingly, and any monies paid in excess of the fee schedule will not count towards the allocation. The FIVE THOUSAND DOLLARS ($5,000.00) allocation is to be for the next 33.1 years into the future, representing the Releasor's life expectancy given Releasor's age of 45 years (DOB: 01/14/64). The Releasor understands that before any bills can be submitted to Medicare for payment that this amount must be spent on expenses covered by Medicare and related to the industrial injury and that the Releasor must keep record of these expenses that have been paid. The Releasor understands that the Federal Government has the

authority to change this allocation and make the Releasor spend more of this settlement on Medicare expenses related to his work-related injuries. The Releasor understands and acknowledges the freedom and ability to consult with specialists practicing in the area of Social Security and Medicare law and has chosen to settle the case either in lieu of or after such consultation.

10. By receipt of the consideration set forth above, the Releasor agrees that the terms of this settlement, including but not limited to the amount of consideration paid herein, will not be discussed either directly or indirectly with any past or present employees of the Employer or any other persons. The Releasor specifically agrees to keep the terms of this settlement strictly confidential.

11. The parties agree that this Settlement Agreement is valid and enforceable. If this Settlement Agreement and Release is ever found to be unenforceable for whatever reason, the Releasor agrees that any payment made by the Releasee shall not be considered a gratuity and that the Releasee shall be entitled to full reimbursement of the lump sum paid to the Releasor and to the extent full reimbursement is not made, Releasee is entitied to a credit for any money paid to the Releasor 1n connection with the settlement against benefits owed or found to

be due, past or future without limitation on the type of benefit to which this offset would apply, nor as to the amount of offset to be taken as to any benefits. The Releasee shall have a dollar for dollar offset for the money paid under this Settlement Agreement. The Releasee agrees to continue to provide and pay for palliative medical care with authorized medical providers up until the date that the Judge of Compensation enters the Order approving the Motion for Attorney Fees and Child support Allocation on this settlement. The Releasee will not be responsible for providing any remedial, invasive or diagnostic treatment.

12. Releasor agrees that upon payment of the consideration referred to herein, all claims, petitions for workers' compensation benefits, actions for personal injuries arising out of the accidents referenced herein, and any and all claims or lawsuits against the Releasee, excluding claims involving the Claimant's right to pension benefits, are voluntarily dismissed with prejudice and Releasor shall file voluntary dismissals in all Courts where claims or actions are pending.

13. Releasor agrees that he shall not seek further employment with Releasee.

14. This agreement is not binding or enforceable by parties until approved by the City Council of the City of Riviera Beach.

Upon approval by the City Council, this agreement **will** be deemed ratified and **will** become binding and enforceable.

15. By signing this Settlement Agreement, Releasor acknowledges that he has read the agreement, has had its terms fully explained to him by his attorney, has been fully informed and understands:

a. the settlement's effect on any rights the Releasor may have;

b. his rights regarding the claim(s) settled;

c. he is giving up these rights;

and is entering into this Settlement Agreement voluntarily, and without any undue influence, pressure or coercion whatsoever. Further, by signing this settlement agreement, Releasor's attorney agrees that he has explained the settlement agreement and that Releasor does understand his rights and the effect of this settlement on those rights.

Executed in Palm Beach County, Florida this day of _____, 2009.

_____ _____

**AUSTIN BOWE** Date
Claimant/Releasor

BEFORE ME, the undersigned authority, personally appeared, **AUSTIN BOWE** who, after being duly cautioned and sworn, depose(s)

and says he has read the above Release and that he has set his hand(s) and seal(s) thereto for the purposes therein expressed.

The foregoing instrument was acknowledged before me this day of _____, 2009 by **AUSTIN BOWE** who is personally known to me or produces identification #_____

_____
Signature of Notary

My Commission Expires:

_____
Print Name of Notary

_____ _____ _____
William Contole, Esq. Date
Releasor's Attorney

_____ _____
Gary M. Schloss, Esq. Date
Releasee's Attorney

**STATE OF FLORIDA**
**DIVISION OF ADMINISTRATIVE HEARINGS**
**OFFICE OF THE JUDGE OF COMPENSATION CLAIMS**
**WEST PALM BEACH DISTRICT**

**EMPLOYEE:**
Austin Bowe
14409 76th Rd.
Loxahatchee, FL 33470

**REPRESENTED BY:**
William Contole, Esq.
WIITALA & CONTOLE, P. A.
Post Office Box 14125
631 U. S. Highway One,
Ste 310
North Palm Beach, FL 33408

**EMPLOYER:**
City of Riviera Beach
600 W. Blue Heron Blvd.
Riviera Beach, FL 33404

**REPRESENTED BY:**
Gary M. Schloss, Esquire
Hayes, Schloss & Alcocer, P.A.
4365 Northlake Blvd.
Palm Beach Gardens, FL 33410

**SERVICING AGENT:**
Gallagher Bassett Services, Inc.
Post Office Box 18219
West Palm Beach, FL 33416

**OJCC CASE** #:03-028394MAD
**VENUE:** Palm Beach
**D/A:** 01/03/02

---

**STIPULATION FOR PAST ATTORNEYS FEES PAID**
**BY EMPLOYER/SERVICING AGENT**

---

COME NOW the parties, by and through undersigned counsel, and agree and stipulate as follows:

1. The Claimant is represented by William Contole, Esq. in this matter.

2. William Contole, Esq. has asserted entitlement to an attorney fee for securing benefits pursuant to 440.34(3), Florida Statutes (2002).

3. The Employer/Servicing Agent shall pay and William Contole, Esq. shall accept the sum of SEVENTEEN THOUSAND

($17,000.00) for attorney's fees and any taxable costs, which shall discharge the Employer/Servicing Agent's liability for all attorney's fees and any taxable costs for all legal services performed and time expended through the date that this Stipulation is approved by the Judge of Compensation Claims.

4. Notwithstanding any other provision of Section 440.20, Florida Statutes, payment shall not be due pursuant to the order approving this stipulation, and no interest and/or penalties shall accrue, until payment is due pursuant to the order approving the motion for approval of attorney's fees, allocation of child support arrearages and voluntary dismissal of claims under Section 440.20 (11) (c) (d) & (e) (2002).

5. This agreement is not binding or enforceable by parties until approved by the City Council of the City of Riviera Beach. Upon approval by the City Council, this agreement will be deemed ratified and will become binding and enforceable.

WHEREFORE, the parties petition the Judge of Compensation Claims to enter an order approving and adopting this Stipulation of the parties.

| | |
|---|---|
| _____ | _____ |
| Gary M. Schloss, Esq. | William Contole, Esq. |
| Hayes, Schloss, & Alcocer, P.A. | Wiitala & Contole, P.A. |
| 4365 Northlake Blvd. | P.O. Box 14125 |
| Palm Beach Gardens, FL 33410 | 631 U. S. Highway One |
| (561) 775-1770 | Ste 310 |
| Attorney for Employer/SA | North Palm Beach, FL 33408 |
| | Attorney for Claimant |
| Date_____ | Date_____ |
| | _____ |
| | Austin Bowe |
| | Claimant |
| | Date_____ |

**STATE OF FLORIDA**
**DIVISION OF ADMINISTRATIVE HEARINGS**
**OFFICE OF THE JUDGE OF COMPENSATION CLAIMS**
**WEST PALM BEACH DISTRICT**

**EMPLOYEE:**
Austin Bowe
14409 76th Rd.
Loxahatchee, FL 33470

**REPRESENTED BY:**
William Contole, Esq.
WIITALA & CONTOLE, P. A.
Post Office Box 14125
631 U. S. Highway One,
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**EMPLOYER:**
City of Riviera Beach
600 W. Blue Heron Blvd.
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4365 Northlake Blvd.
Palm Beach Gardens, FL 33410

**SERVICING AGENT:**
Gallagher Bassett Services, Inc.
Post Office Box 18219
West Palm Beach, FL 33416

**OJCC CASE #:**03-028394MAD
**VENUE:** Palm Beach
**O/A:** 01/03/2002

---

SETTLEMENT AGREEMENT & RELEASE PURSUANT TO
F.S.440.20(11) (c),2002

---

The parties to this Release, to **wit: AUSTIN BOWE** (Date of Birth 01/14/64) (hereinafter collectively referred to as the "Releasor") and **CITY OF RIVIERA BEACH.** (hereinafter collectively referred to as the "Releasee") hereby agree as follows:

WHEREAS, Releasor was an employee of **CITY OF RIVIERA BEACH** on 01/03/02.

WHEREAS, Releasor is no longer employed by the **CITY OF RIVIERA BEACH** at the time of entering into this settlement agreement.

**WHEREAS**, Releasor has alleged he sustained an injury arising out of his employment with the **CITY OF RIVIERA BEACH** and has filed a workers' compensation claim or is otherwise claiming workers' compensation benefits against Releasee as the result of work related accidents which occurred on 01/03/02 (Hypertension/Cardiac Condition) and said claims are subject to the provisions of Chapter 440, Florida Statutes, or otherwise alleged to be covered by Chapter 440, Florida Statutes.

WHEREAS, Releasee has paid benefits to Releasor pursuant to Chapter 440.

WHEREAS, the parties wish to compromise and settle all claims Releasor may have against the Releasees as a result of or arising out of any work related accident including but not limited to those referenced herein;

NOW, THEREFORE, the parties agree as follows:

1. Releasor, for and on behalf of each and all of their respective present, former, and future successors, heirs, executors, administrators, guarantors, attorneys, representatives, insurers and assigns (all of whom are also hereinafter collectively referred to as the "Releasor"), for and in consideration of the lump sum of SIXTY THOUSAND ONE HUNDRED AND TWENTY-ONE DOLLARS ($60,121.00) ("the Lump Sum") and other good and valuable consideration, to be paid to Releasor does

hereby release, acquit, and forever discharge Releasee, and if Releasee is a corporation, all of its respective present, former and future officers, directors, stockholders, trustees, nominees, attorneys, agents, employees, consultants, insurers, brokers, finders, heirs, executors, administrators, personal representatives, managers, predecessors, successors, representatives and assigns (all of whom are also hereinafter collectively referred to as the "Releasee(s)") of and from any and all claims, demands, actions, suits, causes of action, controversies, costs, expenses, damages, judgments, losses and liabilities of whatever kind or nature, in law, equity, statutory or otherwise, whether known or unknown, which against them, or any of them, Releasor now has, had, may have had, or can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which were or might have or could have been asserted In connection with, arising out of, or in any way relating to any injuries resulting from or claimed to be the result of any work-related accident including those referred herein, including but without in any respect limiting the generality of the foregoing, any and all claims for or rights to past, present and future benefits under Chapter 440, Florida Statutes including any claims for attorney's fees.

The settlement amount referred to herein shall be allocated as follows:

| | | |
|---|---|---|
| a) | **Past & Future Compensation Benefits** | **$ 5,000.00** |
| b) | **Future Medical Benefits of the type typically covered by Medicare** | **$ 30,000.00** |
| c) | **Past & Future Medical Benefits of the type NOT typically covered by Medicare.** | **$ 16,750.00** |
| d) | **Fee to William Contole, Esq.** | **$ 6,250.00** |
| e) | **Costs payable by Claimant to William Contole, Esq.** | **$ 2,121.00** |
| | **TOTAL:** | **$ 60,121.00** |

2. It is the intent of the undersigned Releasor that this is a complete, full, comprehensive and final release of any and all liability of the parties released herein arising from or relating to any and all injuries arising out of any work related accident including the accidents referenced herein, including any and all liability of Releasee for any act performed or omitted by, or on behalf of the parties released herein prior to the date hereof relating to any and all injuries arising out of any work related accidents including the accidents referenced herein. The Releasor agrees that this settlement shall constitute an election of remedies by the Releasor with respect to the Releasee herein.

3. On account of the accident of 01/03/02, the Releasee may have a cause of action against a third party tortfeasor(s). The Releasor is aware of the Releasees' lien rights in any recovery

against any third party tortfeasor(s) for workers' compensation benefits paid as authorized under Florida Statute 440.39. The Releasor understands that the Releasees retain its lien rights in any such recovery notwithstanding the settlement and this Release. The Releasor shall protect the Releasees' lien rights and notify the Releasees in writing of any recovery from, or the filing of a complaint against, any alleged third party tortfeasor(s).

4. The undersigned Releasor hereby expressly warrants, represents and covenants to the parties released herein that Releasor is presently the legal owner and holder of the claims or causes of action released hereby, and that it has not heretofore expressly or impliedly assigned, transferred, pledged or otherwise disposed of any such rights, claims, demands, or causes of action being described herein and released hereby.

5. The Releasor has been represented by William Contole, Esq. 1n connections with this matter who is entitled to a fee to be paid by the Releasor for legal services rendered. The Releasor shall pay SIX THOUSAND TWO HUNDRED AND FIFTY DOLLARS ($6,250.00) and Releasor's attorney agrees that said fee is a reasonable fee for such services, resolves all claims for attorney's fees that Releasor's attorney may have against the Releasee(s) for securing this settlement, and 1S greater than

guidelines for the determination of a reasonable fee as set forth in Florida Statute 440.34 (I) . In addition thereto, the Releasor shall also reimburse the Releasor's attorney TWO THOUSAND ONE HUNDRED AND TWENTY-ONE DOLLARS ($2,121.00) for costs.

Notwithstanding the provisions of Florida Statute 440.34, the Releasor and not the Releasee(s) is responsible for the payment of Releasor's own attorney's fees, and all claims for attorney's fess and costs to any part are hereby satisfied and released.

Releasor also agrees that there are no other claims or liens for fees filed by any other attorney, and if a claim or lien is or has been made, the Releasor agrees to resolve said claim or lien, and the Releasor agrees to hold the Releasee harmless if a claim for fees arises. The Releasor and their attorney agree that this settlement agreement and release discharges the Releasee from any liability for fees for services rendered on Relesor's behalf. The fees and costs shall be paid from the settlement proceeds thereby making the net settlement amount FIFTY-ONE THOUSAND, SEVEN HUNDRED AND FIFTY DOLLARS ($51,750.00) .

6. In reaching this agreement the parties have, pursuant to Section 440.20(11) (d) Florida Statutes, as amended 2003,

considered the issue of child support arrearages. The Releasor warrants as follows (mark as appropriate):

a. There are no arrearages owed by Releasor for child support: _____

b. There are arrearages owed by Releasor for child support, in the total amount of $ _____

If outstanding child support is shown above, the Releasor has allocated $ _____ of the lump sum to be paid by Releasor, towards the payment of such arrearages. Counsel for Releasor shall be responsible for ensuring such child support allocation is paid to the proper agency toward Releasor's arrearage.

7. Releasor and Releasee(s) acknowledge(s) that whereas Section 440.20(11) (d), as amended 2003, also requires that the Judge of Compensation Claims consider whether the settlement allocation provides for the appropriate recovery of child support arrearages. It is the intent of the parties that this settlement agreement and release shall not be valid and enforceable and that Releasee shall not be required to disburse settlement proceeds until the settlement agreement and release is executed by Releasee and Releasor, and all Court approvals as to attorney's fees and child support allocations are obtained. Therefore, Releasor and Releasee agree that the statutory 14 day period will begin to run from the date of the mailing of the Court Order

approving the fee and allocation for the recovery of child support arrearages, or receipt by Releasee(s) of a signed Settlement Agreement, whichever occur last. However, the parties agree that earlier payment shall satisfy the applicable statutory period and the Releasor's attorney agrees to hold the settlement proceeds in escrow until all conditions are met, including the satisfaction of all liens for attorney fees. If these conditions are not met, Releasor's attorney shall not disburse any funds, but will immediately return to Releasee(s) those funds being held in escrow.

8. The Releasor represents that no services, medicines, medical appliances, or x-rays of any kind were received by the Releasor from any Veterans Hospital, Naval or military hospital, or any other medical institution maintained by the United States Government, as a result of the accident and injuries described herein. The Releasor further represents that no medical bills or services have been paid to Releasor or on Releasor's behalf by Medicaid or Medicare as a result of any injuries arising out of and during the course and scope of Releasor's employment with the Releasee herein. If Releasor has received any benefits as a result of their work related injuries from any State of Federal Insurance or benefits program, such"as Medicaid or Medicare, the

Releasor understands that it is their responsibility to reimburse them for any payment they may have made.

**9.** The Releasor has considered that many common medical expenses are not paid or reimbursable under certain group health policies of the Federal Medicare Program. The Releasor also understands that he is, or may in the future be entitled to Medicare benefits. The Releasor understands that it is not the intent of this settlement to shift the responsibility for the Releasor's future medical care to the Federal Government and the Releasor agrees that the sum of THIRTY THOUSAND DOLLARS ($30,000.00) from the lump-sum settlement shall be allocated for payment of those medical costs which are covered under Medicare which are related to the industrial injuries. This allocation is based on the workers' compensation fee schedule. The Releasor understands that all payments to providers are to be adjusted accordingly, and any monies paid in excess of the fee schedule will not count towards the allocation. The THIRTY THOUSAND DOLLARS ($30,000.00) allocation is to be for the next 33.1 years into the future, representing the Releasor's life expectancy given Releasor's age of 45 years (DOB: 01/14/64). The Releasor understands that before any bills can be submitted to Medicare for payment that this amount must be spent on expenses covered by Medicare and related to the industrial injury and that the

Releasor must keep record of these expenses that have been paid. The Releasor understands that the Federal Government has the authority to change this allocation and make the Releasor spend more of this settlement on Medicare expenses related to his work-related injuries. The Releasor understands and acknowledges the freedom and ability to consult with specialists practicing in the area of Social Security and Medicare law and has chosen to settle the case either in lieu of or after such consultation.

10. By receipt of the consideration set forth above, the Releasor agrees that the terms of this settlement, including but not limited to the amount of consideration paid herein, will not be discussed either directly or indirectly with any past or present employees of the Employer or any other persons. The Releasor specifically agrees to keep the terms of this settlement strictly confidential.

11. The parties agree that this Settlement Agreement is valid and enforceable. If this Settlement Agreement and Release is ever found to be unenforceable for whatever reason, the Releasor agrees that any payment made by the Releasee shall not be considered a gratuity and that the Releasee shall be entitled to full reimbursement of the lump sum paid to the Releasor and to the extent full reimbursement is not made, Releasee is

entitied to a credit for any money paid to the Releasor in connection with the settlement against benefits owed or found to be due, past or future without limitation on the type of benefit to which this offset would apply, nor as to the amount of offset to be taken as to any benefits. The Releasee shall have a dollar for dollar offset for the money paid under this Settlement Agreement. The Releasee agrees to continue to provide and pay for palliative medical care with authorized medical providers up until the date that the Judge of Compensation enters the Order approving the Motion for Attorney Fees and Child support Allocation on this settlement. The Releasee wi11 not be responsible for providing any remedial, invasive or diagnostic treatment.

12. Releasor agrees that upon payment of the consideration referred to herein, all claims, petitions for workers' compensation benefits, actions for personal injuries arising out of the accidents referenced herein, and any and all claims or lawsuits against the Releasee, excluding claims involving the Claimant's right to pension benefits, are voluntarily dismissed with prejudice and Releasor shall file voluntary dismissals in all Courts where claims or actions are pending.

13. Releasor agrees that he shall not seek further employment with Releasee.

14. This agreement is not binding or enforceable by parties until approved by the City Council of the City of Riviera Beach. Upon approval by the City Council, this agreement will be deemed ratified and will become binding and enforceable.

15. By signing this Settlement Agreement, Releasor acknowledges that he has read the agreement, has had its terms fully explained to him by his attorney, has been fully informed and understands:

a. the settlement's effect on any rights the Releasor may have;

b. his rights regarding the claim(s) settled;

c. he is giving up these rights;

and is entering into this Settlement Agreement voluntarily, and without any undue influence, pressure or coercion whatsoever. Further, by signing this settlement agreement, Releasor's attorney agrees that he has explained the settlement agreement and that Releasor does understand his rights and the effect of this settlement on those rights.

Executed in Palm Beach County, Florida this day of _____, 2009.

_____ _____

AUSTIN BOWE Date
Claimant/Releasor

BEFORE **ME**, the undersigned authority, personally appeared, **AUSTIN BOWE** who, after being duly cautioned and sworn, depose(s) and says he has read the above Release and that he has set his hand(s) and seal(s) thereto for the purposes therein expressed.

The foregoing instrument was acknowledged before me this day of _____, 2009 by **AUSTIN BOWE** who is personally known to me or produces identification #_____

_____
Signature of Notary

My Commission Expires:

_____
Print Name of Notary

_____
William Contole, Esq.
Releasor's Attorney

_____
Date

_____
Gary M. Schloss, Esq.
Releasee's Attorney

_____
Date

**RESOLUTION** NO. 79-09

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ENDORSING THE SUBMITTAL OF APPLICATIONS FOR THE NEIGHBORHOOD STABILIZATION PROGRAM ROUNDS 1 AND 2; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** as part of the Housing and Economic Recovery Act of 2008 (HERA), the Neighborhood Stabilization Program 1 (NSP1) allocated $3.92 billion in grants to States and other units of local government for the purpose of purchasing foreclosed homes at a discount and to rehabilitate or redevelop the homes to stabilize neighborhoods; and

**WHEREAS,** the Department of Housing and Urban Development (HUD) distributed funds based on areas of greatest needs; and

**WHEREAS,** Palm Beach County was awarded $27 million dollars and allocated $5 million for municipalities and non-profits to acquire and rehabilitate foreclosed properties for resale; and

**WHEREAS,** the City requested $1.6 million from Palm Beach County's NSP 1 to acquire 10 properties; and

**WHEREAS,** as a part of the American Reinvestment and Recovery Act (ARRA), the US Department of Housing and Urban Development (HUD) created the Neighborhood Stabilization Program 2 (NSP2) and allocated $1.93 billion in grants to provide assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities; and

**WHEREAS,** the City of Riviera Beach has the geographic need to compete for additional NSP2 funds based on foreclosure and vacancy rates established by HUD; and

**WHEREAS,** the City is requesting $16.5 million to purchase and rehabilitate 136 foreclosed and abandoned properties throughout the City

**WHEREAS,** the City has been administering similar programs and will be responsible for the submittal of the application, determining eligibility, submission of reports and project management and close out utilizing the City's allocation; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and general welfare of the residents of the City to seeks federal grant funds to stabilize and rehabilitate communities adversely impacted by foreclosures and abandonments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. That the City Council of the City of Riviera Beach hereby endorses the submittal of applications for the NSP1 and NSP2 grant funds totaling $18.1 million dollars.

SECTION 2. This Resolution shall become effective immediately upon its approval.

PASSED and APPROVED this 15TH day of JULY, 2009.

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**RESOLUTION NO.** 79-09
**PAGE 3**

**APPROVED:**

**THOMAS A. MASTERS**
**MAYOR**

**ATTEST:**

**DAWN S. PARDO**
**CHAIRPERSON**

**JUDY L. DAVIS**
**CHAIR PRO TEM**

**B L E. BROOKS**
**COUNCIL PERSON**

**CEDRICK A. THOMAS**
COUNCILPE SON /

**SHELBY L. LOWE**
**COUNCILPERSON**

**MOTIONED BY:** J. DAVIS

**SECONDED BY:** B. BROOKS

| | |
|---|---|
| **D. PARDO** | AYE |
| **J. DAVIS** | AYE |
| **B. BROOKS** | AYE |
| **C. THOMAS** | AYE |
| **S. LOWE** | AYE |

**REVIEWED AS TO LEGAL SUFFICIENCY**

**PAMALA HANNA RYAN, CITY ATTORNEY**

**DATE:** 7/13/09

RESOLUTION NO. 80-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING PAYMENT TO MODCOMP SYSTEMS & SOLUTIONS FOR EMERGENCY PROFESSIONAL AND TECHNICAL CONSULTING SERVICES ON THE CITY'S COMPUTER NETWORK SYSTEM IN THE AMOUNT OF $14,962.50 FROM ACCOUNT 001-0243-513-0-4601; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City's network computers and systems were infected by a serious computer virus malware which had the potential to damage critical public safety and public administration data stored on the City's network computers and systems; and

WHEREAS, staff sought emergency professional and technical consulting services from a company who could assist in containing the computer virus malware infection, and further secure the network from immediate and future threats of computer malware and network intrusions; and

WHEREAS, staff sought a reputable company which could provide these emergency technical consulting services as soon as possible and without delay; and

WHEREAS, the Information Systems Manager interviewed several professional and technical consulting services companies and selected Modcomp Systems and Solutions because of the following: technical expertise in containing malware infections; experience in securing firewalls from network intrusions; availability to perform the emergency professional and technical consulting services expeditiously; and the company's overall reputation in the business community; and

WHEREAS, Modcomp Systems and Solutions performed the Scope of Work duties to contain the virus malware and secure the firewall while the Information Services team eradicated it from the City's computers and network systems.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. The Finance Director is authorized to pay Modcomp $14,962.50 for the emergency professional and technical consulting services by the company.

**SECTION** 2. Payment for same shall be made from the Information Services Division operating account 001-0243-513-0-4601 as budgeted.

**SECTION** 3. This Resolution shall take effect upon its passage and approval by the City Council.

**PASSED and APPROVED this** 15 **day of July,** 2009.

**{THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK}**

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

**JUDY L. DAVIS**
**CHAIR PRO TEM**

**CEDRICK A. THOMAS**
**COUNCILPERSON**

**BILLIE E. BROOKS**
**COUNCILPERSON**

**SHELBY L. LOWE**
**COUNCILPERSON**

MOTIONED BY: B. BROOKS

SECONDED BY: S. LOWE

| | |
|---|---|
| D. PARDO | AYE |
| J. DAVIS | AYE |
| C. THOMAS | AYE |
| B. BROOKS | AYE |
| S. LOWE | AYE |

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 2/6/09

RESOLUTION NO. 81-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SUPPORTING THE ESTABLISHMENT OF THE YOUTHBUILD USA PROGRAM AT THE RIVIERA BEACH MARITIME ACADEMY; AUTHORIZING CITY STAFF TO COLLABORATE WITH RIVIERA BEACH MARITIME ACADEMY REPRESENTATIVES IN THE IMPLEMENTATION OF THE YOUTHBUILD USA PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 17, 2009, Mr. George Carter, President, Riviera Beach Maritime Academy made a presentation to the City regarding the concept of the YouthBuild Program; and

WHEREAS, on June 17, 2009, by consensus directed staff to prepare a resolution to support the implementation of a YouthBuild USA program in the City to benefit our residents;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. The City Council supports the implementation of the YouthBuild USA program as proposed by the Rivera Beach Maritime Academy.

SECTION 2. That staff is authorized to provide a mechanism to identify and recruit residents to participate in the program; with publicity and outreach to the community; identify and assist with recruitment of mentors, role models and tutors for the project; assist with the development of funding opportunities through grants initiated by Riviera Beach Maritime Academy; provide links to housing programs; providing access to homes needing repairs; expedition of permits and approval of projects through City departments.

SECTION 3. This Resolution shall become effective upon its passage and approval by City Council.

*[The rest of this page is left blank intentionally]*

PASSED and APPROVED this 15 day of July, 2008.

APPROVED:

THOMAS MASTERS
MAYOR

DAWN S. PARDO
C ERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO-TEM

BILLIE E. BROOKS
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: C. THOMAS

SECONDED BY: B. BROOKS

| | |
|---|---|
| D. PARDO | AYE |
| J. DAVIS | AYE |
| B. BROOKS | AYE |
| C. THOMAS | AYE |
| S. LOWE | AYE |

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 7/8/2009

GS
7-8-09

**RESOLUTION NO.** 82-09

DELETED

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE CITY MANAGER RUTH JONES OR HER DESIGNEE TO SUBMIT A GRANT APPLICATION TO THE FLORIDA BOATING INFRASTRUCTURE FUND AND COMMITTING TO MAINTAIN THE IMPROVEMENTS FOR TWENTY (20) YEARS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Riviera Beach (City) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statues; and

**WHEREAS,** the City of Riviera Beach owns and operates a municipal Marina which provides the public access to the Lake Worth Lagoon and the Atlantic Ocean; and

**WHEREAS,** the City of Riviera Beach and the City's Community Redevelopment Agency are in support of needed repairs and renovation at the City's Marina; and

**WHEREAS,** the Boating Infrastructure grant can be used in conjunction with other grant funds the City has received for the Marina.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, AS FOLLOWS:**

**SECTION** 1. The City Council authorizes the City Manager or her designee to apply Boating Infrastructure funding from the State.

**SECTION** 2. The City Council commits to maintaining the improvements for twenty (20) years.

**SECTION** 3. This Resolution shall become effective upon its passage by the City Council.

**PASSED AND APPROVED this day of , 2009.**

APPROVED:

THOMAS MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

JUDY L. DAVIS
CHAIR PRO-TEM

BILLIE E. BROOKS
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

MOTIONED BY: _

SECONDED BY: _

D. PARDO _____

J. DAVIS _____

B. BROOKS _

C. THOMAS _

S. LOWE _____

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 7/8/2009

mem
7-7-09

RESOLUTION NO. 83-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AGREEMENT WITH JOY PRODUCTION, INC. OF RIVIERA BEACH, FLORIDA TO PROVIDE CONSULTING SERVICES FOR JAZZ AFTER DARK FROM JULY 1, 2009 THROUGH SEPTEMBER 30, 2009 IN THE AMOUNT OF $1,000.00 PER MONTH; AND APPROVE AN AGREEMENT WITH HUGHIE TOOTHMAN OF FT. LAUDERDALE, FLORIDA TO PROVIDE PROFESSIONAL SOUND AND LIGHTING FOR JAZZ AFTER DARK CONCERTS FROM JULY 1, 2009 THROUGH SEPTEMBER 30, 2009 IN THE AMOUNT OF $1,650 PER MONTH; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENTS; AUTHORIZING THE FINANCE DIRECTOR TO PAY EACH AMOUNT FROM ACCOUNT NO. 001-1232-572-0-5507; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Parks and Recreation Department provides Jazz After Dark Concerts, an entertainment event at the Dan Calloway Amphitheater; and

WHEREAS, Joy Production, Inc. will render consultation services needed to book performers for the Jazz After Dark Concerts from July 1, 2009 through September 30,2009 and must be paid for such services; and

WHEREAS, Hughie Toothman will render professional sound and lighting services needed to compliment the musicians and performers at the Jazz After Dark Concerts July 1, 2009 through September 30, 2009 and must be paid for such services.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. The City Council hereby authorizes the agreement with Joy Productions, Inc. to provide consulting services for the Jazz After Darks Concerts from July 1, 2009 through September 30, 2009 for payment of $1,000.00 per month.

SECTION 2. The City Council hereby authorizes the agreement with Hughie Toothman to provide professional sound and lighting services for the Jazz After Darks Concerts from July 1, 2009 through September 30, 2009 for payment of $1,650.00 per month.

SECTION 3. The City Council authorizes the Mayor and City Clerk to execute said agreements

SECTION 4. The City Council authorizes the Finance Director to make payments from Account Number 001-1232-572-0-5507.

SECTION 5. This Resolution shall take effect upon its passage and approval by City Council.

PASSED AND APPROVED this 15 day of JULY, 2009.

**APPROVED:**

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

**ATTEST:**

CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

**JUDY L. DAVIS**
**CHAIR PRO TEM**

BILLIE E. BROOKS
**COUNCILPERSON**

**CEDRICK A. THOMAS**
**COUNCILPERSON**

**SHELBY L. LOWE**
**COUNCILPERSON**

MOTIONED BY: C. THOMAS
SECONDED BY: B. BROOKS

| | |
|---|---|
| D. PARDO | AYE |
| J. DAVIS | AYE |
| B. BROOKS | AYE |
| C THOMAS | AYE |
| L. LOWE | AYE |

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA AN CITY ATTORNEY

DATE: 6/26/2009

JPL SDB07 09

# PERSONAL SERVICE AGREEMENT

THIS AGREEMENT made and entered into this day of June, 2009 by and between Hughie Toothman, hereinafter referred to as "Independent Contractor," whose mailing address is 1206 N.W. 12th Court, Sunrise, Florida 33323-3130 and the CITY OF RIVIERA BEACH, FLORIDA, a municipal corporation, hereinafter referred to as "City," whose address is 600 West Blue Heron Boulevard, Riviera Beach, Florida, 33404.

WHEREAS, the City is in need of the services of a person possessing the skills and ability to provide and oversee professional lighting and sound services for its monthly "Jazz After Dark" concert series; and

WHEREAS, Independent Contractor is qualified to provide such services; and the City desires to engage the services of the Independent Contractor.

In consideration of the mutual covenants and promises set forth herein, the parties to this Agreement do hereby agree as follows:

1. Independent Contractor agrees to provide professional sound and lighting services for the "Jazz After Dark" concert series held in the City of Riviera Beach on July 17,2009, August 21, 2009 and September 18, 2009.

2. For such services, the City agrees to pay to Independent Contractor the sum of One Thousand Six Hundred Dollars ($1,600.00) per concert for a total of Four Thousand Eight Hundred Dollars ($4,800.00).

3. The City will not be responsible for documenting or paying any taxes owed as a result of the Independent Contractor rendering personal services under this agreement.

4. The City agrees to provide payment for these services as the budget will allow. However, all equipment and supplies on hand and/or subsequently purchased by the City shall remain the property of the City.

5. The City's representative during the performance of this Agreement shall be John Williams, Director of Parks and Recreation, whose telephone number is 561-845-4072. The Independent Contractor shall report to and submit requests for payment to the City's representative during the term of this Agreement.

6. All notices required under this Agreement shall be sent by certified mail, return receipt requested to the addresses above, unless otherwise modified by the parties.

7. The Independent Contractor is, and shall be, in the performance of all work and services and or activities under this Agreement, an independent contractor, and not an employee, agent or servant of the City. The Independent Contractor shall exercise control over the means and manner in which he performs the work, and in all respects, the Independent Contractor's relationship to the City shall be that of an independent contractor and not as an employee or agent of the City.

8. The term of this Agreement shall be from July 17, 2009 through September 21, 2009.

9. This Agreement may be terminated by either party with or without cause upon ten (10) days prior written notice. In the event that the City terminates this Agreement, for any reason whatsoever, the Independent Contractor understands and agrees that he/she shall not receive any further compensation beyond the termination date. This shall be true even where there are remaining months under the terms of this Agreement.

10. The City's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the City of Riviera Beach City Council.

11. The City shall not be responsible for any property damage or personal injury sustained by the Independent Contractor and/or the Independent Contractor's employees from any cause whatsoever, prior, during, or subsequent to the period of time during which this Agreement is in effect.

12. The Independent Contractor shall indemnify and save harmless and defend the City, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission or misconduct of the Independent Contractor, its agents, servants, or employees in the performance of services under this Agreement.

13. The Independent Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the City, its agents, servants or employees are alleged to be liable.

14. Nothing contained in this Agreement shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

15. Please be advised, in accordance with section 112.313, Florida Statutes, and pertinent Opinions of the Florida Commission on Ethics, that if you are a member of a city board, including an advisory board, you may be ineligible to enter into a contract/agreement with the City. If you are a member of a city board, including an advisory board, prior to executing this contract, please contact the Florida Commission on Ethics at (850) 488·7864 to secure an informal advisory opinion regarding your eligibility to enter into this Agreement.

16. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

17. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shaH be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

18. If any action, whether in law, equity or otherwise, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shaH be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

19. Failure of the City to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of the City's right to enforce or exercise said right(s) at any time thereafter.

20. The Independent Contractor shaH maintain during the life of this Agreement, adequate Worker's Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per Florida Statute 440.02. The Independent Contractor shall provide certificates evidencing insurance coverage as required hereunder. In the event that a party does not carry Worker's Compensation Insurance and chooses not to obtain same, then such party shall in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the City, if requested.

21. This Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this

Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

**SIGNATURES ON FOLLOWING PAGE**

**PERSONAL SERVICE AGREEMENT WITH THE CITY OF RIVIERA BEACH**

**IN WITNESS WHEREOF,** the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: _____
THOMAS A. MASTERS,
MAYOR

INDEPENDENT CONTRACTOR

BY: _____
HUGHIE TOOTHMAN

ATTEST:

BY: _____
CARRIE E. WARD, MMC
CITY CLERK

APPROVED AS TO FORM AND
LEG UFFICIENCY

BY: _____
PAMALA H. RYAN,
CITY ATTORNEY

DATE: 7/13/09

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
JOHN L. WILLIAMS,
PARKS AND RECREATION DIRECTOR

**CITY OF RIVIERA BEACH**
**CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES**

This Contract is made as of this day of June, 2009, by and between the City of Riviera Beach, Palm Beach County, Florida a Political Subdivision of the State of Florida hereinafter referred to as the CITY, and Joy Production, Inc. a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. number is 50-0007255.

In consideration of the mutual promises contained herein, the CITY and the CONSULTANT agree as follows:

**ARTICLE 1 - SERVICES**

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services in the area of identifying and booking talent for the "Jazz After Dark" concert series and provide other consulting services as more specifically set forth in the Scope of Work detailed in Exhibit "A", attached hereto and made part hereof.

The CITY'S representativelliaison during the performance of this Contract shall be John Williams, Parks and Recreation Director, whose telephone number is 561-845-4070

**ARTICLE 2 - SCHEDULE**

The CONSULTANT shall commence services on July 17, 2009 and complete all services by September 18, 2009.

**ARTICLE 3 - PAYMENTS TO CONSULTANT**

A. Generally - The CITY agrees to compensate the CONSULTANT one thousand dollars ($1,000.00) per event (July 17, 2009; August 21, 2009; and September 18, 2009) for a total of three thousand dollars ($3,000.00). The total and cumulative amount of this Contract shall not exceed the amount of funds annually budgeted for these services. Reimbursable expenses, as identified in said fee proposal, incurred during the course of the performance of this Contract, including, but not limited to, out-of-pocket expenses for express mail, computerized research, word processing charges, long distance telephone, postage and photocopying shall be itemized and invoiced separately. The CITY shall not reimburse the CONSULTANT for any travel costs incurred as a direct result of the CONSULTANT providing deliverables to the CITY in pursuance of the scope of work contained in Exhibit "A, without specific, prior approval of the City.

B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the CITY'S representative, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for

payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.

C. All requests for payment of expenses eligible for reimbursement under the terms of this Contract shall include copies of receipts, invoices, or other documentation acceptable to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Contract. Long distance telephone calls shall identify the person(s) called, purpose of call, time, and costs. Mileage charges shall identify the destination, number of miles, rate, and purpose of travel. Duplication charges shall describe the documents, purpose of duplicating, and rate charged. Any travel, per diem, mileage, meals or lodging expenses, which may be reimbursable under the terms of this Contract, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

D. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY of Riviera Beach. Since this account will thereupon be closed, any and other further charges, if not properly included in this final invoice, are waived by the CONSULTANT and the CITY shall have no obligations for any other costs or expenses thereafter.

## ARTICLE 4 - TERMINATION

This Contract may be cancelled by the CONSULTANT upon thirty (30) days prior written notice to the CITY'S representative in the event of substantial failure by the CITY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT; provided the CITY fails to cure same within that thirty (30) day period. It may also be terminated, in whole or in part, by the CITY, with or without cause, immediately upon written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the CITY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY the CONSULTANT shall:

A. Stop work on the date and to the extent specified.

B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

C. Transfer all work in progress, completed work, and other materials related to the terminated work to the CITY.

D. Continue and complete all parts of the work that have not been terminated.

**ARTICLE 5 - PERSONNEL**

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perfonn the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereunder shall be perfonned by the CONSULTANT or under its supervision, and all personnel engaged in perfonning the services shall be fully qualified and, if required, authorized or pennitted under state and local law to perfonn such services.

Any changes or substitutions in the CONSULTANT'S key personnel, as may be listed in Exhibit "A", must be made known to the CITY'S representative and written approval must be granted by the CITY'S representative before said changes or substitution can become effective.

The CONSULTANT warrants that all services shall be perfonned by skilled and competent personnel to the highest professional standards in the field(s).

The CONSULTANT agrees that it is fully responsible to the CITY for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the CONSULTANT. Nothing contained herein shall create any contractual relationship between any subcontractor and the CITY.

All of the CONSULTANT'S personnel (and all Subcontractors) while on CITY premises, will comply with all CITY requirements governing conduct, safety, and security.

**ARTICLE 6 - FEDERAL AND STATE TAX**

The CITY is exempt from payment of Florida State Sales and Use Tax. The CITY will sign an exemption certificate submitted by the CONSULTANT as relevant. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the CITY, nor is the CONSULTANT authorized to use the CITY'S Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

**ARTICLE 7 - INSURANCE**

A. Prior to execution of this Contract by the CITY, the CONSULTANT shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with the ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY'S representative.

Compliance with the foregoing requirements shall not relieve the CONSULTANT of its liability and obligations under this Contract.

B. The CONSULTANT shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of $1,000,000.00 per occurrence.

C. The CONSULTANT shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of $500,000.00 per occurrence to protect the CONSULTANT from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONSULTANT or by anyone directly or indirectly employed by or contracting with the CONSULTANT.

D. The CONSULTANT shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of $500,000.00 combined single limit for bodily injury and property damages liability to protect the CONSULTANT from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including, but not limited to, leased and rented automobiles whether such operations be by the CONSULTANT or by anyone, directly or indirectly, employed by the CONSULTANT.

E. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY, if requested.

F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the CONSULTANT shall specifically include the CITY as an "Additional Insured".

## ARTICLE 8 - INDEMNIFICATION

The CONSULTANT shall indemnify and save harmless and defend the CITY, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the CONSULTANT, its agents, servants, or employees in the performance of services under this Contract.

The CONSULTANT further agrees to indemnify, save harmless and defend the CITY, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever

kind or nature arising out of any conduct or misconduct of the CONSULTANT not included in the paragraph above and for which the CITY, its agents, servants or employees are alleged to be liable.

CONSULTANT shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, all costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs. These indemnifications shall survive the term ofthis Contract or any renewal thereof.

The CONSULTANT shall defend all actions in the name of the CITY, when applicable, however, CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the CONSULTANT.

Nothing contained in this Article shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

**ARTICLE 9 - SUCCESSORS AND ASSIGNS**

The CITY and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the CONSULTANT shall assign, sublet, conveyor transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the CONSULTANT.

**ARTICLE 10 - VENUE**

This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein, perfonnance or breach shall be governed and interpreted according to laws of the State of Florida. Venue for any and all legal action necessary to enforce the Contract will be held in Palm Beach County.

**ARTICLE 11 - REMEDIES**

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof

## ARTICLE 12 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes, Section 112.311. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance.

The CONSULTANT shall promptly notify the CITY'S representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the CITY as to whether the association, interest or circumstance would, in the opinion of the CITY, constitute a conflict of interest if entered into by the CONSULTANT. The CITY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the CITY shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the CITY by the CONSULTANT under the terms of this Contract.

## ARTICLE 13 - DELAYS AND EXTENSION OF TIME

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the CITY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'S failure to perform was without it or its subcontractors fault or negligence the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time.

If the CONSULTANT is delayed at any time in the process of the work by any act or neglect of the CITY or its employees, or by any other consultant employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONSULTANT'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY may decide. No extension shall be made for delay occurring more than seven (7) days before claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary.

This Article does not exclude the recovery of damages for delay by either party under other provisions in the Contract.

**ARTICLE 14 - INDEBTEDNESS**

The CONSULTANT shall not pledge the CITY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any fonn of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the tenns of this Contract.

**ARTICLE 15 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The CONSULTANT shall deliver to the CITY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CITY under this Contract.

All written and oral infonnation not in the public domain or not previously known, and all infonnation and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the CITY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the CITY'S expense shall be and remain the CITY'S property and may be reproduced and reused at the discretion of the CITY.

The CITY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

**ARTICLE 16 - INDEPENDENT CONTRACTOR RELATIONSHIP**

The CONSULTANT is, and shall be, in the perfonnance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

The CONSULTANT does not have the power or authority to bind the CITY in any promise,

agreement or representation other than as specifically provided for in this Contract.

**ARTICLE 17 - ACCESS AND AUDITS**

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The CITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT'S place of business.

**ARTICLE 18 - ENFORCEMENT COSTS**

If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

**ARTICLE 19 - AUTHORITY TO PRACTICE**

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY'S representative upon request.

The CONSULTANT shall be solely responsible for obtaining and complying with all necessary permits, licenses, approvals and authorizations required for any work done pursuant to this Contract from any federal, state, regional, county or city agency.

**ARTICLE 20 - SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

## ARTICLE 21 - PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133 by entering into this Contract or perfonning any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perfonn hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

## ARTICLE 22 - MODIFICATION OF WORK

The CITY reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the CITY'S notification of a contemplated change, the CONSULTANT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CITY of any estimated change in the completion date, and (3) advise the CITY if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the CITY so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by the contemplated change, pending the CITY'S decision to proceed with the change.

If the CITY elects to make the change, the CITY shall initiate a Contract Amendment and the CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT and the City Manager.

## ARTICLE 23 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

**John L. Williams, Director**
**City of Riviera Beach**
**Parks and Recreation Department**
**1621 W. Blue Heron Blvd.**
**Riviera Beach, FL 33404**

and if sent to the CONSULTANT shall be mailed to:

**Joy Production Enterprises, Inc.**
**Post Office Box 10881**
**Riviera Beach, FL 33419**

## ARTICLE 24 - ENTIRETY OF CONTRACTUAL AGREEMENT

The CITY and the CONSULTANT agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with the Modification of Work article.

## ARTICLE 25 - PROTECTION OF WORK AND PROPERTY

The CONSULTANT shall continuously maintain adequate protection of all work from damage, and shall protect the CITY'S property from injury or loss arising in connection with the Contract. Except for any such damage, injury, or loss, except that which may be directly due to errors caused by the CITY or employees of the CITY, the CONSULTANT shall provide any necessary materials to maintain such protection.

Until acceptance of the work by the CITY, the CITY'S property shall be under the charge and care of the CONSULTANT and the CONSULTANT shall take every necessary precaution against injury or damage to the work by the action of elements or from any other cause whatsoever, and the CONSULTANT shall repair, restore and make good, without additional cost or expense to the CITY the work occasioned by any of the above causes before its completion and acceptance.

## ARTICLE 26 - TERMINOLOGY AND CAPTIONS

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof', "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

## ARTICLE 27 - WAIVER

Failure of the CITY to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

**ARTICLE 28 - PREPARATION**

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

**ARTICLE 29 - MATERIALITY**

All provisions of the Contract shall be deemed material, in the event CONSULTANT fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and CITY may at its option and without notice terminate this Contract.

**ARTICLE 30 - REPRESENTATIONSIBINDING AUTHORITY**

CONSULTANT has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, Jimmy Home hereby represents to the CITY that he has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

**ARTICLE 31 - EXHIBITS**

Each exhibit referred to in this Contract forms an essential part of this Contract. The exhibits, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

**ARTICLE 32 - NOTICE OF COMPLAINTS OR SUITS**

Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Contract. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**ARTICLE 33 - SURVIVABILITY**

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

**ARTICLE 34 - DEFAULT**

Notwithstanding anything contained in this Contract to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and shall be

grounds for tennination:

a. The filing of a lien by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, upon any property, right of way, easement, other interest in land or right to use such land within the territorial boundaries of the CITY which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONSULTANT;

b. The filing of any judgment lien against the assets of the CONSULTANT related to the perfonnance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONSULTANT; or

c. The filing of a petition by or against the CONSULTANT for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the CONSULTANT or the CONSULTANT'S property; or an assignment by the CONSULTANT for the benefit of creditors; or the taking possession of the property of the CONSULTANT by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the CONSULTANT; or if a temporary or permanent receiver or trustee shall be appointed for the CONSULTANT or for the CONSULTANT'S property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

The CONSULTANT shall provide written notice to the CITY of the occurrence of any event of default within ten (10) days of the CONSULTANT'S receipt of notice of any such default.

## ARTICLE 35 - WAIVER OF SUBROGATION

The CONSULTANT hereby waives any and all rights to Subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis.

## ARTICLE 36 - RIGHT TO REVIEW

The CITY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

**CONTRACT WITH THE CITY OF RIVIERA BEACH**

**IN WITNESS WHEREOF,** the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: _____
THOMAS A. MASTERS,
MAYOR

CONSULTANT:

BY: _____
JIMMY "BO" HORNE
OWNER

ATTEST:

BY: _____
CARRIE E. WARD, MMC
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
PAMALA H. RYAN
CITY ATTORNEY

DATE: 6/26/09

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
JOHN L. WILLIAMS
PARKS AND RECREATION

RESOLUTION NO. 84-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SETTING THE MAXIMUM MILLAGE RATE FOR FISCAL YEAR 2009-2010 AT A RATE OF 9.436 MILLS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach City Council is required by Truth In Millage Compliance to set the maximum millage rate by the end of July; and

WHEREAS, the City is also required to set the time and date of the first Public Hearing in September; and

WHEREAS, the pUblic hearing cannot be the same date as the Board of County Commissioners or the School Board.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA THAT:

SECTION 1. The City Council set the maximum millage at ____ mills for iscal year 2009-2010.

SECTION 2. That the first public hearing be held in the City Council Chambers on September 3,2009 at 7:00 p.m.

SECTION 3 This Resolution shall take effect upon its passage and approval by the City Council.

PASSED and APPROVED this 15 day of July, 2009.

APPROVED:

**THOMAS A. MASTERS**
,MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

**CARRIE E. WARD**
MASTER MUNICIPAL CLERK
CITY CLERK

**JUDY L. DAVIS**
**CHAIR PRO TEM**

/BILLfE E. BROOKS
COUNCILPERSON

**CEDRICK A. THOMAS**
**COUNCILPERSON**

**SHELBY L. LOWE**
**COUNCILPERSON**

MOTIONED BY: C. THOMAS

SECONDED BY: B. BROOKS

| | |
|---|---|
| C. THOMAS | AYE |
| D. PARDO | AYE |
| J. DAVIS | AYE |
| B. BROOKS | AYE |
| S. LOWE | AYE |

REVIEWED AS TO LEGAL SUFFICIENCY

**PAMALA HANNA RYAN, CITY ATTORNEY**

DATE: 07/1/09

**RESOLUTION NO.** 85-09

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, REQUESTING THE ASSISTANCE OF GOVERNER CRIST AND FLORIDA DEPARTMENT OF TRANSPORTATION SECRETARY KOPELOUSOS TO PRIORITIZE THE INTERCITY RAIL COMPONENT OF THE FLORIDA EAST COAST CORRIDOR PROJECT (FROM JACKSONVILLE TO MIAMI) AS PART OF THE FEDERAL ECONOMIC STIMULUS PACKAGE FOR THE STATE OF FLORIDA; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the Florida East Coast corridor was historically operated as a passenger rail line along Florida's coast, traversing or providing rail connections to urban areas like the City of Riviera Beach; and

**WHEREAS,** Florida's east coast historically developed around train stations along the FEC railroad; and

**WHEREAS,** local governments and the private sector along Florida's east coast are currently implementing programs to redevelop historic downtowns built around train stations; and

**WHEREAS,** improved mobility is highly desired in the City of Riviera Beach and throughout the State of Florida; and

**WHEREAS,** transit, including rail transit, is a key component of improved mobility, especially between cities and throughout Florida's east coast; and

**WHEREAS,** the 2006 Florida Rail Plan identifies passenger transit along the FEC corridor as a potential"Coastal Route" for new passenger rail service in the State of Florida; and

**WHEREAS,** Amtrak is well-suited to provide passenger rail service along Florida's east coast; and

**WHEREAS,** the reintroduction of Amtrak service along Florida's east coast would provide near-term jobs and economic stimulus for Florida's residents and businesses; and

**WHEREAS,** the Federal Government is seeking appropriate projects for inclusion in the Federal economic stimulus package to provide immediate and near-term job opportunities for projects; and

WHEREAS, the Intercity FEC Corridor Project (from Jacksonville to Miami) is an appropriate project for inclusion by the State of Florida in the American Recovery and Reinvestment Plan; and

WHEREAS, former work by Amtrak and FDOT includes plans for the improvements necessary to initiate Amtrak service on the FEC corridor;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. The City of Riviera Beach, hereby requests the assistance of Governor Crist and FDOT Secretary Kopelousos to prioritize the Amtrak/FEC Corridor Project (from Jacksonville to Miami) as part of the Federal economic stimulus package for the State of Florida.

SECTION 2. That this Resolution shall become official upon its passage.

PASSED and APPROVED this 15 day of July, 2009.

*******THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK*******

**APPROVED:**

**THOMAS A. MASTERS**
**MAYOR**

**DAWN S. PARDO**
**CHAIRPERSON**

**ATTEST:**

**ARRIE**

**JUDY L. DAVIS**
**CHAIR PRO TEM**

**BILLIE E. BROOKS**
**COUNCILPERSON**

**CEDRICK A. THOMAS**
**COUNCILPERSON**

**SHELBY L. LOWE**
**COUNCILPERSON**

**MOTIONED BY:** J. DAVIS

**SECONDED BY:** B. BROOKS

| | |
|---|---|
| **D. PARDO** | AYE |
| **J. DAVIS** | AYE |
| **B. BROOKS** | AYE |
| **C. THOMAS** | AYE |
| **S. LOWE** | AYE |

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 7/14/09

**RESOLUTION NO.** 85-09

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE PURCHASE AGREEMENT FOR THE PURCHASE OF POLICE PERSONNEL UNIFORMS FROM J.R. MANNO INC. OF LAKE WORTH, FLORIDA IN AN AMOUNT NOT TO EXCEED $83,425.00; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT FROM ACCOUNT NO. 001-0817-521-0-5209; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Riviera Beach Purchasing Department solicited bids from professional contractors to provide uniforms for all Police Personnel; and

**WHEREAS,** Six (6) firms responded to the City's request with offers ranging from $83,425.00 - $95,276.25; and

**WHEREAS,** J.R. Manno was the lowest responsive and responsible bidder and met the specifications and requirements of the bid.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA THAT:**

**SECTION 1.** The City Council hereby accepts and approves the proposed purchase agreement with J.R. Manno, Inc. of Lake Worth, Florida.

**SECTION 2.** The Mayor and City Clerk are authorized to execute the agreement on behalf of the City.

**SECTION** 3. The Finance Director is herby authorized to make payment from Account No. 001-0817-521-0-5209.

**SECTION 4.** This Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED this 5 day of August 2008 9

**REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY**

RESOLUTION NO. 85-09
PAGE 2

APPROVED:

DAWN S. PARDO
CHAIRPERSON

**ATTEST:**

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

**JUDY L. DAVIS**
**CHAIR PRO TEM**

**BILLIE E. BROOKS**
**COUNCILPERSON**

**CEDRICK A. THOMAS**
**COUNCILPERSON**

**SHELBY L. LOWE**
**COUNCILPERSON**

MOTIONED BY: B. Brooks

SECONDED BY: C. Thomas

| | |
|---|---|
| C. THOMAS | aye |
| D. PARDO | aye |
| B BROOKS | aye |
| J. DAVIS | aye |
| S. LOWE | out |

REVIEWED AS TO LEGAL SUFFICIENCY

**PAMALA HANNA RYAN, CITY ATTORNEY**

DATE: 7/16/0-+1----

PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this 5 day of , 2009 by and between J.R. MANNOS UNIFORMS, INC. hereinafter referred to as "Independen C ntractor," whose mailing address is 3115 Lake Worth Road, Lake Worth, Florida, 33461 and the CITY OF IV ERA BEACH, FLORIDA, a municipal corporation, hereinafter referred to as "City," whose address is 600 West ue Heron Boulevard, Riviera Beach, Florida, 33404.

WHEREAS, City of Riviera Beach as lead agency posted an RFP for Police Personnel Uniforms; and

WHEREAS, the Independent Contractor was the successful responsible bidder to sell uniforms for police personnel to the City of Riviera Beach; and

WHEREAS, the City desires and is authorized to participate in the purchasing process for police personnel uniforms from the Independent Contractor as provided in the RFP.

In consideration of the mutual covenants and promises set forth herein, the parties to this Agreement do hereby agree as follows:

I. Independent Contractor agrees to be bound by all the terms and conditions as set forth in the City of Riviera Beach Bid Number 20208.

2. To the extent that there exist a conflict between the quote and this Agreement, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

3. That the City does hereby retain the services of the Independent Contractor for the purpose of supplying police personnel uniforms and accessories as set forth more fully in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by reference.

4. The procedure for order placement shall be as follows: The City of Riviera Beach Police Department employee shall travel if required to the vendors' site and provide the vendor with a Purchase Order issued by the City of Riviera Beach, Purchasing Department. After the vendor has taken the needed measurements for the City Police employee the order should be filled immediately if possible. If items are available for immediate pickup, the vendor shall release them to the Police employee. Items placed on order must be delivered within three (3) days to the Riviera Beach Police Department, 600 West Blue Heron Blvd, Riviera Beach, Florida 33404, to the attention of Asset Manager, Russ Payne. After all items for a given purchase order have shipped or picked-up, the vendor will forward their invoice to Accounts Payable, City of Riviera Beach, P 0 Drawer 10682, Riviera Beach, Fl 33419-1682.

5. If through no fault of the using entity, uniforms or accessories are purchased which is not acceptable, Independent Contractor shall be responsible for correcting and replacing and shall bear all costs associated with above. In addition, if uniforms need altering Independent Contractor shall have two attempts to remedy. Any misfits or alterations which cannot be adjusted satisfactorily to the user will be rejected and Independent Contractor shall supply new uniforms within ten days. The City reserves the right to cancel this contract without cause upon thirty (30) days written notice; or sooner with cause. Nonperformance or unsatisfactory performance shall be considered grounds for immediate termination.

6. The City agrees to compensate the Independent Contractor in accordance with the fee proposal set as forth in Exhibit "A. The total and cumulative amount of this contract shall not exceed the amount of funds annually budgeted for these services. The City shall not reimburse the Independent Contractor for any travel costs incurred as a direct result of the Independent Contractor providing deliverables to the City in pursuance of the scope of work contained in Exhibit "A".

7. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for

obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Agreement from any federal, state, regional, county, or city agency.

8. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

9. All of the services required hereunder shall be performed by the Independent Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

10. The Independent Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

II. All of the Independent Contractor's personnel (and all Subcontractors) while on City premises will comply with all City requirements governing conduct, safety and security.

12. The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall <u>not</u> be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City.

13. Prior to execution of this Agreement by the City, the Independent Contractor shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the Independent Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the City's representative. Compliance with the foregoing requirements shall not relieve the Independent Contractor of its liability and obligations under this Agreement.

14. The Independent Contractor shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of $500,000 per occurrence to protect the Independent Contractor from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the Independent Contractor or by anyone directly employed by or contracting with the Independent Contractor.

IS. The Independent Contractor shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of $500,000 combined single limit for bodily injury and property damages liability to protect the Independent Contractor from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owed automobiles, including rented automobiles whether such operations be by the Independent Contractor or by anyone directly or indirectly employed by the Independent Contractor.

16. The Independent Contractor shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per Florida Statute 440.02.

17. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the Independent Contractor shall specifically include the City as an "Additional Insured."

18. The Independent Contractor shall indemnify and save harmless and defend the City, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Agreement.

19. The Independent Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of

any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which its employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

20. The Independent Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Independent Contractor or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the Independent Contractor's request, the City shall consider the facts and extent of any failure to perform the work and, if the Independent Contractor's failure to perform was without it or its subcontractors fault or negligence, as determined by the City, the Agreement Schedule and/or any other affected provision of this Agreement shall be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time. If the Independent Contractor is delayed at any time in the process of the work by any act or neglect of the City or its employees, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Independent Contractor's control, or by delay authorized by the Engineer pending negotiation or by any cause which the Engineer shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may decide. **In** the case of continuing cause of delay, only one (I) claim is necessary.

21. The Independent Contractor does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement.

22. The City reserves the right to make changes in the scope of work, including alterations, reductions therein or additions thereto. Upon receipt by the Independent Contractor of the City's notification of a contemplated change, the Independent Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change shall effect the Independent Contractor's ability to meet the completion dates or schedules of this Agreement. If the City so instructs in writing, the Independent Contractor shall suspend work on that portion of the work affected by a contemplated change, pending the City's decision to proceed with the change.

23. If the City elects to make the change, the City shall initiate an Agreement Amendment and the Independent Contractor shall not commence work on any such change until such written amendment is signed by the Independent Contractor and approved and executed by the City Manager for the City.

24. All materials and/or work to be furnished and/or installed by the Independent Contractor under this Agreement shall be guaranteed by the Independent Contractor for a period of one year from the date of final acceptance thereof by the City against defects in design, workmanship, or materials. Upon receipt of notice from the City of failure or defect of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the Independent Contractor at no expense to the City. **In** the event the Independent Contractor fails to make the necessary repairs or replacements within 30 days after notification by the City, the City may accomplish the work at the expense of the Independent Contractor.

25. The Independent Contractor shall continuously maintain adequate protection of all work from damage, and shall protect such work and the City' property from injury or loss arising during the term of the Agreement. Except for any such damage, injury, or loss which may be directly due to errors caused by the City or employees of the City, the Independent Contractor shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

26. Until acceptance of the work by the City, the City's property shall be under the charge and care of the Independent Contractor and the Independent Contractor shall take every necessary precaution against injury or damage to the work by the action of elements or from any other cause whatsoever, and the Independent Contractor shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the City.

27. This Agreement and any dispute, disagreement, or issue of construction or interpretation arIsmg hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

28. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

29. If any action, whether in law, equity or otherwise, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

30. Time is of the essence in all respects under this Agreement.

31. Failure of the City to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of City's right to enforce or exercise said right(s) at any time thereafter.

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

**AGREEMENT WITH THE CITY OF RIVIERA BEACH**

**IN WITNESS WHEREOF,** the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY _____
THOMAS A. MASTERS
MAYOR

INDEPENDENT CONTRACTOR

BY: _____
Name: T-H-O-M-A-S BARTOLEC
Title: IR. MANNOS UNIFORMS, INC.

ATTES
BY _____ 8/5/09
CARRIE E. WARD, MASTER MUNICPAL CLERK
CITY CLERK

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
PAMALA H. RYAN
CITY ATTORNEY

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
LARENCE D. WILLIAMS
POLICE CHIEF

DATE: 7/16/09

## UNIFORMS

| ITEM | STYLE # | DESCRIPTION | PRICE |
|---|---|---|---|
| Pants | 5.11 #74251 | 100% cotton tactical cargo pants | $32 (28-44)<br>$40 (46-54) |
| | 5.11 #74273 | Poly/cotton ripstop Tac1ite Pro cargo pants | $32 (28-44)<br>$40 (46-54) |
| | 5.11 #74003 | Poly/cotton ripstop TDU | $32 (28-44)<br>$40 (46-54) |
| | 5.11 #44058T | Poly/rayon Class B cargo pant | $44 (28-44)<br>$48 (46-54) |
| Shorts | 5.11 #73286 | Nylon tactical short | $34 (28-44) |
| | 5.11 #73285 | Cotton tactical short | $30 (28-44)<br>$33 (46-54) |
| | 5.11 #73287 | Poly/cotton ripstop Tac1ite Pro cargo shorts | $29 (28-44)<br>$32 (46-54) |
| Shirts | 5.11 #71048 | Short sleeve tactical polo - flat knit | $25 XS-2XL<br>$28 3XL |
| | 5.11 #72048 | Long sleeve tactical polo – flat knit | $29 XS-2XL<br>$31 3XL |
| | 5.11 #71049 | Short sleeve performance polo - synthetic knit | $29 XS-2XL<br>$323XL |

## EQUIPMENT

| ITEM | STYLE # | DESCRIPTION | PRICE |
|---|---|---|---|
| Duty belt | Dutyman #750 | 2 ¼ " Ballistic nylon Velcro | $26 |
| Inner belt | Dutyman #751 | 1 ½ " Inner ballistic nylon Velcro belt | $12 |
| Ranger belt | Dutyman #1721 | 1 34 " Leather Ranger belt | $16 |
| Keepers | Safariland #65-2PBL | Belt keeper, molded 2 snap, ¾ " STX TAC | $ 3 |
| Holster | Safariland #6280-83-131 | Level II retention, mid-ride | $65 |
| Radio Carrier | Safari1and #762-6-3 | mid pouch - fine tac | $32 |
| Handcuff pouch | Safriland #190-13PBL | STX tactical cuff pouch | $27 |
| O/C pouch | Safariland #38-4-13PBL | STX tactical pepper spray pouch | $22 |
| Baton holder | Safariland #35-F26 | STX tactical 26" baton holder | $20 |
| OC/pepper spray | Fox #FX-22H | Mark 3,2 oz. | $12 |
| Baton | ASP #F26FC | Steel Friction loc baton | $63 |
| Badge | | Rhodium<br>Gold electroplate | $32<br>$42 |
| Collar brass | Gold | RBPD | $ 6 |

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**BID COST PROPOSAL SHEET**
*(To Be Completed By the Bidder)*

**INVITATION FOR BID (IFB) 202-08**
**CITY OF RIVIERA BEACH POLICE UNIFORMS**

**Company:** J.R. Manno Uniforms Contact: Tom Bartolec

Address: 3115 Lake Worth Road, Palm Springs, FL 33461

**Phone number:** 561-439-4067 **Fax number:** 561-439-1511

**Email:** info@MannoUniforms.com

| ITEM | DESCRIPTION | QTY | COST EACH | EXTENDED COST |
|---|---|---|---|---|
| 1 | **Field Officers Shirts** | | | |
| | **Men Short** | **150** | $ 46 | $ 6900 |
| | **Men Long** | **125** | $ 50 | $ 6250 |
| | **Women Short** | **100** | $ 41 | $ 4100 |
| | **Women Long** | **100** | $ 50 | $ 5000 |
| 2 | **Field Officers Trousers** | | | |
| | **Men Trouser** | **150** | $ 50 | $ 7500 |
| | **Women Trouser** | **100** | $ 50 | $ 5000 |
| 3 | **Executive** | | | |
| | **Blouse/Jacket** | **50** | $ 148 | $ 7400 |
| | **Trousers** | **50** | $ 62 | $ 3100 |
| 4 | **Admin/Unsworn Shirts** | | | |
| | **Men Short** | **125** | $ 26 | $ 3250 |
| | **Men Long** | **150** | $ 21 | $ 4050 |
| | **Women Short** | **125** | $ 27 | $ 3375 |
| | **Women Long** | **100** | $ 20 | $ 2000 |
| 5 | **Admin/Unsworn Trousers** | | | |
| | **Men Trousers** | **150** | $ 26 | $ 3900 |
| | **Women Trousers** | **100** | $ 26 | $ 2600 |
| 6 | **Tactical Unit Uniform** | | | |
| | **Men PDU Pants** | **100** | $ 32 | $ 3200 |
| | **Women PDU Pants** | **100** | $ 32 | $ 3200 |
| | **Men PDU Shorts** | **100** | $ 26 | $ 2600 |
| | **Women PDU Shorts** | **100** | $ 26 | $ 2600 |
| 7 | **Admin/Unsworn Sweaters** | **100** | $ 59 | $ 5900 |
| | | | GRAND TOTAL | 83,425 |

* See bid sheets

**Please See Below**

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PRICING PAGE

## Field Officers Shirts Manufactured by Flying Cross or equal Pricing Pages

Item 1: Shirts, LAPD Blue wlzipper front, 75% Dacron Polyester /24% Wool/1 % Lycra in manufacturers standard sizes:

- Shoulder straps cross-stitched symmetrically for neater appearance
- 7-button placket front that adds a concealed zipper closure
- 5 silicone creases-2 in front, continuing through the pockets and pocket flaps, and 3 in back
- Pleated pockets and scalloped pocket flaps with Velcro® closures and matching buttons
- Hidden pencil compartment inside left breast pocket
- Metal eyelet badge holder
- High luster Twill lining on collar and yoke

Horace Small / The Force

| Quantity | Description | | | Total |
|---|---|---|---|---|
| | NAVY | | | 6 DO |
| 150 | Men's short sleeve, color: White | | | 5400 |
| | NAV | | | 6250 |
| 125 | Men's long sleeve, color: White | HS 1125 | | 75 |
| | NAVY | HS L448 | 46 | 4600 |
| 100 | Women's short sleeve, color: White | HS 1278 | 36 | 3600 |
| | ..VY | HS 1447 | 50 | 5000 |
| 100 | Women's long sleeve, color: White | HS 1177 | 39 | 3900 |

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**PRICING PAGES**

## Field Officers Trousers by Flying Cross or equal Pricing Pages

**Item** 2: Trousers, LAPD Blue w/zipper front, 75% Dacron Polyester *1*24% Wool *1*1% Lycra in manufacturer's standard sizes, dress style, fabric shall be machine washable:

- Quarter top pockets
- *3/4"* wide belt loops
- C Tab on left hip pocket
- Exclusive Freedom Fit® ll waistband with 2-zone stretch comfort
- Tru-Grip rubberized strip to prevent shirttails from pulling out
- Lintrak creases for a professional appearance
- Watch pocket
- Women's Sizes 2-24
- Men's Sizes 28 – 50 waist
- Freedom Flex waistband for extra waistband comfort

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 150 | Men's trousers, color: LAPD BLUE | HS 2331 | 50 | 7500 |
| 100 | Women's trouser, color: LAPD Blue | HS 2332 | 50 | 5000 |

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**PRICING PAGES**

**Item** 3: Executive Blouse/Jacket. Navy Blue w/gold buttons, 55% Dacron Poly, 45% Wool in manufacturer's standard sizes:

13-13.5 oz. 55/45 Dacron PolyesterlWool, Serge
Fully lined with 4-button front with notched lapels
Two box pleated breast pockets with scalloped flaps
Two lower simulated pockets with scalloped flaps
Back center vent design
Shoulder pads and coat front tailoring to enhance the shape of the coat
Inside breast pocket and lined inside sweat shields
Cross-stitched shoulder straps and badge tab

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 50 | Men's Executive Blouse/Jacket, color: Navy Blue | Newport Harbor 209 BL | 148 | 7400 |

**Item** 3A: Executive Trousers, Navy Blue w/zipper front, 55% poly, 45% wool.

- Quarter top pockets
- Keystone belt loops
- Tab on left hip pocket
- O Watch pocket
- C Men's Sizes 28 - 50 waist

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 50 | Men's executive trousers, color: Navy BLUE | Newport Harbor 230 BL | 62 | 3100 |

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**PRICING PAGES**

**Administration/Unsworn Employees Shirts by Flying Cross or equal Pricing Pages**

**Item** 4: Shirts Marine Blue, w/zipper front, 65% poly 35% cotton in manufacture's standard size.
Shoulder straps cross stitched symmetrically for neater appearance
7-button placket front (on most models)
Lined finish on band and yoke made of same shirt material
Pleated pockets and scalloped pocket flaps with Velcro® closures
5 sewn-increases-2 in front, continuing through the pocket and pocket flap, and 3 in back-(on most models)
Full badge sling
Hidden pencil compartment inside left breast pocket
Optional concealed zipper may be added on placket front styles

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 125 | Men's short sleeve, color: Marine Blue | LIBERTY 732 MPB<br>HS 1210 | 26<br>27 | 3250<br>3375 |
| 150 | Men's long sleeve, color: Marine Blue | LIBERTY 722 MPB | 27<br>30 | 4050<br>4500 |
| 125 | Women's short sleeve, color: Marine Blue | HS 1268 | 27 | 3375 |
| 100 | Women's long sleeve, color: Marine Blue | HS 1167 | 30 | 3000 |

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**PRICING PAGES**

**Administration/Unsworn Employees Trousers by Flying Cross or equal quality**

**Item** 5: Trousers, LAPD Blue w/zipper in the front, 100% poly in manufacturer's standard sizes, dress style, fabric shall be machine washable:

- 15-15,5-oz Gabardine weave
- Quarter top pockets
- 3/4" wide belt loops
- Tab on left hip pocket
- Exclusive Freedom Fit® II waistband with 2-zone stretch comfort
- Watch pocket
- Women sizes 2-24
- Men sizes 28-50 waist

**PRICING PAGES**

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| | | LIBERTY 600MNV | 26 | 3900 |
| 150 | Men's trousers, color: LAPD Blue | HS2J49 | 28 | 4200 |
| | | LIBERTY 600FNV | 26 | 2600 |
| 100 | Women's trouser, color: LAPD Blue | HS2128 | 28 | 2800 |

**PRICING PAGES**

**Tactical Unit Uniform SOU Pantsl Shorts by Flying Cross or equal Pricing Pages**

**Item** 6: BDU Pants, LAPD Blue wlzipper in the front 65% poly 35% cotton in manufacturer's standard size.

- C 6.1 oz 65/35 Polyester/Cotton, Rip-Stop
- C Hook and eye waistband closure with durable vision zipper fly
- C Two military-styled, partially bellows-styled patch cargo pockets with Velcro®-secured flaps
- ☐ Convenient cell phone patch pocket on right cargo pocket with Velcro®-secured flap
- ☐ Hip pockets with rectangular flaps and Velcro® closures
- ☐ Oversized belt loop and adjustable tabs at waist
- ☐ Double-fabric reinforced seat and knees
- C Nylon drawstring leg ties
- ☐ Women's sizes 2-24
- ☐ Men's sizes 28-50 waist

| Quantity | Description | MFG/STOCK# | | Unit Price | | Total |
|---|---|---|---|---|---|---|
| | | 5.11 | Propper | 5.11 | Propper | |
| 100 | Men's PDU Pants, color: LAPD Blue | 74280 | F5212-38 | 32 | 31 | 3200 / 3100 |
| 100 | Women's PDU Pants, color: LAPD Blue | 64359 | N/A | 32 | N/A | 3200 |
| 100 | Men's PDU Shorts, color: LAPD Blue | 1328J | F5260-38 | 26 | 29 | 2660 / 2900 |
| 100 | Women's PDU Shorts, color: LAPD Blue. | 6306() | N/A | 26 | N/A | 2600 |

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**PRICING PAGES**

**Administration/Unsworn Employees Sweaters by Flying Cross or equal Pricing Pages**

**Item 7:** Sweaters, Navy Blue Rib Knit 70% non pilling acrylic 30% long staple wool in manufacturer's standard size.

- Constructed of 70% non-pilling Acrylic and 30% long staple Wool
- V-neck styling
- 65/35 Poly/Cotton gabardine weave forearm and elbow patches
- Shoulder straps
- Optional cloth badge tab and/or nameplate may be added
- Sizes S-5X

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 100 | Unisex Navy Blue Sweater | Blauer #210 | 59 | 5900 |

**PRICING PAGES**

**Caps or Hats**

**Item** 8: Uniform Cap, Navy Blue, 70% acrylic, 30% wool, round top, fitted with manufacturer's standard size.

- o 1 3/8 inch Pro Twill sweatband with nylon backing
- o Gray undervisor
- o Pre-curved visor
- o Fitted sizes 6 7/8 thru 7 5/8

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Unisex Navy Blue Caps | Flexfit | $14. | 14 |

**PRICING PAGES**

**Item** 8A: Five Star Military Style fitted Hat, 100% Poly with sweatband. Midway Cap or equal quality.

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Military Style Navy Blue Hats | Midway - 5-Star | $32. | 32 |

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**PRICING PAGES**

## MISC ITEMS

**Item** 9: Outerwear Jacket, LAPD Blue 3-ply Taslinized Nylon outershell.

- Windproof, waterproof, and breathable Gore-Tex® fabric lining
- Bi-swing back for greater freedom of movement
- 6-snap storm front with 2-way zipper and high neck windcollar
- Four inverted pleat patch pockets with side Kasha hand warmer pockets
- Side vents with zippers and elasticized snap tabs for easy access to equipment
- Hidden "pit" zipper access for emblem application
- Removable shoulder straps and permanent badge tab
- Includes Standard Safety Package with reflective stripes under back of collar, on reverse of sleeve tabs, and reflective pull-out tabs inside breast pockets
- Black zip-out Thinsulate™ Insulation liner for excellent warmth

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Unisex LAPD Blue Outerwear Jackets | Blauer #6120 w/ SCT6116 | $115. | 115. |

**Item** 9A: Outerwear Jacket, LAPD Blue 3-ply Taslinized Nylon Qutershell.

- Durable Taslan nylon outer shell fabric with patented breathable printed backcoating
- B.DRV® waterproof, windproof, breathable fabric lining
- ANSIJlSEA 107-2004 Class ll Certified
- Reverses to hi-vis yellow polyester for better fade resistance
- Seams sealed with thermal tape
- Drop shoulder design for unrestricted movement
- Perimeter facing prevents "peek through"
- 2"" SCOTCHLITETM band around chest and sleeves on hi-vis side
- 10"" side zippers with snap-tab closures
- Flapped double-entry lower pockets with uniform buttons
- Pit zippers for access to shell
- 2-piece sleeves

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- Delrin zipper front / Blue and Gold buttons
- Front zipper extends to collar top edge
- Military style epaulets with uniform buttons
- Badge tab on both sides
- Microphone tabs on left and right side on hi-vis side only
- 26"" long

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Unisex LAPD Blue 3-ply Taslinized Nylon outershell | Blauer #6001 | $115 | 115 |

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PRICING PAGES

MISC ITEMS

Item 10: Citation Holder, metal, 123/8" H x 53/8" W x ¾" 0

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Citation Holder, Metal | Saunders # 12205 | $ 19 | 19 |

Item 11: Handcuff case, black, nylon for hinged nickel cuffs

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Handcuff case/black | BIANCHI # 7300 | 19 | 19 |

Item 11A: Handcuff case, black, nylon for hinged silver cuffs

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Handcuff case/black. | BIANCHI # 7300 | 19 | 19 |

Item 12: Handcuff case, Smith & Wesson, hinged, sliver

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Handcuff case/hinged silver | Bianch. # 7300 | 19 | 19 |

Item 12A: Handcuff case, Smith & Wesson, hinged, nickel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Handcuff case/hinged nickel | Bianch. # 7300 | 19 | 19 |

PRICING PAGES

MISC ITEMS

Item 13: Radio holder, Bianchi Universal for Motorola HT 750, swivel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Radio holder | Bianchi # 73145 | $28. | 28 |

Item 14: Gun belt, nylon, black, sizes 28 - 50

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Gun belt | Dutyman - # 750 | 26. | 26 |

Item 15: Belt keepers, nylon, black snap

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Belt keepers | Dutyman # 724 | 2. | 2 |

Item 16: Glove pouch, nylon black snap

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Glove pouch | Bianchi 7315 | 16. | 16 |

Item 17: Holder, Safariland 88111, nylock for Glock 21

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Holder for Glock 21 | # 0 76 | 119. | 119 |

**PRIC**ING PAGES

Mise ITEMS

Item 18: Monadnock #2507 baton, 24", original steel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Baton 24" | 2507 | $ 47. | 47 |

Item 19: Monadnock #2506 baton, 21", original steel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Baton 21" | 2506 | $ 45. | 45 |

Item 19A: Monadnock #2506 baton, 18", original steel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Baton 18" | 2500 | 42. | 42 |

Item 20: Monadnock holder #3006

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Holder | 3006 | 19 | 19 |

Item 21: Safariland S8111 holster for Glock 22/23

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Holster glock 22/23 | 070 | 119. | 119 |

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**PRICING PAGES**

**MISC ITEMS**

**Item** 22: ASP holder, 21", sidebreak, nylon weave

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Sidebreak | # 52432 | $25 | 25 |

**Item** 23: Raincoat, raincoat with reflective package Blauer Defender 633V, vented discontinued

- o Reversible waterproof, windproof, breathable 3-layer CROSSTECH® fabric
- o NFPA 1999 Certified (2003 Edition)
- o ASTM F903 Certified to resist five common accident scene chemicals
- o ANSIIISEA 107-2004 Class II Certified (hi-vis yellow only)
- o Optional upgrade to ANSI III with 2"" reflective stripe added above hem
- o Convertible side pockets with waterproof zippers provide the convenience of pocket access from both hi-vis and dark sides of jacket
- o Seams sealed with GORE-SEAM® tape
- rJ Now water-repellent treated on both hi-vis and dark sides
- o Double storm fly front with hook-and-loop fasteners
- o Sport collar zips to top
- o Go-through side openings with waterproof zippers
- o Adjustable cuff closures
- o 2"" SCOTCHLITETM reflective trim on hi-vis side around chest, back, cuffs, and sleeves
- o Badge tabs on left chest of both sides
- o 47"" long
- o 9101 is matching hat cover
- o 9123 is a snap-on hood (order snaps on coat)
- o 9690-7 includes epaulets (navy to hi-vis only)(GORE-TEX® only)
- o Blue or Gold Button

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Raincoat | # 733 | $115 | 119 |

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PRICING PAGES

MISC ITEMS

Item 24: OC Spray pouch, nylon for canisters up to 4 ¼"

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Spray pouch | Bianchi 7307 | $19 | 19 |

Item 25: Gear bag, equivalent to Gall's Street Pro

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Gear bag | 5.11 #59012 | 37 | 37 |

Item 26: Whistle, silver

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Whistle | HWC NPW-1 | 2. | 2 |

Item 26A: Whistle, nickel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Whistle | HWC NPW-1 | 2. | 2 |

Item 27: Cap, Air Force style, eyelet for hat badge

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Cap | Bayly - 9807 | 50. | 50 |

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**PRICING PAGES**

**MISC ITEMS**

**Item** 28: Hat expansion straps, silver

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Silver expansion straps | Bayly - midway w. Albaum | $ 5. | 5. |

**Item** 29: Hat expansion straps, gold

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | Gold expansion straps | Bayly - midway w. Albaum | 5. | 5 |

**Item** 30: Hat rain covers

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Hat rain covers | Bayly - midway w Albaum | 4. | 4 |

**Item** 31: Riot Helmet, Premier Crown, Model C3-700 Two-tone

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Riot Helmet | PC-700 | 119, | 119 |

**Item** 32: Face shield to fit above helmet

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Face Shield | PC TFSK1 | 39. | |

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PRICING PAGES

MISC ITEMS

Item 33: B.D.U. Pants, woodland camo, same as item #6

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | B.D.U Pants | Same as Item 6 | | |

Item 34: B.D.U. shirt, woodland camo

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | B.D.U shirts | Prepper F5454 | $ 22. | 22 |

Item 35: Patch, 8g1. Strip, gold over navy

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | 5gt. Patch | HWC Chevron - | 2. | 2. |

Item 36: Patch, hash mark, gold over navy

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | hash mark patch | Fla Patch | 1. | |

Item 37: Patch, motor wheel

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | motor wheel patch | Fla Patch | 2. | |

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**PRICING PAGES**

MISC ITEMS

Item 38: Patch, Lake Wprth Police Department

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 -100 | motor wheel patch | FL Patch | 3. | 3 |

Item 39: Patch, Tactical Patrol Force

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | tactical patrol patch | FL Patch | 2 | 2 |

Item 40: Patch, Badge, gold

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | gold patch | FL Patch | 2 | 2 |

Item 41: Patch, Badge, silver

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | gold patch | FL Patch or | 2 | 2 |

Item 41A: Patch, Badge, nickel

| Quantity | Description | MFG/STOCK# | Unit Price | Total |
|---|---|---|---|---|
| 1 | gold patch | FL Patch | 2 | ?- |

## UNIFORMS

| ITEM | STYLE # | DESCRIPTION | PRICE |
|---|---|---|---|
| Pants | 5.11 #74251 | 100% cotton tactical cargo pants | $32 (28-44)<br>$40 (46-54) |
| | 5.11 #74273 | Poly/cotton ripstop Taclite Pro cargo pants | $32 (28-44)<br>$40 (46-54) |
| | 5.11 #74003 | Poly/cotton ripstop TDU | $32 (28-44)<br>$40 (46-54) |
| | 5.11 #44058T | Poly/rayon Class B cargo pant | $44 (28-44)<br>$48 (46-54) |
| Shorts | 5.11 #73286 | Nylon tactical short | $34 (28-44) |
| | 5.11 #73285 | Cotton tactical short | $30 (28-44)<br>$33 (46-54) |
| | 5.11 #73287 | Poly/cotton ripstop Taclite Pro cargo shorts | $29 (28-44)<br>$32 (46-54) |
| Shirts | 5.11 #71048 | Short sleeve tactical polo - flat knit | $25 XS-2XL<br>$28 3XL |
| | 5.11 #72048 | Long sleeve tactical polo - flat knit | $29 XS-2XL<br>$31 3XL |
| | 5.11#71049 | Short sleeve performance polo - synthetic knit | $29XS-2XL<br>$323XL |

## EQUIPMENT

| ITEM | STYLE # | DESCRIPTION | PRICE |
|---|---|---|---|
| Duty belt | Dutyman #750 | 2 ¼ " Ballistic nylon Velcro | $26 |
| Inner belt | Dutyman #751 | 1 ½ " Inner ballistic nylon Velcro belt | $12 |
| Ranger belt | Dutyman #I721 | 1 34" Leather Ranger belt | $16 |
| Keepers | Safariland #65-2PBL | Belt keeper, molded 2 snap, ¾ " STX TAC | $ 3 |
| Holster | Safariland #6280-83-131 | Level II retention, mid-ride | $65 |
| Radio Carrier | Safariland #762-6-3 | mid pouch - fine tac | $32 |
| Handcuff pouch | Safriland #190-13PBL | STX tactical cuff pouch | $27 |
| O/C pouch | Safariland #38-4-13PBL | STX tactical pepper spray pouch | $22 |
| Baton holder | Safariland #35-F26 | STX tactical 26" baton holder | $20 |
| DC/pepper spray | Fox #FX-22H | Mark 3,2 oz. | $12 |
| Baton | ASP #F26FC | Steel Friction loc baton | $63 |
| Badge | | Rhodium<br>Gold electroplate | $32<br>$42 |
| Collar brass | Gold | RBPD | $ 6 |

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**PRICING PAGES**

**MISC ITEMS**

**Item 42:** Patch, Traffic Homicide Investigation

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | traffic homicide patch | FI Patch | 2. | 2 |

**Item 43:** Patch, K-9

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | K-9 Patch | FI Patch | 2. | 2 |

**Item 44:** Sew on patch (shirt **not** purchased from vendor)

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Sew on patch | | 2. | 2 |

**Item 45:** Sew on patch (shirt purchased from vendor)

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Sew on patch | | Ø | 0 |

2 Seam on free

**Item 46:** Hem uniform pants **(not** purchased from vendor)

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Sew on patch | | 3. | 3 |

H. MANNO UNIFORMS
& POLICE EQUIPMENT
3115 LAKE WORTH RD.
WORTH, FL 33461



PRICING PAGES

MISC ITEMS

Item 47:!Hem uniform pants (purchased from vendor)

| Quantity | Description | MFG/STOCK # | Unit Price | Total |
|---|---|---|---|---|
| 1 | Sew on patch | | Ø no charge | 0 |

GRAND TOTAL (if bidding on all items noted above)

*Note Vendor markup must be without any taxes. For example, a vendor cannot add taxes and then take the total and apply their markup. The City of Riviera Beach will not pay invoices with markups applied on taxes.

RESOLUTION NO. 86-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING RFP NO. 193-08 TO THE FOLLOWING TOW COMPANIES: KAUFF'S OF PALM BEACH INC., OF MANGONIA PARK, FLORIDA, LAKE PARK TOWING OF LAKE PARK, FLORIDA, PALM BEACH GARDENS TOWING OF LAKE WORTH, FLORIDA, AND SHEEHAN'S TOWING OF WEST PALM BEACH, FLORIDA TO PROVIDE TOWING AND STORAGE SERVICES FOR A PERIOD OF TWO (2) YEARS WITH A RENEWAL OPTION FOR THREE (3) ADDITIONAL TWELVE (12) MONTH PERIODS; COMMENCING SEPTEMBER 21, 2009; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID SERVICE AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the provisions of the City's Procurement Ordinance (Ordinance No. 2412), request for proposals were publicly solicited to provide Towing and Storage services for The City of Riviera Beach Police Department; and

WHEREAS, the City of Riviera Beach is empowered by Section 323.002, Florida Statutes, to enter into contracts with one or more wrecker operators.

WHEREAS, the City and the Tow Companies desire to exercise such option.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA THAT:

SECTION 1. The City Council hereby accepts staff's recommendation and the negotiated terms for towing and storage services and awards a professional service agreement to the following vendors: Kauff's of Palm Beach Inc., of Mangonia Park, Florida, Lake Park Towing of Lake Park, Florida, Palm Beach Gardens Towing of Lake Worth, Florida and Sheehan's Towing of West Palm Beach, Florida.

SECTION 2. The City Council authorizes a two year agreement with three (3) twelve month renewal periods and authorizes the Mayor and City Clerk to execute same..

SECTION 3. The City Council authorizes the City Manager or Purchasing Director to execute contract renewals as appropriate.

SECTION 4. This Resolution shall take effect upon its passage and approval by the City Council.

RESOLUTION NO. 86-09
PAGE 2

APPROVED:

**THOMAS A. MASTERS**
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

**CARRIE E. WARD**
MASTER MUNICIPAL CLERK
CITY CLERK

**JUDY L. DAVIS**
**CHAIR PRO TEM**

**BILLIE E. BROOKS**
**COUNCILPERSON**

**CEDRICK A. THOMAS**
**COUNCILPERSON**

**SHELBY L. LOWE**
**COUNCILPERSON**

MOTIONED BY: B. Brooks

SECONDED BY: C. Thomas

| | |
|---|---|
| C. THOMAS | aye |
| D. PARDO | aye |
| J. DAVIS | aye |
| B. BROOKS | aye |
| S. LOWE | out |

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 7/21/09

# TOWING AND STORAGE AGREEMENT

THIS AGREEMENT, made and entered into this 5th day of August 2009, by and between the City of Riviera Beach, a municipality in the State of Florida, herein referred to as the "City", and LARK PARK TOWING, a corporation authorized to do business in the State of Florida, hereinafter referred to as the" CONTRACTOR", whose Federal J.D. 65-0413151.

**WITNESSETH:**

**WHEREAS,** the CITY issued its ***Request for Proposals for Towing and Storage Services #19308, (collectively, the "RFP")*** pursuant to state and local law to solicit proposals to provide vehicle towing and storage services for the CITY; and

**WHEREAS,** the CONTRACTOR responded to the *RFP* by submitting its bid proposal and agreeing to abide by the CITY'S rate schedule, which Proposal was accepted by the CITY; and

**WHEREAS,** the CONTRACTOR along with three (3) other Contractors have been selected; and

**WHEREAS,** the *RFP* provides for a two (2) year contract with three (3) additional twelve (12) month renewal periods; and

**WHEREAS,** although the ***RFP,*** the Proposal and the Rate Schedule address in some detail the services to be provided, there are certain issues not addressed by these documents which the parties hereto desire to address.

**NOW, THEREFORE,** for and in consideration of the foregoing promise and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and the CONTRACTOR hereby covenant and agree as follow:

## SCOPE OF AGREEMENT, TERMS AND CONDITIONS

1. The vehicle towing and storage services to be provided to the CITY by the CONTRACTOR shall be on a non-exclusive, rotating basis with exception to Special Operations performed by the Police Department. One Contractor will be selected from a Special Operation Rotation schedule and will be required to stage at a minimum four (4) towing vehicles at the City of Riviera Beach Police Department.

2. It is the CITY'S desire to contract with several firms deemed qualified and responsive by the CITY. A representative of City of Riviera Beach Police Department, ("Police Department"), the affected Department, or any authorized representative of the CITY will accept and distribute all tow calls on a rotation basis as more fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

3. The owner or person in possession of any vehicle which has been involved in an accident or whose vehicle has been incapacitated in any other manner, as well as a detained driver of any vehicle which will not be impounded by the Police Department, will be given the opportunity to contact a wrecker or tow truck company of his/her own choice if the disabled vehicle does not create a hazardous condition and a reasonable response time can be expected. Said person shall further be given

# TOWING AND STORAGE AGREEMENT

THIS AGREEMENT, made and entered into this 25 th day of May 2009, by and between the City of Riviera Beach, a municipality in the State of Florida, herein referred to as the "City", and LARK PARK TOWING, a corporation authorized to do business in the State of Florida, hereinafter referred to as the" CONTRACTOR", whose Federal J.D. 65-0413151.

WITNESSETH:

WHEREAS, the CITY issued its *Request for Proposals for Towing and Storage Services #19308, (collectively, the "RFP")* pursuant to state and local law to solicit proposals to provide vehicle towing and storage services for the CITY; and

WHEREAS, the CONTRACTOR responded to the *RFP* by submitting its bid proposal and agreeing to abide by the CITY'S rate schedule, which Proposal was accepted by the CITY; and

WHEREAS, the CONTRACTOR along with three (3) other Contractors have been selected; and

WHEREAS, the *RFP* provides for a two (2) year contract with three (3) additional twelve (12) month renewal periods; and

WHEREAS, although the *RFP*, the Proposal and the Rate Schedule address in some detail the services to be provided, there are certain issues not addressed by these documents which the parties hereto desire to address.

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2. It is the CITY'S desire to contract with several firms deemed qualified and responsive by the CITY. A representative of City of Riviera Beach Police Department, ("Police Department"), the affected Department, or any authorized representative of the CITY will accept and distribute all tow calls on a rotation basis as more fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

3. The owner or person in possession of any vehicle which has been involved in an accident or whose vehicle has been incapacitated in any other manner, as well as a detained driver of any vehicle which will not be impounded by the Police Department, will be given the opportunity to contact a wrecker or tow truck company of his/her own choice if the disabled vehicle does not create a hazardous condition and a reasonable response time can be expected. Said person shall further be given

the opportunity of having such vehicle towed to a garage or compound other than that of the CONTRACTOR.

4. When authorized by a representative of the Police Department, the affected Department or any authorized representative of the City, CONTRACTOR shall remove vehicles from the streets or other public property lying within the City limits and any abandoned, wrecked or junked vehicles on private property declared to be a nuisance by the City when so informed by the City.

5. Except as the law may otherwise require, the CONTRACTOR shall not move any vehicles to any location other than that designated by the City's Police Officer or other authorized City representative, or owner or person in lawful possession of the vehicle.

6. A tow as used herein is the actual removal of a vehicle. No double charges or second tows are allowed. Additional hook-ups will not incur another tow charge. No mileage charges are allowed from any point within the City limits.

7. The CONTRACTOR agrees to have no marking, lettering or symbol on any vehicle, building or correspondence that indicates or tends to indicate any official relationship between the CONTRACTOR and the CITY.

8. The CITY, vehicle owner, driver, or person lawfully in possession of such vehicle, shall have the right to cancel a request for services at any time, including up to the time of hook-up, without any charge being incurred. The CONTRACTOR agrees that the mere response to a service call scene without other action does not constitute a service for which charges are applicable. However, if the tow is cancelled, CONTRACTOR will retain its position in the rotation.

## CONTROLLING PROVISIONS

9. To the extent that there exists a conflict between the RFP, the Proposal, the Rotation Schedule and the Rate Schedule, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

## TERM OF AGREEMENT

10. The period of the Agreement shall be for two (2) years (24 months) with an option to renew the contract for three (3) additional twelve (12) month periods. The option for renewal will only be exercised upon mutual written agreement and with all original terms, conditions and specifications of the Agreement remaining the same with no deviations.

a. Price adjustments will be made after the second year of the contract and upon the first renewal based on the consumer price index (CPI). Unit prices shall be adjusted upward or downward annually to reflect changes in the CPI for all Urban Consumers (CPI - U) subcategory "South Urban", subsection "Fuels". Beginning on January IS, 20 I I and upon the first renewal on January 15, 2012, the unit contract prices shall be adjusted to reflect the increase or decrease in the CPI for the immediately preceding twelve (12) month period of January to January. The Independent Contractor shall notify the City in writing of increases that are based on the CPl. as provided in this section, no less than thirty (30) days prior to their implementation. Should the CPI be discontinued or substantially modified, an alternate index shall be chosen by mutual agreement of the Independent Contractor and the City.

## RESPONSE

11. Calls under this Agreement from the Riviera Beach Police Department will be given priority over all other non-emergency calls.

12. CONTRACTOR shall be expected to arrive at the site within twenty (20) minutes of the call. CONTRACTOR assumes all liability in meeting the twenty (20) minute response time including, but not limited to, any and all damages resulting from traffic accidents and motor vehicle infraction fines.

## LOCATION

13. CONTRACTOR shall have a Place of Business and Storage Facility located within a ten (10) mile radius of the Riviera Beach Police Station, ("Police Station").

14. CONTRACTOR agrees that it shall provide to the CITY, free of charge, all necessary towing, road service and storage required by the CITY in the operation and maintenance of all CITY vehicles. This includes towing from the CITY garage or the closest qualified commercial maintenance facility selected by the CITY to anywhere in Palm Beach, Broward, and Martin Counties. CONTRACTOR shall also provide, at no cost to the CITY, "stand-by" wrecker equipment and personnel whenever requested by the Police Department for Special Operations including, but not limited to, "sting operations", traffic checkpoints, or other special events as designated by the Chief of Police or his designee.

15. Services related to CITY owned or leased vehicle(s) or trailer (s) should be logged and forwarded by CONTRACTOR on a monthly basis to the CITY'S Police Department Asset Manager. All such logs shall identify the vehicle (s) or trailer (s) towed or the service rendered, the location from which it was towed, and the hours and dates applicable to CONTRACTOR'S services with respect to the vehicle (s) or trailer (s). The "service ticket" shall include the signature of the authorized CITY employee approving the tow of the CITY vehicle or trailer. CONTRACTOR shall provide such information, until such time as a form is provided to it by CITY, which then must be completed by CONTRACTOR

## CRIME SCENE CONFISCATED SPECIAL "HOLD STORAGE"

16. Vehicles towed for the Police Department that are seized as the result of any Special Operations and/or vehicles which will be held pending forfeiture and/or for other investigative purposes shall be towed by CONTRACTOR at no cost to the CITY.

17. Vehicles which have been marked "HOLD" by the Police Department shall be stored at the compound of the CONTRACTOR for a period of seven (7) business days excluding weekends without charge, in order to properly process the vehicle and conduct any necessary investigation. Absent a Court Order to the contrary, Police Department Personnel shall be permitted access to such vehicle at all reasonable times. CONTRACTOR agrees to seek recovery of any and all storage charges from the owner of such vehicle or in the sale of such vehicle as provided for by Sections 713.78 and 715.05. Florida Statutes.

18. Any vehicle towed or stored as a result of being marked "HOLD" relative to a crime scene investigation shall be handled with gloves (i.e. cloth, rubber, or leather) by the wrecker operator and towed to a facility or location that meets the specifications outlined in article 60.

19. Crime Scene vehicles shall be stored to prevent physical contamination or degradable evidence from deteriorating and shall be stored inside a facility. If inside storage is not available, CONTRACTOR shall surrender the tow and fee to the next tow company in rotation. This requirement shall not prevent CITY from removing the vehicle or trailer and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

20. If laboratory work on a crime scene vehicle is required and the vehicle must be processed at a location other than CONTRACTOR'S facility, the vehicle shall be transported to the CITY designated location and charged a basic tow rate listed on Exhibit "B" excluding mileage and billed to the vehicles owner.

21. Confiscated vehicles or vehicles involved in litigation shall be protected from the elements, preferable at an inside storage facility, as to maintain the vehicle in its condition at the time of towing. This shall not prevent the CITY from removing the vehicle and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

## CODE ENFORCEMENT

22. Vehicles to be towed and stored pursuant to the directive of the City of Riviera Beach Code Enforcement Department, (hereinafter "Code Enforcement"), shall also be subject to the rotation schedule as more fully set forth in Exhibit "A".

23. CONTRACTOR'S failure to perform Code Enforcement tows more than two (2) times during any twelve (12) month period may result in suspension or removal from the CITY rotation schedule. When vehicles, boats or trailers are towed from public property, including right-of-ways, after the appropriate notification, CONTRACTOR has the option of destroying the vehicle or keeping it safe for sale pursuant to Sections 713.78 and 715.05, Florida Statutes. CONTRACTOR shall remove, tow and store all such vehicles, boats, and trailers, at no charge to the CITY. CONTRACTOR hereby agrees to seek payment for such services solely from the owner of such vehicles, boats or trailers or in the sale of such vehicles, boats or trailers as set forth herein.

24. When vehicles, boats or trailers are towed from private property after receiving the appropriate notification, CONTRACTOR must proceed in accordance with the provisions set forth in Section 713.78 and 715.05, Florida Statutes and store the vehicles, boats, or trailer for a minimum period of thirty-five (35) days, after which time CONTRACTOR has the option to destroy or sell the vehicles, boats or trailers pursuant to Section 713.78, Florida Statutes. Any breach of any statutory provision with respect to such destruction or sale shall constitute a breach of this Agreement and shall be grounds for termination of this Agreement.

25. CONTRACTOR agrees that the CITY shall in no way compensate CONTRACTOR for such removal and/ or storage and CONTRACTOR shall look to the vehicle, boat or trailer owner or the remedies as provided by the statutes referenced herein for payment.

## COMPENSATION

26. Services performed under this Agreement shall be charged for and compensated in accordance with the Rate Schedule attached hereto as Exhibit "8" and incorporated herein by reference.

27. The CONTRACTOR shall be responsible for the collection of all tow, storage, labor, service and mileage charges and fees. The CITY shall in no way be responsible for the collection or payment of any charge for services rendered by reasons of its having dispatched service in accordance with this Agreement. All such services rendered shall be charged to the owner of the towed or serviced vehicle or other lawful claimant in possession of such vehicle.

28. Storage fees shall be charged at the rates stated in the Rate Schedule for each twenty-four (24) hour period. No storage fee shall be applied until a vehicle is held in excess of twenty-four (24) hours.

29. CONTRACTOR shall prominently post in CONTRACTOR'S storage facilities a list of CONTRACTOR'S charges as set forth in the Rate Schedule. A list of such charges shall be provided to the owner or person lawfully in possession of each vehicle towed. CONTRACTOR shall not charge for any service that exceeds such posted, or listed amount, nor shall CONTRACTOR perform any service that is not delineated on any such posted or listed schedule without giving the owner of the vehicle or person lawfully in possession thereof a written estimate of the amount that will be finally due and payable upon the rendition of the services. No additional charges are allowed unless specified by this Agreement and new charges must be approved through negotiation with the CITY'S Purchasing Director.

30. No charges other than those set forth in the Rate Schedule will be levied against the vehicle owner, whenever the vehicle towing, recovery, or storage is authorized by the CITY, or its agents. A declaration as to the rates between the CONTRACTOR and the CITY will either be made a part of, or permanently attached to the invoice that is presented to the vehicle owner or the owner's representative.

## MINIMUM EQUIPMENT REQUIREMENT

31. The CONTRACTOR will be required to have available at all times sufficient equipment to perform all services required once on the scene in a timely and reasonable basis. All equipment must be housed within a ten (10) mile radius of the Police Department. CONTRACTOR must have at least one (1) wrecker capable of towing any CITY Fire Truck, whether loaded or empty. All equipment shall be modern, commercially manufactured or approved by the CITY and in good mechanical condition. All towing vehicles must be owned or leased directly by CONTRACTOR. Subcontracting of towing vehicles will not be allowed. No vehicle of the CONTRACTOR shall be used as an emergency vehicle. All towing vehicle must be equipped with two-way radios with a range extending throughout the entire CITY limits. Such radios shall not be tuned in to any police frequency. CONTRACTOR shall comply with all laws, rules and regulation of any governmental agency having jurisdiction in the premises including, but not limited to, licensing and minimum safety standards. In addition to the aforementioned, CONTRACTOR shall have the following:

**Vehicles**

a. Five Class "A" small wreckers of 4-ton capacity.
b. Two Class "A" slide back (flatbed) carrier of 10,000 Gross Vehicle

Weight, ("GVW"). (Note: these may be included as part of the total for (a) above).

c. One Class "B" large wrecker of 16-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.

d. One Class "C" large wrecker of 40-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.

e. One 48' hydraulic, roll back, tilt self-loading trailer, capable of hauling, among other things, the CITY'S Fire apparatus.

**Communication**

A business type communications system licensed and approved by the Federal Communications Commission capable of providing reliable communications between the driver and a place of business from anywhere within the city limits. A Citizen's Band (CB) radio or Family Radio Service (FRS) does not meet the requirements of this condition.

**Lights**

a. One or more amber colored rotator beam, or strobe lights, mounted on the top of the cab and positioned so that the light is visible from any direction.

b. Additional amber lights shall be installed to be visible from the front of the tow truck and red lights visible only from the rear of the truck.

c. Top mounted rotor beam or strobe lights WILL NOT be used while responding to a dispatch call unless authorized by the Police Department.

d. Top mounted rotor beam or strobe lights will be used while at the scene of a dispatch call.

**On-board Equipment**

a. Dollies for all vehicles except for class "B" &"C" and roll back carriers.

b. At least one heavy-duty push broom with a minimum width of 24 inches on each vehicle.

c. Flood lights on each hoist.

d. Minimum of one square shovel.

e. Minimum of one fire axe.

f. One crowbar or pry bar with a minimum length of 30 inches,

g. A minimum of one 5-pound C02, or dry chemical fire extinguisher or equivalent. The extinguisher must be of an approved type and have attached a current marked inspection tag.

h. One pair of bolt cutters with a minimum of Y2 inch opening.

ı. One set of battery jumper cables or a portable heavy-duty jump starting device.

j. One 4-way lug wrench or pneumatic tools capable of automotive wheel removal at scene.

k. One high intensity flashlight.

l. Five 30 minute fuses (flares), or equivalent in sufficient quantity to burn for 2 ½ hours.

m. One snatch block for each winch, manufacturers rating to match winch, except for roll back carrier.

n. Extra towing chain six to eight feet in length with hooks on both ends.

o. At least six safety cones or triangle reflectors.

p. Fifty pounds of "Oil Dry" or suitable absorbent material equivalent to handle spills or leaks.

q. One trash receptacle capable of holding 5 gallons or more.

## DRUG FREE WORK PLACE

32. In compliance with Section 287.087, Florida Statues, CONTRACTOR shall execute and submit with this Agreement the "Drug-Free Workplace Certification" attached hereto as Exhibit "C" and incorporated herein by reference.

## ETHICS AND CONDUCT

33. CONTRACTOR hereby agrees to conduct operations under this Agreement in a courteous, orderly, ethical and professional manner. As it is recognized by both parties that his Agreement is sensitive in nature and requires CONTRACTOR and its personnel and employees to work with the public on a daily basis, CONTRACTOR is required to extend common courtesies including, but not limited to:

a. Expedite release of vehicle in accordance with the terms of this Agreement;
b. Assist the vehicle or trailer owner in retrieving documents from the vehicle or trailer to establish ownership;
c. Permit the owner to remove the auto tag and any unattached personal possessions;
d. Explain fully and politely the reason for the tow and all charges levied;
e. If a dispute occurs, CONTRACTOR shall attempt to resolve the dispute promptly and politely. If it cannot be resolved satisfactorily, the dispute shall be reported to the CITY Chief of Police or designee no later than the next business day.

# CONDUCT OF CONTRACTOR

34. All employees of the CONTRACTOR shall conduct themselves in a courteous and professional manner at all times. Abusive language or gestures shall not be tolerated and could be cause for removal from contract. Caution shall be exercised to assure that their operations do not cause any safety hazards to the general public. Whenever questions, complaints, etc., are directed to an employee of the CONTRACTOR by the public, they are to acknowledge, record, and pass on to the City's Contact Person if unable to reply. Conduct determined to be unacceptable are listed as follows: Arrest; behavior contrary to public policy; suspension pending outcome; or any other known illegal activities.

## EMPLOYEES

35. The CONTRACTOR agrees that the owner(s) of the company or the officer(s) of the company (if a corporation) shall be responsible except as otherwise prohibited by law, for the acts of its employees while on duty.

36. The CONTRACTOR represents that it has, or will secure as its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CITY.

37. All of the services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized, licensed or permitted under state and local law to perform such services.

38. The CONTRACTOR guarantees that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

39. The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of persons either directly or indirectly employed by the CONTRACTOR. Nothing contained herein shall create any contractual relationship between any such person and the CITY.

40. All of the CONTRACTOR'S personnel, while on City premises, will comply with all CITY requirements governing conduct, safety, and security.

## GENERAL OPERATING PROCEDURES

41. CONTRACTOR must be available for immediate response, twenty-four (24) hours per day, seven (7) days a week. Should extenuating circumstances prevent full time availability, the Police Department must be notified immediately.

42. CONTRACTOR is prohibited from "chasing" or "running" to vehicle accident scenes, unless properly authorized by the Police Department. CONTRACTOR shall be subject to suspension or removal from rotation schedule or suspension or termination from services.

43. CONTRACTOR agrees that it will not solicit on the scene of an official investigation.

44. Should CONTRACTOR remove any vehicle from any scene of any official investigation without the authorization of the Police Department, CONTRACTOR shall be subject to suspension or termination from services.

45. Although the CITY established a Special Operation Rotation or regular rotation schedule, the Police Department reserves the right to deviate from such a rotation schedule when in the sole opinion of the Police Department, there is a need for urgency and! or public safety mandates calling another towing company or when superior equipment is required which cannot be furnished by the tow company next on the rotation schedule.

46. CONTRACTOR shall tow all vehicles requested to be towed except when CONTRACTOR is unable to handle all vehicles, in which case a second tow company will be called or upon request by an Owner.

## INDEPENDENT CONTRACTOR RELATIONSHIP

47. The CONTRACTOR is, and shall be, in the performance of all work services and activities under the Agreement, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

48. The CONTRACTOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Agreement.

## CONTRACTOR'S LIABILITY

49. The CONTRACTOR'S liability for any towed and/ or stored vehicle and all property contained therein shall commence from the time a wrecker is hooked to any vehicle to be towed. The CONTRACTOR and/or the Police Department shall inventory all personal property contained in the vehicle to be towed. Such inventory shall be made in triplicate and shall be signed by the person(s) composing it. One copy shall be given to the owner or the person in possession of the vehicle, and one copy shall be given to the Police Department or other authorized CITY personnel. The CONTRACTOR shall be solely liable and responsible for all personal property in the towed vehicle.

## CLEANUP

50. The CONTRACTOR, when called to the scene of an accident, shall remove and properly dispose of all broken glass, debris and other non-hazardous matter from the street, sidewalk, park or other CITY property. The cost of such normal accident cleanup shall be included in the basic towing rate and no separate charge made to the vehicle owner.

## LABOR CHARGE

51. Labor charges shall be included in the basic towing rate and no separate charge made to the vehicle owner. In event that unusual circumstances arise which require additional labor not contemplated in the provision of services hereunder, the cost of such labor shall be charged to the vehicle owner at the rate set forth in the Rate Schedule.

## NON-LIABILITY OF CITY

52. The CITY shall not be responsible or liable for the collection or payment of any charges for services rendered, including, but not limited to, towing, storage or mileage.

## REPORTS, RECORD KEEPING, AND AUDITS

53. The CONTRACTOR shall maintain and have available at all times for inspection by authorized CITY personnel detailed accounting and other records of all services rendered relative to the Agreement.

54. CONTRACTOR, shall provide within the first ten (10) days of each month-to the CITY'S Police Department Asset Manager one (1) copy of a complete, detailed listing of all vehicles which have been towed and released in the prior thirty (30) day period; a complete, detailed listing of all vehicles which have been impounded or stored for a period of thirty (30) days or longer, such listing to include all vehicles not claimed within thirty (30) days, and any such other information that the CITY may require.

55. The CONTRACTOR shall provide to the Police Department weekly reports faxed to Asset Management personnel in the Police Department at 561-845-4089 of vehicles and trailers towed pursuant to Police Department directive. Such weekly reports shall contain, to the extent available, the following information:

a. Name of owner or driver of vehicle, boat or trailer towed;
b. Model and make of vehicle, boat or trailer;
c. License plate number;
d. Vehicle, boat or trailer identification number;
e. Time, date and location of tow;
f. Circumstances requiring tow;
g. Whether or not a "HOLD" was placed on the vehicle by the Police Department;
h. Time dispatched to scene and time of arrival;
1. Storage facility where vehicle is stored;
J. The date times and name of employee releasing the vehicle; and
k. Police Department case number (CADD or report).

Failure to comply with the above weekly reporting or all the above and below record keeping requirements may result in removal of the CONTRACTOR from the towing schedule.

56. CONTRACTOR shall at all times maintain at its place of business records containing the following information:

a. A vehicle storage receipt of each vehicle on the premises.
b. A monthly log of all calls for service by the Police Department.
c. A notification log indicating the date, time and method of notification to the registered owner of the stored vehicle or trailer.
d. A daily log setting forth a list of all vehicles towed, as well as information on each vehicle as outlined above.

57. The CITY, from time to time, during normal business hours and with at least two (2) business days prior notice to CONTRACTOR, shall have the right to audit the CONTRACTOR'S books and records at the CITY'S expense with regard to the accounts of the Agreement being met. Failure by CONTRACTOR to permit such audit shall be grounds for immediate termination of this Agreement by the CITY.

## RELEASE OF VEHICLES AND/OR PERSONAL PROPERTY

58. CONTRACTOR agrees to release any vehicle, which has not been marked "HOLD" by the Police Department provided that proper proof of ownership or right of possession is presented to CONTRACTOR. Any vehicle, including any personal property in such vehicle and all accessories, which has been marked, "HOLD" by the Police Department, shall not be released without prior written authority from the Police Department. Should CONTRACTOR release personal property, upon proper proof of ownership or right of possession, the owner or person entitled to possession thereof shall sign a receipt provided by the CONTRACTOR for same.

## OWNER NOTIFICATION

59. CONTRACTOR agrees to be responsible for notifying the registered owner or agent of the whereabouts of the vehicle in accordance with Chapter 713, Florida Statues.

## IMPOUNDED VEHICLES

60. Should any owner or person lawfully entitled to possession of any impounded vehicle seek to reclaim the same from CONTRACTOR, CONTRACTOR shall provide such owner or person lawfully entitled to possession with an itemized statement of all charges relating to the impounding of such vehicle.

## STORAGE AND OFFICE FACILITIES

61. The CONTRACTOR will maintain an office facility, storage garage and outside storage facilities complying with all provisions of applicable building, zoning and environmental regulations sufficient to store all vehicles towed under this Agreement until such vehicle(s) are claimed by the owner or otherwise disposed of legally.

62. CONTRACTOR'S office and storage facility shall be open and manned for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and when closed, shall have prominently posted a sign indicating a telephone number where the CONTRACTOR of the site can be reached seven (7) days per week and twenty-four (24) hours per day. Upon receipt of a telephoned request to open the site to redeem a vehicle, the CONTRACTOR shall return to the site within one (1) hour or she or he will be in violation of this agreement and Florida statues 715.07 seven (7) days per week and twenty-four (24) hours per day and shall be equipped with twenty-four (24) hour on-premises radio-dispatching capabilities.

63. All outside storage facilities shall be enclosed with a solid wall or substantial wire fence not less than six (6) feet in height. The top of such fence or wall including all gates or doors or roofed open doors, shall be equipped with not less than 12" of barbed wire installed in such manner as to discourage access over the top of such fence or wall. All fences and walls shall be maintained in good repair throughout the tern of the Agreement. Damage to such walls or fences shall be repaired within twenty-four (24) hours. All storage areas shall be open twenty-four (24) hours per day, seven days a week, and authorized personnel or CONTRACTOR shall be available during such times to assure that the obligations and service required of CONTRACTOR shall be available and fulfilled. No charges or gate fees are allowed.

64. CONTRACTOR shall be capable of storing up to three (3) vehicles inside storage and shall maintain one (1) inside storage space which shall comply with the following specifications:

a. A working area of 9' x 20' per vehicle with at least an eight (8') foot high ceiling;
b. A paved floor (i.e. concrete, asphalt) that is free from dirt, standing water and vegetation;
c. An electrical lighting source sufficient to permit processing of a vehicle; and
d. One (1) outside window or a ventilation system.

65. CONTRACTOR'S office facilities shall include a telephone, restroom facilities, and a work area containing a desk, phone, facsimile machine, computer, etc. Such facility shall have the name of the company, the mailing address and the 24-hour phone number clearly visible to all.

66. Vehicles stored within an enclosed area shall be secured and locked. The CONTRACTOR shall protect all stored vehicles and any evidence or personal property contained

therein from theft and damage in accordance with all reasonable Police Department instructions and directives.

## INSPECTION OF PREMISES AND EQUIPMENT

67. Storage facilities and equipment shall be subject to periodic inspections during the term of this Agreement when deemed necessary by the Police Department. Notice of any discrepancies of deficiencies found by the Police Department to be a violation of a specific requirement of this Agreement shall be submitted to the CONTRACTOR in writing, and shall remedy the same within ten (10) days of receipt of such notice. Upon failure by the CONTRACTOR to remedy deficiencies, the Agreement may be terminated at the option of the CITY.

68. CONTRACTOR shall permit members of the Police Department and other authorized CITY personnel to inspect CONTRACTOR'S compound, storage facilities, stored vehicles, and all of the CONTRACTOR'S records concerning CONTRACTOR'S duties under the Agreement at all reasonable times whenever, in the opinion of such members of the Police Department or other authorized CITY personnel, it is deemed necessary to do so.

69. CONTRACTOR shall be given at least two (2) business day's prior notice of any inspection to be conducted pursuant to this section.

## PROTECTION OF VEHICLES AND PERSONAL PROPERTY

70. The CONTRACTOR'S liability for any vehicle towed and all property contained therein will commence once the wrecker is hooked onto the vehicle.

## BENEFITS FROM REPAIRS

71. The CONTRACTOR shall not benefit directly or indirectly from any motor vehicle repair or painting with respect to vehicles towed by the CONTRACTOR under this contract, unless expressly consented to in writing by the vehicle owner or vehicle owner's authorized representatives. Such writing shall inform the owner or agent that he or she has the right to have the vehicle repaired or painted at a place of his or her choice.

## INSURANCE

72. The CONTRACTOR shall obtain and maintain throughout the term of this Agreement, at CONTRACTOR'S sole cost and expense, the following policies of insurance according to the minimum limits set forth below. Each policy shall be in the name of the Company and shall include coverage for towing and storage. The CITY shall be named as an additional insured, and all coverage afforded to the CITY shall apply as primary coverage and shall not be affected by any insurance which the CITY may carry in its own name. A copy of such insurance policy or policies, or certificated thereof, will be furnished to the CITY Purchasing Department by the CONTRACTOR.

a. Workman's compensation and employer's liability insurance as required by State Statute and local ordinance.

b. Comprehensive general liability insurance in amounts not less than $500,000.00 per occurrence for Bodily injury and $500,000.00 per accident for property damage. Said policy endorsed to include:

1. Legal liability covering perils of fire and explosion, theft of an entire vehicle, riot and civil commotion, vandalism and malicious mischief.

2. Combined single limits automobile liability insurance in an amount not less than $500,000.00 per occurrence or bodily injury and property damage covering all owned, non-owned and hired vehicles used in connection with the work.

c. Garage keepers legal liability insurance coverage in the minimum amount of $100,000 to protect owners of any and all vehicles, boats and trailers towed or stored by CONTRACTOR pursuant to this Agreement, from any loss or damage to such vehicle, boat or trailer on account of such removal or storage.

## INDEMNIFICATION AND HOLD HARMLESS

73. The CONTRACTOR shall indemnify and save harmless and defend the CITY, its agents, savants"and employees from and against any and all claims, liability, losses, and/ or cause(s) of action which may arise from any negligent act or omission of the CONTRACTOR, its agent, servants, or employees in the performance of services under this Agreement.

74. The CONTRACTOR further agrees to indemnify, save harmless and defend the CITY, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the CITY, its agents, servants or employees are alleged to be liable. Nothing contained in this Agreement shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

75. CONTRACTOR shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees, and court and/ or arbitration costs. These indemnifications shall survive the term of this Agreement or any renewal thereof.

76. The CONTRACTOR shall defend all actions in the name of the CITY, when applicable; however, CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the CONTRACTOR.

## CONTINGENCY FEES

77. The CONTRACTOR warrants that it is has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fees, commission, percentage, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement.

## DISCRIMINATION

78. CONTRACTOR will not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, sex, religion, political affiliation, natural origin or handicap.

## COMPLAINTS AGAINST CONTRACTOR

79. CONTRACTOR understands and agrees that any complaints received by the CITY, whether such complaints originate from City personnel or private individuals, concerning the performance of CONTRACTOR'S duties under this Agreement will be referred to the Chief of Police. The referral of any complaint (s) to the Chief of Police will be considered a material breach of this Agreement and cause for removal from the rotation schedule and or termination of services.

## SUSPENSION AND REMOVAL FROM ROTATION SCHEDULE

80. If at any time during the term of this contract, including any option terms, the CONTRACTOR is determined to be in violation of any of the terms and conditions of the Agreement, the Chief of Police or designee shall have the right to suspend the CONTRACTOR until the violation is resolved to the satisfaction of the CITY. If the violations is not promptly resolved or is of such serious nature that the CITY, in its sole discretion, determines that suspension is not adequate, the CITY reserves the right to terminate this agreement. Termination of this agreement shall be based on but not limited to the number, nature and severity of complaints received against the CONTRACTOR relative to the delivery of the services provided herein or failure to timely respond to calls for service.

81. In the event that the CITY receives three (3) or more complaints within a six (6) month period or six (6) or more complaints within one (1) year against the CONTRACTOR, that are not mutually resolved by all parties, this shall be grounds for immediate termination of the Agreement.

82. Any violation of the provisions or regulations of this Agreement may result in suspension or removal from the CITY'S rotation schedule, including, but not limited to, the following:

a Failure to possess all liccnses and permits required by State Statute or local ordinances.

b Failure of the CONTRACTOR to respond to a tow call without valid reason.

c Habitual failure to respond to a tow cal1 properly and within the time prescribed in this Agreement.

d Voluntary request by CONTRACTOR to be removed temporarily or permanently from the rotation schedule.

e Storage facilities are in disrepair or lacking the requirements contained herein.

f CONTRACTOR knowingly overcharges a customer or fails to charge the agreed upon rates as set forth in the Rate Schedule.

## DISPUTES

83. CONTRACTOR expressly understands and agrees to relinquish any vehicle immediately upon the request of the CITY. Any dispute concerning billing shall be forwarded to the Chief of Police or designee for resolution. Such resolution by the Chief of Police shall be final and binding upon all parties.

## COMPLIANCE WITH LAWS AND ORDINANCES

84. CONTRACTOR shall comply with all applicable State and Federal laws and ordinances of the CITY now in existence or hereafter adopted, so long as the same do not impair the rights and privileges of CONTRACTOR in and to any contract signed by CONTRACTOR and the CITY as the result of this Agreement.

## NON-ASSIGNABILITY

85. This Agreement shall not be assigned, sold or transferred and any such attempt to do so shall render this agreement void.

86. The CITY reserves the right to terminate the Agreement upon any change in ownership whether from the sale of CONTRACTOR'S business or stock or transfer of authorized and issued shares, the issuance of authorized but unissued shares or the issuance of any additional shares authorized by increases in capital stock limitations.

## DISPOSAL OF VEHICLES

87. Should CONTRACTOR, as a result of this Agreement, have in its possession any vehicle or personal property for a period in excess of sixty (60) days, and should CONTRACTOR be ordered to relinquish such vehicle or personal property to the Police Department, CONTRACTOR agrees to immediately do so. A faxed list shall be provided to the Police Department of any vehicles held in storage on a weekly basis. Vehicles held longer then five (5) days at the request of the Police Department will incur daily storage charges as outlined in Exhibit "B" and charged to the vehicle owner.

## AUCTIONS

88. CONTRACTOR shall not auction any vehicle without the written approval of the Chief of Police, or the Chiefs representative. All such auctions shall be conducted pursuant to Section 713.78, Florida Statutes.

## TERMINATION

89. The CITY or CONTRACTOR may elect to terminate this Agreement upon thirty (30) days written notice to the other party.

## NOTICE

90. All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

Clarence D. Williams, III Chief of Police
600 West Blue Heron Blvd
Riviera Beach, FL 33404

And if sent to the CONTRACTOR shall be mailed to:

LAKE PARK TOWING
803 THIRTEENTH STREET
LAKE PARK, FL 33403

## VENUE

91. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

## REMEDIES

92. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## ENFORCEMENT COSTS

93. If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## SEVERABILITY

94. If any term of provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

## PUBLIC ENTITY CRIMES

95. This Agreement or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

## ENTIRETY OF CONTRACTUAL AGREEMENT

96. The CITY and the CONTRACTOR agrees that this Agreement and any attachments hereto or other documents as referenced herein sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

## HEADINGS

97. The Section and/or Paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

## WAIVER

98. Failure of the CITY to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

## PREPARATION

99. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## MATERIALITY

100. All provIsions of the Agreement shall be deemed material, in the event CONTRACTOR fails to comply with any of the provisions contained in this Agreement or attachments hereto, said failure shall be deemed a material breach of this Agreement and CITY may at its option and without notice terminate this Agreement.

## AGREEMENT WITH THE CITY OF RIVIERA BEACH

**IN WITNESS WHEREOF,** the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY:
THOMAS A. MASTER
MAYOR

BY
CARRIE E. WARD, CITY CLERK, CMC/AAE

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY'
'PAMALA H. RYAN
CITY ATTORNEY

DATE: 6/4/09

LAKE PARK TOWING

BY:
THOMAS GADOURY
OWNER

APPROVED AS TO TEMRS AND
CONDITIONS

BY: _
BENJAMIN GUY
DEPARTMENT DIRECTOR

EXHIBIT A

TOW ROTATION LIST PROCEDURE

1.Purpose

The purpose of the tow-rotation list is to have a procedure in place for wrecker call-out on a per incident basis. A tow log will be utilized and maintained by the Police Communication Center, (hereinafter "Center").

2. Procedure

A. Eligible Tow Contractors

K-1 KAUFF'S OF PALM BEACH INC. (dba) KAUFF'S TRANSPORTATION SYSTEMS
L-1 LAKE PARK TOWING
S-l SHEEHAN'S TOWING, INC
P-1 PALM BEACH GARDENS TOWING

B. Wrecker Response

a. If a Tow Contractor is unable to respond to a call, the Tow Contractor will be moved to the end of the list, thereby forfeiting that rotation.

b. In the event of cancellation or other circumstances where the wrecker is not used and in which the Tow Contractor is not in any way at fault, the City official, agent or employee on the scene requesting the wrecker or tow shall notify the Center upon cancellation of the tow and the Contractor shall retain its position in the rotation.

c. Should the Center be unable to reach the Contractor or the Contractor has failed to respond in a reasonable time to a hazardous scene, the next tow company in line will be contacted. The City official, agent or employee shall determine, based on his sole discretion, whether the response time was excessive.

C. Rotation Tracking

a. A log will be used by the City to track all vehicle and trailers towed to include rotation wreckers.

b. The log shall contain the complete vehicle description including YIN number and TAG number when available, the CAD and/or case number assigned, the date and time of the tow, the tow company, and the City official, agent or employee dispatching and/or requesting such tow.

c. The rotation list shall be maintained in a manual log in which the first Tow Contractor on the list shall be given the first opportunity to accept the town and/or service request.

d. Specific requests from the vehicle or trailer owner or person lawfully in possession will not be charged against the rotation schedule. The request shall be logged as such by City

in the log. If an owner's request cannot be honored for any reason whatsoever, a rotation wrecker will be contacted and so charged on the rotation schedule.

e. In the event the Police Department exercises its option to ignore such rotation list pursuant to Section45 of the Agreement, such election shall not affect the order of the rotation list and the Contractor shall retain its position.

f. A tow request from the City for City owned or operated vehicle(s), Police Department "Hold" vehicles and Code Enforcement abandoned, wrecked or junked vehicles will not be charged against the Tow Contractor. The Tow Contractor will remain in its tow position until a civilian tow or other type of tow is requested. The request shall be logged as such by the City in the log.

    i. **Example:** Center Call (A-I) to tow a City vehicle because they are next on the rotation list. (A-I) will tow the vehicle and remain in their original tow position. Immediately thereafter if another City vehicle needs towing the Tow Contractor (1-2) will be called by Center. They will also remain in their original tow position.

EXHIBIT B

RATE SCHEDULE

CITY RIVIEARA BEACH
RATE SCHEDULE SHEET

**Established rates - rates established by the City herein are the only rates that may be charged by the contractor. All rates to remain firm for any resulting contract period. The City will not guarantee any specific number of tows, etc., during the contract period.

SECTION I
TOWING REMOVAL AND RECOVERY (ONE HOUR SERVICE AT THE SCENE).

| DESCRIPTIONS | UNIT PRICING |
|---|---|
| A. Class A (cars, vans, light trucks) | $75.00 ea. Tow |
| (1) Extra time at the scene (per one hr.) | $35.00 per hour |
| (2) Dollies | $35.00 ea. |
| B. Motorcycles (within City) | $50.00 ea. Tow |
| (1) Extra time at the scene (per 15 minutes) | $12.50 per ¼ hr. |
| C. Class B - Trucks over 25,000 GVW within City | $115.00 ea. Tow. |
| (1) Extra time at the scene (per one hr.) | $60.00 per hr. |
| D. Class C - Tractor & Trailer at the scene (per one hr.) | $150.00 ea. Tow |
| (1) Extra time at the scene (per one hr.) | $65.00 per hr. |

E. Junk or Abandoned Vehicles within City shall be the same as provided in a, b, c or d above.

| | |
|---|---|
| F. Road Service (City Vehicles or leased vehicles) | $ 40.00 ea. |

Per call to include but not limited to:
a) Assist start
b) Change tire
c) Unlocking door
d) Provide enough gas if City vehicle runs low to return to facility

| | |
|---|---|
| A. Mileage outside City limits over five (5) miles; per mile rate | $ 4.00 per mile |
| B. *4x4* Off Road vehicle recovery - 1st hour | $100.00 1st hr. |
| Additional per half hour rate | $ 30.00 per ½ hr. |
| C. Dive Fee firsthour for underwater recovery | $150.00 1st hour |

**SECTION II**

**STORAGE RATES AND ADMINISTRATIVE FEE**

The following rates are for the storage of vehicles. Pursuant to Section 713.78 (2) (d), Florida Statutes, "No storage fee shall be charged if the vehicle is stored for less than six (6) hours.

**DESCRIPTIONS UNIT PRICING**

| | |
|---|---|
| A. Inside Storage Per Day | |
| (1) Cars | $35.00 per day |
| (2) Motorcycles and Scooters | $15.00 per day |
| (3) Any vehicle or Trailer over 20 feet | $35.00 per day |
| B. Outside Storage per Day | |
| (1) Cars | $25.00 per day |
| (2) Motorcycles and Scooters | $10.00 per day |
| (3) Any vehicle/trailer over 20 feet | $35.00 per day |
| C. Lien - Title Administrative Fee | |
| (1) To be charged after 24 hours (per vehicle) | $30.00 per day |
| D. Tarp Fee | $20.00 ea |
| E. Lowboy | $ 100.00 ea |

Proposers may be selected for an interview prior to a recommendation being presented to the City Council. As the best interest of the City may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. Proposers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive.

# TOWING AND STORAGE AGREEMENT

THIS AGREEMENT, made and entered into this 22nd th day of May 2009, by and between the City of Riviera Beach, a municipality in the State of Florida, herein referred to as the "City", and SHEEHAN'S TOWING, INC., a corporation authorized to do business in the State of Florida, hereinafter referred to as the" CONTRACTOR", whose Federal J.D. 65-347132.

WITNESSETH:

WHEREAS, the CITY issued its *Request for Proposals for Towing and Storage Services #19308, (collectively, the "RFP")* pursuant to state and local law to solicit proposals to provide vehicle towing and storage services for the CITY; and

WHEREAS, the CONTRACTOR responded to the *RFP* by submitting its bid proposal and agreeing to abide by the CITY'S rate schedule, which Proposal was accepted by the CITY; and

WHEREAS, the CONTRACTOR along with three (3) other Contractors have been selected; and

WHEREAS, the *RFP* provides for a two (2) year contract with three (3) additional twelve (12) month renewal periods; and

WHEREAS, although the *RFP*, the Proposal and the Rate Schedule address in some detail the services to be provided, there are certain issues not addressed by these documents which the parties hereto desire to address.

NOW, THEREFORE, for and in consideration of the foregoing promise and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and the CONTRACTOR hereby covenant and agree as follow:

## SCOPE OF AGREEMENT, TERMS AND CONDITIONS

1. The vehicle towing and storage services to be provided to the CITY by the CONTRACTOR shall be on a non-exclusive, rotating basis with exception to Special Operations performed by the Police Department. One Contractor will be selected from a Special Operation Rotation schedule and will be required to stage at a minimum four (4) towing vehicles at the City of Riviera Beach Police Department.

2. It is the CITY'S desire to contract with several firms deemed qualified and responsive by the CITY. A representative of City of Riviera Beach Police Department, ("Police Department"), the affected Department, or any authorized representative of the CITY will accept and distribute all tow calls on a rotation basis as more fully set forth in Exhibit *"A"* attached hereto and incorporated herein by reference.

3. The owner or person in possession of any vehicle which has been involved in an accident or whose vehicle has been incapacitated in any other manner, as well as a detained driver of any vehicle which will not be impounded by the Police Department, will be given the opportunity to contact a wrecker or tow truck company of his/her own choice if the disabled vehicle does not create a hazardous condition and a reasonable response time can be expected. Said person shall further be given

the opportunity of having such vehicle towed to a garage or compound other than that of the CONTRACTOR.

4. When authorized by a representative of the Police Department, the affected Department or any authorized representative of the City, CONTRACTOR shall remove vehicles from the streets or other public property lying within the City limits and any abandoned, wrecked or junked vehicles on private property declared to be a nuisance by the City when so informed by the City.

5. Except as the law may otherwise require, the CONTRACTOR shall not move any vehicles to any location other than that designated by the City's Police Officer or other authorized City representative, or owner or person in lawful possession of the vehicle.

6. A tow as used herein is the actual removal of a vehicle. No double charges or second tows are allowed. Additional hook-ups will not incur another tow charge. No mileage charges are allowed from any point within the City limits.

7. The CONTRACTOR agrees to have no marking, lettering or symbol on any vehicle, building or correspondence that indicates or tends to indicate any official relationship between the CONTRACTOR and the CITY.

8. The CITY, vehicle owner, driver, or person lawfully in possession of such vehicle, shall have the right to cancel a request for services at any time, including up to the time of hook-up, without any charge being incurred. The CONTRACTOR agrees that the mere response to a service call scene without other action does not constitute a service for which charges are applicable. However, if the tow is cancelled, CONTRACTOR will retain its position in the rotation.

## CONTROLLING PROVISIONS

9. To the extent that there exists a conflict between the RFP, the Proposal, the Rotation Schedule and the Rate Schedule, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

## TERM OF AGREEMENT

10. The period of the Agreement shall be for two (2) years (24 months) with an option to renew the contract for three (3) additional twelve (12) month periods. The option for renewal will only be exercised upon mutual written agreement and with all original terms, conditions and specifications of the Agreement remaining the same with no deviations.

a. Price adjustments will be made after the second year of the contract and upon the first renewal based on the consumer price index (CPI). Unit prices shall be adjusted upward or downward annually to reflect changes in the CPI for all Urban Consumers (CPI - U) subcategory "South Urban", subsection "Fuels". Beginning on January 15, 2011 and upon the first renewal on January 15,2012, the unit contract prices shall be adjusted to reflect the increase or decrease in the CPI for the immediately preceding twelve (12) month period of January to January. The Independent Contractor shall notify the City in writing of increases that are based on the CPI, as provided in this section, no less than thirty (30) days prior to their implementation. Should the CPI be discontinued or substantially modified, an alternate index shall be chosen by mutual agreement of the Independent Contractor and the City.

## RESPONSE

11. Calls under this Agreement from the Riviera Beach Police Department will be given priority over all other non-emergency calls.

12. CONTRACTOR shall be expected to arrive at the site within twenty (20) minutes of the call. CONTRACTOR assumes all liability in meeting the twenty (20) minute response time including, but not limited to, any and all damages resulting from traffic accidents and motor vehicle infraction fines.

## LOCATION

13. CONTRACTOR shall have a Place of Business and Storage Facility located within a ten (10) mile radius of the Riviera Beach Police Station, ("Police Station").

14. CONTRACTOR agrees that it shall provide to the CITY, free of charge, all necessary towing, road service and storage required by the CITY in the operation and maintenance of all CITY vehicles. This includes towing from the CITY garage or the closest qualified commercial maintenance facility selected by the CITY to anywhere in Palm Beach, Broward, and Martin Counties. CONTRACTOR shall also provide, at no cost to the CITY, "stand-by" wrecker equipment and personnel whenever requested by the Police Department for Special Operations including, but not limited to, "sting operations", traffic checkpoints, or other special events as designated by the Chief of Police or his designee.

15. Services related to CITY owned or leased vehicle(s) or trailer (s) should be logged and forwarded by CONTRACTOR on a monthly basis to the CITY'S Police Department Asset Manager. All such logs shall identify the vehicle (s) or trailer (s) towed or the service rendered, the location from which it was towed, and the hours and dates applicable to CONTRACTOR'S services with respect to the vehicle (s) or trailer (s). The "service ticket" shall include the signature of the authorized CITY employee approving the tow of the CITY vehicle or trailer. CONTRACTOR shall provide such information, until such time as a form is provided to it by CITY, which then must be completed by CONTRACTOR

## CRIME SCENE CONFISCATED SPECIAL "HOLD STORAGE"

16. Vehicles towed for the Police Department that are seized as the result of any Special Operations and/or vehicles which will be held pending forfeiture and/or for other investigative purposes shall be towed by CONTRACTOR at no cost to the CITY.

17. Vehicles which have been marked "HOLD" by the Police Department shall be stored at the compound of the CONTRACTOR for a period of seven (7) business days excluding weekends without charge, in order to properly process the vehicle and conduct any necessary investigation. Absent a Court Order to the contrary, Police Department Personnel shall be permitted access to such vehicle at all reasonable times. CONTRACTOR agrees to seek recovery of any and all storage charges from the owner of such vehicle or in the sale of such vehicle as provided for by Sections 713.78 and 715.05. Florida Statutes.

18. Any vehicle towed or stored as a result of being marked "HOLD" relative to a crime scene investigation shall be handled with gloves (i.e. cloth, rubber, or leather) by the wrecker operator and towed to a facility or location that meets the specifications outlined in article 60.

19. Crime Scene vehicles shall be stored to prevent physical contamination or degradable evidence from deteriorating and shall be stored inside a facility. If inside storage is not available, CONTRACTOR shall surrender the tow and fee to the next tow company in rotation. This requirement shall not prevent CITY from removing the vehicle or trailer and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

20. If laboratory work on a crime scene vehicle is required and the vehicle must be processed at a location other than CONTRACTOR'S facility, the vehicle shall be transported to the CITY designated location and charged a basic tow rate listed on Exhibit "B" excluding mileage and billed to the vehicles owner.

21. Confiscated vehicles or vehicles involved in litigation shall be protected from the elements, preferable at an inside storage facility, as to maintain the vehicle in its condition at the time of towing. This shall not prevent the CITY from removing the vehicle and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

## CODE ENFORCEMENT

22. Vehicles to be towed and stored pursuant to the directive of the City of Riviera Beach Code Enforcement Department, (hereinafter "Code Enforcement"), shall also be subject to the rotation schedule as more fully set forth in Exhibit "A".

23. CONTRACTOR'S failure to perform Code Enforcement tows more than two (2) times during any twelve (12) month period may result in suspension or removal from the CITY rotation schedule. When vehicles, boats or trailers are towed from public property, including right-of-ways, after the appropriate notification, CONTRACTOR has the option of destroying the vehicle or keeping it safe for sale pursuant to Sections 713.78 and 715.05, Florida Statutes. CONTRACTOR shall remove, tow and store all such vehicles, boats, and trailers, at no charge to the CITY. CONTRACTOR hereby agrees to seek payment for such services solely from the owner of such vehicles, boats or trailers or in the sale of such vehicles, boats or trailers as set forth herein.

24. When vehicles, boats or trailers are towed from private property after receiving the appropriate notification, CONTRACTOR must proceed in accordance with the provisions set forth in Section 713.78 and 715.05, Florida Statutes and store the vehicles, boats, or trailer for a minimum period of thirty-five (35) days, after which time CONTRACTOR has the option to destroy or sell the vehicles, boats or trailers pursuant to Section 713.78, Florida Statutes. Any breach of any statutory provision with respect to such destruction or sale shall constitute a breach of this Agreement and shall be grounds for termination of this Agreement.

25. CONTRACTOR agrees that the CITY shall in no way compensate CONTRACTOR for such removal and/ or storage and CONTRACTOR shall look to the vehicle, boat or trailer owner or the remedies as provided by the statutes referenced herein for payment.

## COMPENSATION

26. Services performed under this Agreement shall be charged for and compensated in accordance with the Rate Schedule attached hereto as Exhibit "B" and incorporated herein by reference.

27. The CONTRACTOR shall be responsible for the collection of all tow, storage, labor, service and mileage charges and fees. The CITY shall in no way be responsible for the collection or payment of any charge for services rendered by reasons of its having dispatched service in accordance with this Agreement. All such services rendered shall be charged to the owner of the towed or serviced vehicle or other lawful claimant in possession of such vehicle.

28. Storage fees shall be charged at the rates stated in the Rate Schedule for each twenty-four (24) hour period. No storage fee shall be applied until a vehicle is held in excess of twenty-four (24) hours.

29. CONTRACTOR shall prominently post in CONTRACTOR'S storage facilities a list of CONTRACTOR'S charges as set forth in the Rate Schedule. A list of such charges shall be provided to the owner or person lawfully in possession of each vehicle towed. CONTRACTOR shall not charge for any service that exceeds such posted, or listed amount, nor shall CONTRACTOR perform any service that is not delineated on any such posted or listed schedule without giving the owner of the vehicle or person lawfully in possession thereof a written estimate of the amount that will be finally due and payable upon the rendition of the services. No additional charges are allowed unless specified by this Agreement and new charges must be approved through negotiation with the CITY'S Purchasing Director.

30. No charges other than those set forth in the Rate Schedule will be levied against the vehicle owner, whenever the vehicle towing, recovery, or storage is authorized by the CITY, or its agents. A declaration as to the rates between the CONTRACTOR and the CITY will either be made a part of, or permanently attached to the invoice that is presented to the vehicle owner or the owner's representative.

## MINIMUM EQUIPMENT REQUIREMENT

31. The CONTRACTOR will be required to have available at all times sufficient equipment to perform all services required once on the scene in a timely and reasonable basis. All equipment must be housed within a ten (10) mile radius of the Police Department. CONTRACTOR must have at least one (1) wrecker capable of towing any CITY Fire Truck, whether loaded or empty. All equipment shall be modern, commercially manufactured or approved by the CITY and in good mechanical condition. All towing vehicles must be owned or leased directly by CONTRACTOR. Subcontracting of towing vehicles will not be allowed. No vehicle of the CONTRACTOR shall be used as an emergency vehicle. All towing vehicle must be equipped with two-way radios with a range extending throughout the entire CITY limits. Such radios shall not be tuned in to any police frequency. CONTRACTOR shall comply with all laws, rules and regulation of any governmental agency having jurisdiction in the premises including, but not limited to, licensing and minimum safety standards. In addition to the aforementioned, CONTRACTOR shall have the following:

**Vehicles**

a. Five Class "A" small wreckers of 4-ton capacity.
b. Two Class "A" slide back (flatbed) carrier of 10,000 Gross Vehicle

Weight, ("GVW"). (Note: these may be included as part of the total for (a) above).

c. One Class "B" large wrecker of 16-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.

d. One Class "C" large wrecker of 40-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.

e. One 48' hydraulic, roll back, tilt self-loading trailer, capable of hauling, among other things, the CITY'S Fire apparatus.

**Communication**

A business type communications system licensed and approved by the Federal Communications Commission capable of providing reliable communications between the driver and a place of business from anywhere within the city limits. A Citizen's Band (CB) radio or Family Radio Service (FRS) does not meet the requirements of this condition.

**Lights**

a. One or more amber colored rotator beam, or strobe lights, mounted on the top of the cab and positioned so that the light is visible from any direction.

b. Additional amber lights shall be installed to be visible from the front of the tow truck and red lights visible only from the rear of the truck.

c. Top mounted rotor beam or strobe lights WILL NOT be used while responding to a dispatch call unless authorized by the Police Department.

d. Top mounted rotor beam or strobe lights will be used while at the scene of a dispatch call.

**On-board Equipment**

a. Dollies for all vehicles except for class "B" &"C" and roll back carriers.

b. At least one heavy-duty push broom with a minimum width of 24 inches on each vehicle.

c. Flood lights on each hoist.

d. Minimum of one square shovel.

e. Minimum of one fire axe.

f. One crowbar or pry bar with a minimum length of 30 inches,

g. A minimum of one 5-pound C02, or dry chemical fire extinguisher or equivalent. The extinguisher must be of an approved type and have attached a current marked inspection tag.

h. One pair of bolt cutters with a minimum of Y2 inch opening.

1. One set of battery jumper cables or a portable heavy-duty jump starting device.

j. One 4-way lug wrench or pneumatic tools capable of automotive wheel removal at scene.

k. One high intensity flashlight.

1. Five 30 minute fuses (flares), or equivalent in sufficient quantity to burn for 2 Y2 hours.

m. One snatch block for each winch, manufacturers rating to match winch, except for roll back carrier.

n. Extra towing chain six to eight feet in length with hooks on both ends.

o. At least six safety cones or triangle reflectors.

p. Fifty pounds of "Oil Dry" or suitable absorbent material equivalent to handle spills or leaks.

q. One trash receptacle capable of holding 5 gallons or more.

## DRUG FREE WORK PLACE

32. In compliance with Section 287.087, Florida Statues, CONTRACTOR shall execute and submit with this Agreement the "Drug-Free Workplace Certification" attached hereto as Exhibit "C" and incorporated herein by reference.

## ETHICS AND CONDUCT

33. CONTRACTOR hereby agrees to conduct operations under this Agreement in a courteous, orderly, ethical and professional manner. As it is recognized by both parties that his Agreement is sensitive in nature and requires CONTRACTOR and its personnel and employees to work with the public on a daily basis, CONTRACTOR is required to extend common courtesies including, but not limited to:

a. Expedite release of vehicle in accordance with the terms of this Agreement;

b. Assist the vehicle or trailer owner in retrieving documents from the vehicle or trailer to establish ownership;

c. Permit the owner to remove the auto tag and any unattached personal possessions;

d. Explain fully and politely the reason for the tow and all charges levied;

e. If a dispute occurs, CONTRACTOR shall attempt to resolve the dispute promptly and politely. If it cannot be resolved satisfactorily, the dispute shall be reported to the CITY Chief of Police or designee no later than the next business day.

# CONDUCT OF CONTRACTOR

34. All employees of the CONTRACTOR shall conduct themselves in a courteous and professional manner at all times. Abusive language or gestures shall not be tolerated and could be cause for removal from contract. Caution shall be exercised to assure that their operations do not cause any safety hazards to the general public. Whenever questions, complaints, etc., are directed to an employee of the CONTRACTOR by the public, they are to acknowledge, record, and pass on to the City's Contact Person if unable to reply. Conduct determined to be unacceptable are listed as follows: Arrest; behavior contrary to public policy; suspension pending outcome; or any other known illegal activities.

## EMPLOYEES

35. The CONTRACTOR agrees that the owner(s) of the company or the officer(s) of the company (if a corporation) shall be responsible except as otherwise prohibited by law, for the acts of its employees while on duty.

36. The CONTRACTOR represents that it has, or will secure as its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CITY.

37. All of the services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized, licensed or permitted under state and local law to perform such services.

38. The CONTRACTOR guarantees that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

39. The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of persons either directly or indirectly employed by the CONTRACTOR. Nothing contained herein shall create any contractual relationship between any such person and the CITY.

40. All of the CONTRACTOR'S personnel, while on City premises, will comply with all CITY requirements governing conduct, safety, and security.

## GENERAL OPERATING PROCEDURES

41. CONTRACTOR must be available for immediate response, twenty-four (24) hours per day, seven (7) days a week. Should extenuating circumstances prevent full time availability, the Police Department must be notified immediately.

42. CONTRACTOR is prohibited from "chasing" or "running" to vehicle accident scenes, unless properly authorized by the Police Department. CONTRACTOR shall be subject to suspension or removal from rotation schedule or suspension or termination from services.

43. CONTRACTOR agrees that it will not solicit on the scene of an official investigation.

44. Should CONTRACTOR remove any vehicle from any scene of any official investigation without the authorization of the Police Department, CONTRACTOR shall be subject to suspension or termination from services.

45. Although the CITY established a Special Operation Rotation or regular rotation schedule, the Police Department reserves the right to deviate from such a rotation schedule when in the sole opinion of the Police Department, there is a need for urgency and! or public safety mandates calling another towing company or when superior equipment is required which cannot be furnished by the tow company next on the rotation schedule.

46. CONTRACTOR shall tow all vehicles requested to be towed except when CONTRACTOR is unable to handle all vehicles, in which case a second tow company will be called or upon request by an Owner.

## INDEPENDENT CONTRACTOR RELATIONSHIP

47. The CONTRA,CTOR is, and shall be, in the performance of all work services and activities under the Agreement, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

48. The CONTRACTOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Agreement.

## CONTRACTOR'S LIABILITY

49. The CONTRACTOR'S liability for any towed and/ or stored vehicle and all property contained therein shall commence from the time a wrecker is hooked to any vehicle to be towed. The CONTRACTOR and/or the Police Department shall inventory all personal property contained in the vehicle to be towed. Such inventory shall be made in triplicate and shall be signed by the person(s) composing it. One copy shall be given to the owner or the person in possession of the vehicle, and one copy shall be given to the Police Department or other authorized CITY personnel. The CONTRACTOR shall be solely liable and responsible for all personal property in the towed vehicle.

## CLEAN UP

50. The CONTRACTOR, when called to the scene of an accident, shall remove and properly dispose of all broken glass, debris and other non-hazardous matter from the street, sidewalk, park or other CITY property. The cost of such normal accident cleanup shall be included in the basic towing rate and no separate charge made to the vehicle owner.

## LABOR CHARGE

51. Labor charges shall be included in the basic towing rate and no separate charge made to the vehicle owner. **In** event that unusual circumstances arise which require additional labor not contemplated in the provision of services hereunder, the cost of such labor shall be charged to the vehicle owner at the rate set forth in the Rate Schedule.

## NON-LIABILITY OF CITY

52. The CITY shall not be responsible or liable for the collection or payment of any charges for services rendered, including, but not limited to, towing, storage or mileage.

## REPORTS, RECORD KEEPING, AND AUDITS

53. The CONTRACTOR shall maintain and have available at all times for inspection by authorized CITY personnel detailed accounting and other records of all services rendered relative to the Agreement.

54. CONTRACTOR, shall provide within the first ten (10) days of each month-to the CITY'S Police Department Asset Manager one (1) copy of a complete, detailed listing of all vehicles which have been towed and released in the prior thirty (30) day period; a complete, detailed listing of all vehicles which have been impounded or stored for a period of thirty (30) days or longer, such listing to include all vehicles not claimed within thirty (30) days, and any such other information that the CITY may require.

55. The CONTRACTOR shall provide to the Police Department weekly reports faxed to Asset Management personnel in the Police Department at 561-845-4089 of vehicles and trailers towed pursuant to Police Department directive. Such weekly reports shall contain, to the extent available, the following information:

a. Name of owner or driver of vehicle, boat or trailer towed;
b. Model and make of vehicle, boat or trailer;
c. License plate number;
d. Vehicle, boat or trailer identification number;
e. Time, date and location of tow;
f. Circumstances requiring tow;
g. Whether or not a "HOLD" was placed on the vehicle by the Police Department;
h. Time dispatched to scene and time of arrival;
1. Storage facility where vehicle is stored;
J. The date times and name of employee releasing the vehicle; and
k. Police Department case number (CADD or report).

Failure to comply with the above weekly reporting or all the above and below record keeping requirements may result in removal of the CONTRACTOR from the towing schedule.

56. CONTRACTOR shall at all times maintain at its place of business records containing the following information:

a. A vehicle storage receipt of each vehicle on the premises.
b. A monthly log of all calls for service by the Police Department.
c. A notification log indicating the date, time and method of notification to the registered owner of the stored vehicle or trailer.
d. A daily log setting forth a list of all vehicles towed, as well as information on each vehicle as outlined above.

57. The CITY, from time to time, during normal business hours and with at least two (2) business days prior notice to CONTRACTOR, shall have the right to audit the CONTRACTOR'S books and records at the CITY'S expense with regard to the accounts of the Agreement being met. Failure by CONTRACTOR to permit such audit shall be grounds for immediate termination of this Agreement by the CITY.

## RELEASE OF VEHICLES AND/OR PERSONAL PROPERTY

58. CONTRACTOR agrees to release any vehicle, which has not been marked "HOLD" by the Police Department provided that proper proof of ownership or right of possession is presented to CONTRACTOR. Any vehicle, including any personal property in such vehicle and all accessories, which has been marked, "HOLD" by the Police Department, shall not be released without prior written authority from the Police Department. Should CONTRACTOR release personal property, upon proper proof of ownership or right of possession, the owner or person entitled to possession thereof shall sign a receipt provided by the CONTRACTOR for same.

## OWNER NOTIFICATION

59. CONTRACTOR agrees to be responsible for notifying the registered owner or agent of the whereabouts of the vehicle in accordance with Chapter 713, Florida Statues.

## IMPOUNDED VEHICLES

60. Should any owner or person lawfully entitled to possession of any impounded vehicle seek to reclaim the same from CONTRACTOR, CONTRACTOR shall provide such owner or person lawfully entitled to possession with an itemized statement of all charges relating to the impounding of such vehicle.

## STORAGE AND OFFICE FACILITIES

61. The CONTRACTOR will maintain an office facility, storage garage and outside storage facilities complying with all provisions of applicable building, zoning and environmental regulations sufficient to store all vehicles towed under this Agreement until such vehicle(s) are claimed by the owner or otherwise disposed of legally.

62. CONTRACTOR'S office and storage facility shall be open and manned for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and when closed, shall have prominently posted a sign indicating a telephone number where the CONTRACTOR of the site can be reached seven (7) days per week and twenty-four (24) hours per day. Upon receipt of a telephoned request to open the site to redeem a vehicle, the CONTRACTOR shall return to the site within one (1) hour or she or he will be in violation of this agreement and Florida statues 715.07 seven (7) days per week and twenty-four (24) hours per day and shall be equipped with twenty-four (24) hour on-premises radio-dispatching capabilities.

63. All outside storage facilities shall be enclosed with a solid wall or substantial wire fence not less than six (6) feet in height. The top of such fence or wall including all gates or doors or roofed open doors, shall be equipped with not less than 12" of barbed wire installed in such manner as to discourage access over the top of such fence or wall. All fences and walls shall be maintained in good repair throughout the tern of the Agreement. Damage to such walls or fences shall be repaired within twenty-four (24) hours. All storage areas shall be open twenty-four (24) hours per day, seven days a week, and authorized personnel or CONTRACTOR shall be available during such times to assure that the obligations and service required of CONTRACTOR shall be available and fulfilled. No charges or gate fees are allowed.

64. CONTRACTOR shall be capable of storing up to three (3) vehicles inside storage and shall maintain one (1) inside storage space which shall comply with the following specifications:

a. A working area of 9' x 20' per vehicle with at least an eight (8') foot high ceiling;
b. A paved t100r (i.e. concrete, asphalt) that is free from dirt, standing water and vegetation;
c. An electrical lighting source sufficient to permit processing of a vehicle; and
d. One (1) outside window or a ventilation system.

65. CONTRACTOR'S office facilities shall include a telephone, restroom facilities, and a work area containing a desk, phone, facsimile machine, computer, etc. Such facility shall have the name of the company, the mailing address and the 24-hour phone number clearly visible to all.

66. Vehicles stored within an enclosed area shall be secured and locked. The CONTRACTOR shall protect all stored vehicles and any evidence or personal property contained

therein from theft and damage in accordance with all reasonable Police Department instructions and directives.

## INSPECTION OF PREMISES AND EQUIPMENT

67. Storage facilities and equipment shall be subject to periodic inspections during the term of this Agreement when deemed necessary by the Police Department. Notice of any discrepancies of deficiencies found by the Police Department to be a violation of a specific requirement of this Agreement shall be submitted to the CONTRACTOR in writing, and shall remedy the same within ten (10) days of receipt of such notice. Upon failure by the CONTRACTOR to remedy deficiencies, the Agreement may be terminated at the option of the CITY.

68. CONTRACTOR shall permit members of the Police Department and other authorized CITY personnel to inspect CONTRACTOR'S compound, storage facilities, stored vehicles, and all of the CONTRACTOR'S records concerning CONTRACTOR'S duties under the Agreement at all reasonable times whenever, in the opinion of such members of the Police Department or other authorized CITY personnel, it is deemed necessary to do so.

69. CONTRACTOR shall be given at least two (2) business day's prior notice of any inspection to be conducted pursuant to this section.

## PROTECTION OF VEHICLES AND PERSONAL PROPERTY

70. The CONTRACTOR'S liability for any vehicle towed and all property contained therein will commence once the wrecker is hooked onto the vehicle.

## BENEFITS FROM REPAIRS

71. The CONTRACTOR shall not benefit directly or indirectly from any motor vehicle repair or painting with respect to vehicles towed by the CONTRACTOR under this contract, unless expressly consented to in writing by the vehicle owner or vehicle owner's authorized representatives. Such writing shall inform the owner or agent that he or she has the right to have the vehicle repaired or painted at a place of his or her choice.

## INSURANCE

72. The CONTRACTOR shall obtain and maintain throughout the term of this Agreement, at CONTRACTOR'S sole cost and expense, the following policies of insurance according to the minimum limits set forth below. Each policy shall be in the name of the Company and shall include coverage for towing and storage. The CITY shall be named as an additional insured, and all coverage afforded to the CITY shall apply as primary coverage and shall not be affected by any insurance which the CITY may carry in its own name. A copy of such insurance policy or policies, or certificated thereof, will be furnished to the CITY Purchasing Department by the CONTRACTOR.

a. Workman's compensation and employer's liability insurance as required by State Statute and local ordinance.

b. Comprehensive general liability insurance in amounts not less than $500,000.00 per occurrence for Bodily injury and $500,000.00 per accident for property damage. Said policy endorsed to include:

1. Legal liability covering perils of fire and explosion, theft of an entire vehicle, riot and civil commotion, vandalism and malicious mischief.

2. Combined single limits automobile liability insurance in an amount not less than $500,000.00 per occurrence or bodily injury and property damage covering all owned, non-owned and hired vehicles used in connection with the work.

c. Garage keepers legal liability insurance coverage in the minimum amount of $100,000 to protect owners of any and all vehicles, boats and trailers towed or stored by CONTRACTOR pursuant to this Agreement, from any loss or damage to such vehicle, boat or trailer on account of such removal or storage.

## INDEMNIFICATION AND HOLD HARMLESS

73. The CONTRACTOR shall indemnify and save harmless and defend the CITY, its agents, savants, and employees from and against any and all claims, liability, losses, and/ or cause(s) of action which may arise from any negligent act or omission of the CONTRACTOR, its agent, servants, or employees in the performance of services under this Agreement.

74. The CONTRACTOR further agrees to indemnify, save harmless and defend the CITY, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the CITY, its agents, servants or employees are alleged to be liable. Nothing contained in this Agreement shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

75. CONTRACTOR shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees, and court and/ or arbitration costs. These indemnifications shall survive the term of this Agreement or any renewal thereof.

76. The CONTRACTOR shall defend all actions in the name of the CITY, when applicable; however, CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the CONTRACTOR.

## CONTINGENCY FEES

77. The CONTRACTOR warrants that it is has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fees, commission, percentage, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement.

## DISCRIMINATION

78. CONTRACTOR will not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, sex, religion, political affiliation, natural origin or handicap.

## COMPLAINTS AGAINST CONTRACTOR

79. CONTRACTOR understands and agrees that any complaints received by the CITY, whether such complaints originate from City personnel or private individuals, concerning the performance of CONTRACTOR'S duties under this Agreement will be referred to the Chief of Police. The referral of any complaint (s) to the Chief of Police will be considered a material breach of this Agreement and cause for removal from the rotation schedule and or termination of services.

## SUSPENSION AND REMOVAL FROM ROTATION SCHEDULE

80. If at any time during the term of this contract, including any option terms, the CONTRACTOR is determined to be in violation of any of the terms and conditions of the Agreement, the Chief of Police or designee shall have the right to suspend the CONTRACTOR until the violation is resolved to the satisfaction of the CITY. If the violations is not promptly resolved or is of such serious nature that the CITY, in its sole discretion, determines that suspension is not adequate, the CITY reserves the right to terminate this agreement. Termination of this agreement shall be based on but not limited to the number, nature and severity of complaints received against the CONTRACTOR relative to the delivery of the services provided herein or failure to timely respond to calls for service.

81. In the event that the CITY receives three (3) or more complaints within a six (6) month period or six (6) or more complaints within one (1) year against the CONTRACTOR, that are not mutually resolved by all parties, this shall be grounds for immediate termination of the Agreement.

82. Any violation of the provisions or regulations of this Agreement may result in suspension or removal from the CITY'S rotation schedule, including, but not limited to, the following:

a Failure to possess all licenses and permits required by State Statute or local ordinances.

b Failure of the CONTRACTOR to respond to a tow call without valid reason.

c Habitual failure to respond to a tow call properly and within the time prescribed in this Agreement. .

d Voluntary request by CONTRACTOR to be removed temporarily or permanently from the rotation schedule.

e Storage facilities are in disrepair or lacking the requirements contained herein.

f CONTRACTOR knowingly overcharges a customer or fails to charge the agreed upon rates as set forth in the Rate Schedule.

## DISPUTES

83. CONTRACTOR expressly understands and agrees to relinquish any vehicle immediately upon the request of the CITY. Any dispute concerning billing shall be forwarded to the Chief of Police or designee for resolution. Such resolution by the Chief of Police shall be final and binding upon all parties.

## COMPLIANCE WITH LAWS AND ORDINANCES

84. CONTRACTOR shall comply with all applicable State and Federal laws and ordinances of the CITY now in existence or hereafter adopted, so long as the same do not impair the rights and privileges of CONTRACTOR in and to any contract signed by CONTRACTOR and the CITY as the result of this Agreement.

## NON-ASSIGNABILITY

85. This Agreement shall not be assigned, sold or transferred and any such attempt to do so shall render this agreement void.

86. The CITY reserves the right to terminate the Agreement upon any change in ownership whether from the sale of CONTRACTOR'S business or stock or transfer of authorized and issued shares, the issuance of authorized but unissued shares or the issuance of any additional shares authorized by increases in capital stock limitations.

## DISPOSAL OF VEHICLES

87. Should CONTRACTOR, as a result of this Agreement, have in its possession any vehicle or personal property for a period in excess of sixty (60) days, and should CONTRACTOR be ordered to relinquish such vehicle or personal property to the Police Department, CONTRACTOR agrees to immediately do so. A faxed list shall be provided to the Police Department of any vehicles held in storage on a weekly basis. Vehicles held longer then five (5) days at the request of the Police Department will incur daily storage charges as outlined in Exhibit "B" and charged to the vehicle owner.

## AUCTIONS

88. CONTRACTOR shall not auction any vehicle without the written approval of the Chief of Police, or the Chief's representative. All such auctions shall be conducted pursuant to Section 713.78, Florida Statutes.

## TERMINATION

89. The CITY or CONTRACTOR may elect to terminate this Agreement upon thirty (30) days written notice to the other party.

## NOTICE

90. All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

Clarence D. Williams, III Chief of Police
600 West Blue Heron Blvd
Riviera Beach, FL 33404

And if sent to the CONTRACTOR shall be mailed to:

KAUFF'S OF PALM BEACH, INC.
4701 EAST AVENUE
MANGONIA PARK, FL 33407

## VENUE

91. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

## REMEDIES

92. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## ENFORCEMENT COSTS

93. If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## SEVERABILITY

94. If any term of provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

## PUBLIC ENTITY CRIMES

95. This Agreement or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

## ENTIRETY OF CONTRACTUAL AGREEMENT

96. The CITY and the CONTRACTOR agrees that this Agreement and any attachments hereto or other documents as referenced herein sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

## HEADINGS

97. The Section and/or Paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

## WAIVER

98. Failure of the CITY to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

## PREPARATION

99. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## MATERIALITY

100. All provIsions of the Agreement shall be deemed material, in the event CONTRACTOR fails to comply with any of the provisions contained in this Agreement or attachments hereto, said failure shall be deemed a material breach of this Agreement and CITY may at its option and without notice terminate this Agreement.

# AGREEMENT WITH THE CITY OF RIVIERA BEACH

**IN WITNESS WHEREOF,** the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: _____
THOMAS A. MASTERS
MAYOR

BY _____ 8/5/09
CARRIE E. WARD, CITY CLERK,
CMCIAAE

SHEEHAN'S TOWING, INC.

BY: _____
CRYSTAL SHEEHAN GRIFFIN
PRESIDENT

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
PAMALAH.RYAN\
CITY ATTORNEY

DATE: 5 11 109

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
BENJAMIN GUY
DEPARTMENT DIRECTOR

EXHIBIT A

TOW ROTATION LIST PROCEDURE

l.Purpose

The purpose of the tow-rotation list is to have a procedure in place for wrecker call-out on a per incident basis. A tow log will be utilized and maintained by the Police Communication Center, (hereinafter "Center").

2. Procedure

A. Eligible Tow Contractors

K-l KAUFF'S OF PALM BEACH INC. (dba) KAUFF'S TRANSPORTATION SYSTEMS
L-l LAKE PARK TOWING
S-l SHEEHAN'S TOWING, INC
P-l PALM BEACH GARDENS TOWING

B. Wrecker Response

a. If a Tow Contractor is unable to respond to a call, the Tow Contractor will be moved to the end of the list, thereby forfeiting that rotation.

b. In the event of cancellation or other circumstances where the wrecker is not used and in which the Tow Contractor is not in any way at fault, the City official, agent or employee on the scene requesting the wrecker or tow shall notify the Center upon cancellation of the tow and the Contractor shall retain its position in the rotation.

c. Should the Center be unable to reach the Contractor or the Contractor has failed to respond in a reasonable time to a hazardous scene, the next tow company in line will be contacted. The City official, agent or employee shall determine, based on his sole discretion, whether the response time was excessive.

C. Rotation Tracking

a. A log will be used by the City to track all vehicle and trailers towed to include rotation wreckers.

b. The log shall contain the complete vehicle description including VIN number and TAG number when available, the CAD and/or case number assigned, the date and time of the tow, the tow company, and the City official, agent or employee dispatching and/or requesting such tow.

c. The rotation list shall be maintained in a manual log in which the first Tow Contractor on the list shall be given the first opportunity to accept the town and/or service request.

d. Specific requests from the vehicle or trailer owner or person lawfully in possession will not be charged against the rotation schedule. The request shall be logged as such by City

in the log. If an owner's request cannot be honored for any reason whatsoever, a rotation wrecker will be contacted and so charged on the rotation schedule.

e. In the event the Police Department exercises its option to ignore such rotation list pursuant to Section45 of the Agreement, such election shall not affect the order of the rotation list and the Contractor shall retain its position.

f. A tow request from the City for City owned or operated vehicle(s), Police Department "Hold" vehicles and Code Enforcement abandoned, wrecked or junked vehicles will not be charged against the Tow Contractor. The Tow Contractor will remain in its tow position until a civilian tow or other type of tow is requested. The request shall be logged as such by the City in the log.

    i. **Example:** Center Call (A-I) to tow a City vehicle because they are next on the rotation list. (A-I) will tow the vehicle and remain in their original tow position. Immediately thereafter if another City vehicle needs towing the Tow Contractor (1-2) will be called by Center. They will also remain in their original tow position.

EXHIBIT B

RATE SCHEDULE

# CITY RIVIEARA BEACH
# RATE SCHEDULE SHEET

**Established rates - rates established by the City herein are the only rates that may be charged by the contractor. All rates to remain firm for any resulting contract period. The City will not guarantee any specific number of tows, etc., during the contract period.

## SECTION I
## TOWING REMOVAL AND RECOVERY (ONE HOUR SERVICE AT THE SCENE).

| DESCRIPTIONS | UNIT PRICING |
|---|---|
| A. Class A (cars, vans, light trucks) | $75.00 ea. Tow |
| (1) Extra time at the scene (per one hr.) | $35.00 per hour |
| (2) Dollies | $35.00 ea. |
| B. Motorcycles (within City) | $50.00 ea. Tow |
| (1) Extra time at the scene (per 15 minutes) | $12.50 per ¼ hr. |
| C. Class 8 - Trucks over 25,000 GVW within City | $115.00 ea. Tow. |
| (1) Extra time at the scene (per one hr.) | $60.00 per hr. |
| D. Class C - Tractor & Trailer at the scene (per one hr.) | $150.00 ea. Tow |
| (1) Extra time at the scene (per one hr.) | $65.00 per hr. |

E. Junk or Abandoned Vehicles within City shall be the same as provided in a, b, c or d above.

| | |
|---|---|
| F. Road Service (City Vehicles or leased vehicles) | $ 40.00 ea. |

Per call to include but not limited to:
a) Assist start
b) Change tire
c) Unlocking door
d) Provide enough gas if City vehicle runs low to return to facility

| | |
|---|---|
| A. Mileage outside City limits over five (5) miles; per mile rate | $ 4.00 per mile |
| B. 4x4 Off Road vehicle recovery - 1st hour | $ 100.00 1st hr. |
| Additional per half hour rate | $ 30.00 per ½ hr. |
| C. Dive Fee first hour for underwater recovery | $ 150.00 1st hour |

**SECTION II**

**STORAGE RATES AND ADMINISTRATIVE FEE**

The following rates are for the storage of vehicles. Pursuant to Section 713.78 (2) (d), Florida Statues, "No storage fee shall be charged if the vehicle is stored for less than six (6) hours.

**DESCRIPTIONS UNIT PRICING**

| | |
|---|---|
| A. Inside Storage Per Day | |
| (1) Cars | $35.00 per day |
| (2) Motorcycles and Scooters | $15.00 per day |
| (3) Any vehicle or Trailer over 20 feet | $35.00 per day |
| B. Outside Storage per Day | |
| (1) Cars | $25.00 per day |
| (2) Motorcycles and Scooters | $10.00 per day |
| (3) Any vehicle/trailer over 20 feet | $35.00 per day |
| C. Lien - Title Administrative Fee | |
| (1) To be charged after 24 hours (per vehicle) | $30.00 per day |
| D. Tarp Fee | $20.00 ea |
| E. Lowboy | $ 100.00 ea |

Proposers may be selected for an interview prior to a recommendation being presented to the City Council. As the best interest of the City may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. Proposers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive.

# TOWING AND STORAGE AGREEMENT

THIS AGREEMENT, made and entered into this 5 th day of May 2009, by and between the City of Riviera Beach, a municipality in the State of Florida, herein referred to as the "City", and PALM BEACH GARDENS TOWING, a corporation authorized to do business in the State of Florida, hereinafter referred to as the" CONTRACTOR", whose Federal J.D. 65-0860117.

WITNESSETH:

WHEREAS, the CITY issued its *Request for Proposals for Towing and Storage Services #19308, (collectively, the "RFP")* pursuant to state and local law to solicit proposals to provide vehicle towing and storage services for the CITY; and

WHEREAS, the CONTRACTOR responded to the *RFP* by submitting its bid proposal and agreeing to abide by the CITY'S rate schedule, which Proposal was accepted by the CITY; and

WHEREAS, the CONTRACTOR along with three (3) other Contractors have been selected; and

WHEREAS, the *RFP* provides for a two (2) year contract with three (3) additional twelve (12) month renewal periods; and

WHEREAS, although the *RFP*, the Proposal and the Rate Schedule address in some detail the services to be provided, there are certain issues not addressed by these documents which the parties hereto desire to address.

NOW, THEREFORE, for and in consideration of the foregoing promise and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and the CONTRACTOR hereby covenant and agree as follow:

## SCOPE OF AGREEMENT, TERMS AND CONDITIONS

1. The vehicle towing and storage services to be provided to the CITY by the CONTRACTOR shall be on a non-exclusive, rotating basis with exception to Special Operations performed by the Police Department. One Contractor will be selected from a Special Operation Rotation schedule and will be required to stage at a minimum four (4) towing vehicles at the City of Riviera Beach Police Department.

2. It is the CITY'S desire to contract with several firms deemed qualified and responsive by the CITY. A representative of City of Riviera Beach Police Department, ("Police Department"), the affected Department, or any authorized representative of the CITY will accept and distribute all tow calls on a rotation basis as more fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

3. The owner or person in possession of any vehicle which has been involved in an accident or whose vehicle has been incapacitated in any other manner, as well as a detained driver of any vehicle which will not be impounded by the Police Department, will be given the opportunity to contact a wrecker or tow truck company of his/her own choice if the disabled vehicle does not create a hazardous condition and a reasonable response time can be expected. Said person shall further be given

the opportunity of having such vehicle towed to a garage or compound other than that of the CONTRACTOR.

4. When authorized by a representative of the Police Department, the affected Department or any authorized representative of the City, CONTRACTOR shall remove vehicles from the streets or other public property lying within the City limits and any abandoned, wrecked or junked vehicles on private property declared to be a nuisance by the City when so informed by the City.

5. Except as the law may otherwise require, the CONTRACTOR shall not move any vehicles to any location other than that designated by the City's Police Officer or other authorized City representative, or owner or person in lawful possession of the vehicle.

6. A tow as used herein is the actual removal of a vehicle. No double charges or second tows are allowed. Additional hook-ups will not incur another tow charge. No mileage charges are allowed from any point within the City limits.

7. The CONTRACTOR agrees to have no marking, lettering or symbol on any vehicle, building or correspondence that indicates or tends to indicate any official relationship between the CONTRACTOR and the CITY.

8. The CITY, vehicle owner, driver, or person lawfully in possession of such vehicle, shall have the right to cancel a request for services at any time, including up to the time of hook-up, without any charge being incurred. The CONTRACTOR agrees that the mere response to a service call scene without other action does not constitute a service for which charges are applicable. However, if the tow is cancelled, CONTRACTOR will retain its position in the rotation.

## CONTROLLING PROVISIONS

9. To the extent that there exists a conflict between the RFP, the Proposal, the Rotation Schedule and the Rate Schedule, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

## TERM OF AGREEMENT

10. The period of the Agreement shall be for two (2) years (24 months) with an option to renew the contract for three (3) additional twelve (12) month periods. The option for renewal will only be exercised upon mutual written agreement and with all original terms, conditions and specifications of the Agreement remaining the same with no deviations.

a. Price adjustments will be made after the second year of the contract and upon the first renewal based on the consumer price index (CPI). Unit prices shall be adjusted upward or downward annually to reflect changes in the CPI for all Urban Consumers (CPI - U) subcategory "South Urban", subsection "Fuels". Beginning on January 15, 20II and upon the first renewal on January 15, 2012, the unit contract prices shall be adjusted to reflect the increase or decrease in the CPI for the immediately preceding twelve (12) month period of January to January. The Independent Contractor shall notify the City in writing of increases that are based on the CPI, as provided in this section, no less than thirty (30) days prior to their implementation. Should the CPI be discontinued or substantially modified, an alternate index shall be chosen by mutual agreement of the Independent Contractor and the City.

## RESPONSE

11. Calls under this Agreement from the Riviera Beach Police Department will be given priority over all other non-emergency calls.

12. CONTRACTOR shall be expected to arrive at the site within twenty (20) minutes of the call. CONTRACTOR assumes all liability in meeting the twenty (20) minute response time including, but not limited to, any and all damages resulting from traffic accidents and motor vehicle infraction fines.

## LOCATION

13. CONTRACTOR shall have a Place of Business and Storage Facility located within a ten (l0) mile radius of the Riviera Beach Police Station, ("Police Station").

14. CONTRACTOR agrees that it shall provide to the CITY, free of charge, all necessary towing, road service and storage required by the CITY in the operation and maintenance of all CITY vehicles. This includes towing from the CITY garage or the closest qualified commercial maintenance facility selected by the CITY to anywhere in Palm Beach, Broward, and Martin Counties. CONTRACTOR shall also provide, at no cost to the CITY, "stand-by" wrecker equipment and personnel whenever requested by the Police Department for Special Operations including, but not limited to, "sting operations", traffic checkpoints, or other special events as designated by the Chief of Police or his designee.

15. Services related to CITY owned or leased vehicle(s) or trailer (s) should be logged and forwarded by CONTRACTOR on a monthly basis to the CITY'S Police Department Asset Manager. All such logs shall identify the vehicle (s) or trailer (s) towed or the service rendered, the location from which it was towed, and the hours and dates applicable to CONTRACTOR'S services with respect to the vehicle (s) or trailer (s). The "service ticket" shall include the signature of the authorized CITY employee approving the tow of the CITY vehicle or trailer. CONTRACTOR shall provide such information, until such time as a form is provided to it by CITY, which then must be completed by CONTRACTOR

## CRIME SCENE CONFISCATED SPECIAL "HOLD STORAGE"

16. Vehicles towed for the Police Department that are seized as the result of any Special Operations and/or vehicles which will be held pending forfeiture and/or for other investigative purposes shall be towed by CONTRACTOR at no cost to the CITY.

17. Vehicles which have been marked "HOLD" by the Police Department shall be stored at the compound of the CONTRACTOR for a period of seven (7) business days excluding weekends without charge, in order to properly process the vehicle and conduct any necessary investigation. Absent a Court Order to the contrary, Police Department Personnel shall be permitted access to such vehicle at all reasonable times. CONTRACTOR agrees to seek recovery of any and all storage charges from the owner of such vehicle or in the sale of such vehicle as provided for by Sections 713.78 and 715.05. Florida Statutes.

18. Any vehicle towed or stored as a result of being marked "HOLD" relative to a crime scene investigation shall be handled with gloves (i.e. cloth, rubber, or leather) by the wrecker operator and towed to a facility or location that meets the specifications outlined in article 60.

19. Crime Scene vehicles shall be stored to prevent physical contamination or degradable evidence from deteriorating and shall be stored inside a facility. If inside storage is not available, CONTRACTOR shall surrender the tow and fee to the next tow company in rotation. This requirement shall not prevent CITY from removing the vehicle or trailer and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

20. If laboratory work on a crime scene vehicle is required and the vehicle must be processed at a location other than CONTRACTOR'S facility, the vehicle shall be transported to the CITY designated location and charged a basic tow rate listed on Exhibit "B" excluding mileage and billed to the vehicles owner.

21. Confiscated vehicles or vehicles involved in litigation shall be protected from the elements, preferable at an inside storage facility, as to maintain the vehicle in its condition at the time of towing. This shall not prevent the CITY from removing the vehicle and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

## CODE ENFORCEMENT

22. Vehicles to be towed and stored pursuant to the directive of the City of Riviera Beach Code Enforcement Department, (hereinafter "Code Enforcement"), shall also be subject to the rotation schedule as more fully set forth in Exhibit "A".

23. CONTRACTOR'S failure to perform Code Enforcement tows more than two (2) times during any twelve (12) month period may result in suspension or removal from the CITY rotation schedule. When vehicles, boats or trailers are towed from public property, including right-of-ways, after the appropriate notification, CONTRACTOR has the option of destroying the vehicle or keeping it safe for sale pursuant to Sections 713.78 and 715.05, Florida Statutes. CONTRACTOR shall remove, tow and store all such vehicles, boats, and trailers, at no charge to the CITY. CONTRACTOR hereby agrees to seek payment for such services solely from the owner of such vehicles, boats or trailers or in the sale of such vehicles, boats or trailers as set forth herein.

24. When vehicles, boats or trailers are towed from private property after receiving the appropriate notification, CONTRACTOR must proceed in accordance with the provisions set forth in Section 713.78 and 715.05, Florida Statutes and store the vehicles, boats, or trailer for a minimum period of thirty-five (35) days, after which time CONTRACTOR has the option to destroy or sell the vehicles, boats or trailers pursuant to Section 713.78, Florida Statutes. Any breach of any statutory provision with respect to such destruction or sale shall constitute a breach of this Agreement and shall be grounds for termination of this Agreement.

25. CONTRACTOR agrees that the CITY shall in no way compensate CONTRACTOR for such removal and/ or storage and CONTRACTOR shall look to the vehicle, boat or trailer owner or the remedies as provided by the statutes referenced herein for payment.

## COMPENSATION

26. Services performed under this Agreement shall be charged for and compensated in accordance with the Rate Schedule attached hereto as Exhibit "B00 and incorporated herein by reference.

27. The CONTRACTOR shall be responsible for the collection of all tow, storage, labor, service and mileage charges and fees. The CITY shall in no way be responsible for the collection or payment of any charge for services rendered by reasons of its having dispatched service in accordance with this Agreement. All such services rendered shall be charged to the owner of the towed or serviced vehicle or other lawful claimant in possession of such vehicle.

28. Storage fees shall be charged at the rates stated in the Rate Schedule for each twenty-four (24) hour period. No storage fee shall be applied until a vehicle is held in excess of twenty-four (24) hours.

29. CONTRACTOR shall prominently post in CONTRACTOR'S storage facilities a list of CONTRACTOR'S charges as set forth in the Rate Schedule. A list of such charges shall be provided to the owner or person lawfully in possession of each vehicle towed. CONTRACTOR shall not charge for any service that exceeds such posted, or listed amount, nor shall CONTRACTOR perform any service that is not delineated on any such posted or listed schedule without giving the owner of the vehicle or person lawfully in possession thereof a written estimate of the amount that will be finally due and payable upon the rendition of the services. No additional charges are allowed unless specified by this Agreement and new charges must be approved through negotiation with the CITY'S Purchasing Director.

30. No charges other than those set forth in the Rate Schedule will be levied against the vehicle owner, whenever the vehicle towing, recovery, or storage is authorized by the CITY, or its agents. A declaration as to the rates between the CONTRACTOR and the CITY will either be made a part of, or permanently attached to the invoice that is presented to the vehicle owner or the owner's representative.

## MINIMUM EQUIPMENT REQUIREMENT

31. The CONTRACTOR will be required to have available at all times sufficient equipment to perform all services required once on the scene in a timely and reasonable basis. All equipment must be housed within a ten (l0) mile radius of the Police Department. CONTRACTOR must have at least one (1) wrecker capable of towing any CITY Fire Truck, whether loaded or empty. All equipment shall be modern, commercially manufactured or approved by the CITY and in good mechanical condition. All towing vehicles must be owned or leased directly by CONTRACTOR. Subcontracting of towing vehicles will not be allowed. No vehicle of the CONTRACTOR shall be used as an emergency vehicle. All towing vehicle must be equipped with two-way radios with a range extending throughout the entire CITY limits. Such radios shall not be tuned in to any police frequency. CONTRACTOR shall comply with all laws, rules and regulation of any governmental agency having jurisdiction in the premises including, but not limited to, licensing and minimum safety standards. **In** addition to the aforementioned, CONTRACTOR shall have the following:

**Vehicles**

a. Five Class "A" small wreckers of 4-ton capacity.
b. Two Class "A" slide back (flatbed) carrier of 10,000 Gross Vehicle

Weight, ("GVW"). (Note: these may be included as part of the total for (a) above).
c. One Class "B" large wrecker of 16-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.
d. One Class "C" large wrecker of 40-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.
e. One 48' hydraulic, roll back, tilt self-loading trailer, capable of hauling, among other things, the CITY'S Fire apparatus.

**Communication**
A business type communications system licensed and approved by the Federal Communications Commission capable of providing reliable communications between the driver and a place of business from anywhere within the city limits. A Citizen's Band (CB) radio or Family Radio Service (FRS) does not meet the requirements of this condition.

**Lights**
a. One or more amber colored rotator beam, or strobe lights, mounted on the top of the cab and positioned so that the light is visible from any direction.
b. Additional amber lights shall be installed to be visible from the front of the tow truck and red lights visible only from the rear of the truck.
c. Top mounted rotor beam or strobe lights WILL NOT be used while responding to a dispatch call unless authorized by the Police Department.
d. Top mounted rotor beam or strobe lights will be used while at the scene of a dispatch call.

**On-board Equipment**
a. Dollies for all vehicles except for class "B" &"C" and roll back carriers.
b. At least one heavy-duty push broom with a minimum width of 24 inches on each vehicle.
c. Flood lights on each hoist.
d. Minimum of one square shovel.
e. Minimum of one fire axe.
f. One crowbar or pry bar with a minimum length of 30 inches,
g. A minimum of one 5-pound C02, or dry chemical fire extinguisher or equivalent. The extinguisher must be of an approved type and have attached a current marked inspection tag.
h. One pair of bolt cutters with a minimum of ½ inch opening.
1. One set of battery jumper cables or a portable heavy-duty jump starting device.
J. One 4-way lug wrench or pneumatic tools capable of automotive wheel removal at scene.
k. One high intensity flashlight.
1. Five 30 minute fuses (flares), or equivalent in sufficient quantity to burn for 2 ½ hours.
m. One snatch block for each winch, manufacturers rating to match winch, except for roll back carrier.
n. Extra towing chain six to eight feet in length with hooks on both ends.
o. At least six safety cones or triangle reflectors.
p. Fifty pounds of "Oil Dry" or suitable absorbent material equivalent to handle spills or leaks.
q. One trash receptacle capable of holding 5 gallons or more.

## DRUG FREE WORK PLACE

32. In compliance with Section 287.087, Florida Statues, CONTRACTOR shall execute and submit with this Agreement the "Drug-Free Workplace Certification" attached hereto as Exhibit "C" and incorporated herein by reference.

## ETHICS AND CONDUCT

33. CONTRACTOR hereby agrees to conduct operations under this Agreement in a courteous, orderly, ethical and professional manner. As it is recognized by both parties that his Agreement is sensitive in nature and requires CONTRACTOR and its personnel and employees to work with the public on a daily basis, CONTRACTOR is required to extend common courtesies including, but not limited to:

a. Expedite release of vehicle in accordance with the terms of this Agreement;
b. Assist the vehicle or trailer owner in retrieving documents from the vehicle or trailer to establish ownership;
c. Permit the owner to remove the auto tag and any unattached personal possessions;
d. Explain fully and politely the reason for the tow and all charges levied;
e. If a dispute occurs, CONTRACTOR shall attempt to resolve the dispute promptly and politely. If it cannot be resolved satisfactorily, the dispute shall be reported to the CITY Chief of Police or designee no later than the next business day.

## CONDUCT OF CONTRACTOR

34. All employees of the CONTRACTOR shall conduct themselves in a courteous and professional manner at all times. Abusive language or gestures shall not be tolerated and could be cause for removal from contract. Caution shall be exercised to assure that their operations do not cause any safety hazards to the general public. Whenever questions, complaints, etc., are directed to an employee of the CONTRACTOR by the public, they are to acknowledge, record, and pass on to the City's Contact Person if unable to reply. Conduct determined to be unacceptable are listed as follows: Arrest; behavior contrary to public policy; suspension pending outcome; or any other known illegal activities.

## EMPLOYEES

35. The CONTRACTOR agrees that the owner(s) of the company or the officer(s) of the company (if a corporation) shall be responsible except as otherwise prohibited by law, for the acts of its employees while on duty.

36. The CONTRACTOR represents that it has, or will secure as its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CITY.

37. All of the services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized, licensed or permitted under state and local law to perform such services.

38. The CONTRACTOR guarantees that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

39. The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of persons either directly or indirectly employed by the CONTRACTOR. Nothing contained herein shall create any contractual relationship between any such person and the CITY.

40. All of the CONTRACTOR'S personnel, while on City premises, will comply with all CITY requirements governing conduct, safety, and security.

## GENERAL OPERATING PROCEDURES

41. CONTRACTOR must be available for immediate response, twenty-four (24) hours per day, seven (7) days a week. Should extenuating circumstances prevent full time availability, the Police Department must be notified immediately.

42. CONTRACTOR is prohibited from "chasing" or "running" to vehicle accident scenes, unless properly authorized by the Police Department. CONTRACTOR shall be subject to suspension or removal from rotation schedule or suspension or termination from services.

43. CONTRACTOR agrees that it will not solicit on the scene of an official investigation.

44. Should CONTRACTOR remove any vehicle from any scene of any official investigation without the authorization of the Police Department, CONTRACTOR shall be subject to suspension or termination from services.

45. Although the CITY established a Special Operation Rotation or regular rotation schedule, the Police Department reserves the right to deviate from such a rotation schedule when in the sole opinion of the Police Department, there is a need for urgency and/ or public safety mandates calling another towing company or when superior equipment is required which cannot be furnished by the tow company next on the rotation schedule.

46. CONTRACTOR shall tow all vehicles requested to be towed except when CONTRACTOR is unable to handle all vehicles, in which case a second tow company will be called or upon request by an Owner.

## INDEPENDENT CONTRACTOR RELATIONSHIP

47. The CONTRACTOR is, and shall be, in the performance of all work services and activities under the Agreement, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

48. The CONTRACTOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Agreement.

## CONTRACTOR'S LIABILITY

49. The CONTRACTOR'S liability for any towed and/ or stored vehicle and all property contained therein shall commence from the time a wrecker is hooked to any vehicle to be towed. The CONTRACTOR and/or the Police Department shall inventory all personal property contained in the vehicle to be towed. Such inventory shall be made in triplicate and shall be signed by the person(s) composing it. One copy shall be given to the owner or the person in possession of the vehicle, and one copy shall be given to the Police Department or other authorized CITY personnel. The CONTRACTOR shall be solely liable and responsible for all personal property in the towed vehicle.

## CLEANUP

50. The CONTRACTOR, when called to the scene of an accident, shall remove and properly dispose of all broken glass, debris and other non-hazardous matter from the street, sidewalk, park or other CITY property. The cost of such normal accident cleanup shall be included in the basic towing rate and no separate charge made to the vehicle owner.

## LABOR CHARGE

51. Labor charges shall be included in the basic towing rate and no separate charge made to the vehicle owner. **In** event that unusual circumstances arise which require additional labor not contemplated in the provision of services hereunder, the cost of such labor shall be charged to the vehicle owner at the rate set forth in the Rate Schedule.

## NON-LIABILITY OF CITY

52. The CITY shall not be responsible or liable for the collection or payment of any charges for services rendered, including, but not limited to, towing, storage or mileage.

## REPORTS, RECORD KEEPING, AND AUDITS

53. The CONTRACTOR shall maintain and have available at all times for inspection by authorized CITY personnel detailed accounting and other records of all services rendered relative to the Agreement.

54. CONTRACTOR, shall provide within the first ten (l0) days of each month-to the CITY'S Police Department Asset Manager one (l) copy of a complete, detailed listing of all vehicles which have been towed and released in the prior thirty (30) day period; a complete, detailed listing of all vehicles which have been impounded or stored for a period of thirty (30) days or longer, such listing to include all vehicles not claimed within thirty (30) days, and any such other information that the CITY may require.

55. The CONTRACTOR shall provide to the Police Department weekly reports faxed to Asset Management personnel in the Police Department at 561-845-4089 of vehicles and trailers towed pursuant to Police Department directive. Such weekly reports shall contain, to the extent available, the following information:

a. Name of owner or driver of vehicle, boat or trailer towed;
b. Model and make of vehicle, boat or trailer;
c. License plate number;
d. Vehicle, boat or trailer identification number;
e. Time, date and location of tow;
f. Circumstances requiring tow;
g. Whether or not a "HOLD" was placed on the vehicle by the Police Department;
h. Time dispatched to scene and time of arrival;
1. Storage facility where vehicle is stored;
J. The date times and name of employee releasing the vehicle; and
k. Police Department case number (CADD or report).

Failure to comply with the above weekly reporting or all the above and below record keeping requirements may result in removal of the CONTRACTOR from the towing schedule.

56. CONTRACTOR shall at all times maintain at its place of business records containing the following information:

a. A vehicle storage receipt of each vehicle on the premises.
b. A monthly log of all calls for service by the Police Department.
c. A notification log indicating the date, time and method of notification to the registered owner of the stored vehicle or trailer.
d. A daily log setting forth a list of all vehicles towed, as well as information on each vehicle as outlined above.

57. The CITY, from time to time, during normal business hours and with at least two (2) business days prior notice to CONTRACTOR, shall have the right to audit the CONTRACTOR'S books and records at the CITY'S expense with regard to the accounts of the Agreement being met. Failure by CONTRACTOR to permit such audit shall be grounds for immediate termination of this Agreement by the CITY.

## RELEASE OF VEHICLES AND/OR PERSONAL PROPERTY

58. CONTRACTOR agrees to release any vehicle, which has not been marked "HOLD" by the Police Department provided that proper proof of ownership or right of possession is presented to CONTRACTOR. Any vehicle, including any personal property in such vehicle and all accessories, which has been marked, "HOLD" by the Police Department, shall not be released without prior written authority from the Police Department. Should CONTRACTOR release personal property, upon proper proof of ownership or right of possession, the owner or person entitled to possession thereof shall sign a receipt provided by the CONTRACTOR for same.

## OWNER NOTIFICATION

59. CONTRACTOR agrees to be responsible for notifying the registered owner or agent of the whereabouts of the vehicle in accordance with Chapter 713, Florida Statues.

## IMPOUNDED VEHICLES

60. Should any owner or person lawfully entitled to possession of any impounded vehicle seek to reclaim the same from CONTRACTOR, CONTRACTOR shall provide such owner or person lawfully entitled to possession with an itemized statement of all charges relating to the impounding of such vehicle.

## STORAGE AND OFFICE FACILITIES

61. The CONTRACTOR will maintain an office facility, storage garage and outside storage facilities complying with all provisions of applicable building, zoning and environmental regulations sufficient to store all vehicles towed under this Agreement until such vehicle(s) are claimed by the owner or otherwise disposed of legally.

62. CONTRACTOR'S office and storage facility shall be open and manned for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and when closed, shall have prominently posted a sign indicating a telephone number where the CONTRACTOR of the site can be reached seven (7) days per week and twenty-four (24) hours per day. Upon receipt of a telephoned request to open the site to redeem a vehicle, the CONTRACTOR shall return to the site within one (l) hour or she or he will be in violation of this agreement and Florida statues 715.07 seven (7) days per week and twenty-four (24) hours per day and shall be equipped with twenty-four (24) hour on-premises radio-dispatching capabilities.

63. All outside storage facilities shall be enclosed with a solid wall or substantial wire fence not less than six (6) feet in height. The top of such fence or wall including all gates or doors or roofed open doors, shall be equipped with not less than 12" of barbed wire installed in such manner as to discourage access over the top of such fence or wall. All fences and walls shall be maintained in good repair throughout the tern of the Agreement. Damage to such walls or fences shall be repaired within twenty-four (24) hours. All storage areas shall be open twenty-four (24) hours per day, seven days a week, and authorized personnel or CONTRACTOR shall be available during such times to assure that the obligations and service required of CONTRACTOR shall be available and fulfilled. No charges or gate fees are allowed.

64. CONTRACTOR shall be capable of storing up to three (3) vehicles inside storage and shall maintain one (1) inside storage space which shall comply with the following specifications:

a. A working area of 9' x 20' per vehicle with at least an eight (8') foot high ceiling;
b. A paved floor (i.e. concrete, asphalt) that is free from dirt, standing water and vegetation;
c. An electrical lighting source sufficient to permit processing of a vehicle; and
d. One (1) outside window or a ventilation system.

65. CONTRACTOR'S office facilities shall include a telephone, restroom facilities, and a work area containing a desk, phone, facsimile machine, computer, etc. Such facility shall have the name of the company, the mailing address and the 24-hour phone number clearly visible to all.

**66.** Vehicles stored within an enclosed area shall be secured and locked. The CONTRACTOR shall protect all stored vehicles and any evidence or personal property contained

therein from theft and damage in accordance with all reasonable Police Department instructions and directives.

## INSPECTION OF PREMISES AND EQUIPMENT

67. Storage facilities and equipment shall be subject to periodic inspections during the tenn of this Agreement when deemed necessary by the Police Department. Notice of any discrepancies of deficiencies found by the Police Department to be a violation of a specific requirement of this Agreement shall be submitted to the CONTRACTOR in writing, and shall remedy the same within ten (10) days of receipt of such notice. Upon failure by the CONTRACTOR to remedy deficiencies, the Agreement may be tenninated at the option of the CITY.

68. CONTRACTOR shall permit members of the Police Department and other authorized CITY personnel to inspect CONTRACTOR'S compound, storage facilities, stored vehicles, and all of the CONTRACTOR'S records concerning CONTRACTOR'S duties under the Agreement at all reasonable times whenever, in the opinion of such members of the Police Department or other authorized CITY personnel, it is deemed necessary to do so.

69. CONTRACTOR shall be given at least two (2) business day's prior notice of any inspection to be conducted pursuant to this section.

## PROTECTION OF VEHICLES AND PERSONAL PROPERTY

70. The CONTRACTOR'S liability for any vehicle towed and all property contained therein will commence once the wrecker is hooked onto the vehicle.

## BENEFITS FROM REPAIRS

71. The CONTRACTOR shall not benefit directly or indirectly from any motor vehicle repair or painting with respect to vehicles towed by the CONTRACTOR under this contract, unless expressly consented to in writing by the vehicle owner or vehicle owner's authorized representatives. Such writing shall inform the owner or agent that he or she has the right to have the vehicle repaired or painted at a place of his or her choice.

## INSURANCE

72. The CONTRACTOR shall obtain and maintain throughout the term of this Agreement, at CONTRACTOR'S sole cost and expense, the following policies of insurance according to the minimum limits set forth below. Each policy shall be in the name of the Company and shall include coverage for towing and storage. The CITY shall be named as an additional insured, and all coverage afforded to the CITY shall apply as primary coverage and shall not be affected by any insurance which the CITY may carry in its own name. A copy of such insurance policy or policies, or certificated thereof, will be furnished to the CITY Purchasing Department by the CONTRACTOR.

a. Workman's compensation and employer's liability insurance as required by State Statute and local ordinance.

b. Comprehensive general liability insurance in amounts not less than $500,000.00 per occurrence for Bodily injury and $500,000.00 per accident for property damage. Said policy endorsed to include:

1. Legal liability covering perils of fire and explosion, theft of an entire vehicle, riot and civil commotion, vandalism and malicious mischief.

2. Combined single limits automobile liability insurance in an amount not less than $500,000.00 per occurrence or bodily injury and property damage covering all owned, non-owned and hired vehicles used in connection with the work.

c. Garage keepers legal liability insurance coverage in the minimum amount of $100,000 to protect owners of any and all vehicles, boats and trailers towed or stored by CONTRACTOR pursuant to this Agreement, from any loss or damage to such vehicle, boat or trailer on account of such removal or storage.

## INDEMNIFICATION AND HOLD HARMLESS

73. The CONTRACTOR shall indemnify and save harmless and defend the CITY, its agents, savants, and employees from and against any and all claims, liability, losses, and/ or cause(s) of action which may arise from any negligent act or omission of the CONTRACTOR, its agent, servants, or employees in the performance of services under this Agreement.

74. The CONTRACTOR further agrees to indemnify, save harmless and defend the CITY, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the CITY, its agents, servants or employees are alleged to be liable. Nothing contained in this Agreement shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

75. CONTRACTOR shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees, and court and/ or arbitration costs. These indemnifications shall survive the term of this Agreement or any renewal thereof.

76. The CONTRACTOR shall defend all actions in the name of the CITY, when applicable; however, CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the CONTRACTOR.

## CONTINGENCY FEES

77. The CONTRACTOR warrants that it is has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fees, commission, percentage, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement.

## DISCRIMINATION

78. CONTRACTOR will not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, sex, religion, political affiliation, natural origin or handicap'.

## COMPLAINTS AGAINST CONTRACTOR

79. CONTRACTOR understands and agrees that any complaints received by the CITY, whether such complaints originate from City personnel or private individuals, concerning the performance of CONTRACTOR'S duties under this Agreement will be referred to the Chief of Police. The referral of any complaint (s) to the Chief of Police will be considered a material breach of this Agreement and cause for removal from the rotation schedule and or termination of services.

## SUSPENSION AND REMOVAL FROM ROTATION SCHEDULE

80. If at any time during the term of this contract, including any option terms, the CONTRACTOR is determined to be in violation of any of the terms and conditions of the Agreement, the Chief of Police or designee shall have the right to suspend the CONTRACTOR until the violation is resolved to the satisfaction of the CITY. If the violations is not promptly resolved or is of such serious nature that the CITY, in its sole discretion, determines that suspension is not adequate, the CITY reserves the right to terminate this agreement. Termination of this agreement shall be based on but not limited to the number, nature and severity of complaints received against the CONTRACTOR relative to the delivery of the services provided herein or failure to timely respond to calls for service.

81. In the event that the CITY receives three (3) or more complaints within a six (6) month period or six (6) or more complaints within one (1) year against the CONTRACTOR, that are not mutually resolved by all parties, this shall be grounds for immediate termination of the Agreement.

82. Any violation of the provisions or regulations of this Agreement may result in suspension or removal from the CITY'S rotation schedule, including, but not limited to, the following:

a Failure to possess all licenses and permits required by State Statute or local ordinances.

b Failure of the CONTRACTOR to respond to a tow call without valid reason.

c Habitual failure to respond to a tow call properly and within the time prescribed in this Agreement.

d Voluntary request by CONTRACTOR to be removed temporarily or permanently from the rotation schedule.

e Storage facilities are in disrepair or lacking the requirements contained herein.

f CONTRACTOR knowingly overcharges a customer or fails to charge the agreed upon rates as set forth in the Rate Schedule.

## DISPUTES

83. CONTRACTOR expressly understands and agrees to relinquish any vehicle immediately upon the request of the CITY. Any dispute concerning billing shall be forwarded to the Chief of Police or designee for resolution. Such resolution by the Chief of Police shall be final and binding upon all parties.

## COMPLIANCE WITH LAWS AND ORDINANCES

84. CONTRACTOR shall comply with all applicable State and Federal laws and ordinances of the CITY now in existence or hereafter adopted, so long as the same do not impair the rights and privileges of CONTRACTOR in and to any contract signed by CONTRACTOR and the CITY as the result of this Agreement.

## NON-ASSIGNABILITY

85. This Agreement shall not be assigned, sold or transferred and any such attempt to do so shall render this agreement void.

86. The CITY reserves the right to terminate the Agreement upon any change in ownership whether from the sale of CONTRACTOR'S business or stock or transfer of authorized and issued shares, the issuance of authorized but unissued shares or the issuance of any additional shares authorized by increases in capital stock limitations.

## DISPOSAL OF VEHICLES

87. Should CONTRACTOR, as a result of this Agreement, have in its possession any vehicle or personal property for a period in excess of sixty (60) days, and should CONTRACTOR be ordered to relinquish such vehicle or personal property to the Police Department, CONTRACTOR agrees to immediately do so. A faxed list shall be provided to the Police Department of any vehicles held in storage on a weekly basis. Vehicles held longer then five (5) days at the request of the Police Department will incur daily storage charges as outlined in Exhibit "B" and charged to the vehicle owner.

## AUCTIONS

88. CONTRACTOR shall not auction any vehicle without the written approval of the Chief of Police, or the Chief's representative. All such auctions shall be conducted pursuant to Section 713.78, Florida Statutes.

## TERMINATION

89. The CITY or CONTRACTOR may elect to terminate this Agreement upon thirty (30) days written notice to the other party.

## NOTICE

90. All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

Clarence D. Williams, III Chief of Police
600 West Blue Heron Blvd
Riviera Beach, FL 33404

And if sent to the CONTRACTOR shall be mailed to:

PALM BEACH GARDENS TOWING
1108 3RD AVENUE NORTH
LAKE WORTH, FL 33460

## VENUE

91. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

## REMEDIES

92. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## ENFORCEMENT COSTS

93. If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## SEVERABILITY

94. If any term of provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

## PUBLIC ENTITY CRIMES

95. This Agreement or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

## ENTIRETY OF CONTRACTUAL AGREEMENT

96. The CITY and the CONTRACTOR agrees that this Agreement and any attachments hereto or other documents as referenced herein sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

## HEADINGS

97. The Section and/or Paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

## WAIVER

98. Failure of the CITY to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

## PREPARATION

99. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## MATERIALITY

100. All provIsIons of the Agreement shall be deemed material, in the event CONTRACTOR fails to comply with any of the provisions contained in this Agreement or attachments hereto, said failure shall be deemed a material breach of this Agreement and CITY may at its option and without notice terminate this Agreement.

# AGREEMENT WITH THE CITY OF RIVIERA BEACH

**IN WITNESS WHEREOF,** the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: _____
THOMAS A. MASTERS
MAYOR

BY _____ 8/5/09.
CARRIE E. WARD, CITY CLERK, 7
*CMCIAAE*

PALM BEACH GARDENS TOWING

BY: _____
FRANK FRASCA

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
PAMALA H. RYAN t
CITY ATTORNEY

DATE: 5/11/09

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
BENJAMIN GUY
DEPARTMENT DIRECTOR

EXHIBIT A

TOW ROTATION LIST PROCEDURE

I. Purpose

The purpose of the tow-rotation list is to have a procedure in place for wrecker call-out on a per incident basis. A tow log will be utilized and maintained by the Police Communication Center, (hereinafter "Center").

2. Procedure

A. Eligible Tow Contractors

K-1 KAUFF'S OF PALM BEACH INC. (dba) KAUFF'S TRANSPORTATION SYSTEMS
L-1 LAKE PARK TOWING
S-l SHEEHAN'S TOWING, INC
P-1 PALM BEACH GARDENS TOWING

B. Wrecker Response

a. If a Tow Contractor is unable to respond to a call, the Tow Contractor will be moved to the end of the list, thereby forfeiting that rotation.

b. In the event of cancellation or other circumstances where the wrecker is not used and in which the Tow Contractor is not in any way at fault, the City official, agent or employee on the scene requesting the wrecker or tow shall notify the Center upon cancellation of the tow and the Contractor shall retain its position in the rotation.

c. Should the Center be unable to reach the Contractor or the Contractor has failed to respond in a reasonable time to a hazardous scene, the next tow company in line will be contacted. The City official, agent or employee shall determine, based on his sole discretion, whether the response time was excessive.

C. Rotation Tracking

a. A log will be used by the City to track all vehicle and trailers towed to include rotation wreckers.

b. The log shall contain the complete vehicle description including YIN number and TAG number when available, the CAD and/or case number assigned, the date and time of the tow, the tow company, and the City official, agent or employee dispatching and/or requesting such tow.

c. The rotation list shall be maintained in a manual log in which the first Tow Contractor on the list shall be given the first opportunity to accept the town and/or service request.

d. Specific requests from the vehicle or trailer owner or person lawfully in possession will not be charged against the rotation schedule. The request shall be logged as such by City

in the log. If an owner's request cannot be honored for any reason whatsoever, a rotation wrecker will be contacted and so charged on the rotation schedule.

e. In the event the Police Department exercises its option to ignore such rotation list pursuant to Section45 of the Agreement, such election shall not affect the order of the rotation list and the Contractor shall retain its position.

f. A tow request from the City for City owned or operated vehicle(s), Police Department "Hold" vehicles and Code Enforcement abandoned, wrecked or junked vehicles will not be charged against the Tow Contractor. The Tow Contractor will remain in its tow position until a civilian tow or other type of tow is requested. The request shall be logged as such by the City in the log.

    i. **Example:** Center Call (A-I) to tow a City vehicle because they are next on the rotation list. (A-I) will tow the vehicle and remain in their original tow position. Immediately thereafter if another City vehicle needs towing the Tow Contractor (J-2) will be called by Center. They will also remain in their original tow position.

EXHIBIT B

IRATE SCHEDULE

CITY RIVIEARA BEACH
RATE SCHEDULE SHEET

**Established rates - rates established by the City herein are the only rates that may be charged by the contractor. All rates to remain firm for any resulting contract period. The City will not guarantee any specific number of tows, etc., during the contract period.

SECTION I
TOWING REMOVAL AND RECOVERY (ONE HOUR SERVICE AT THE SCENE).

| DESCRIPTIONS | UNIT PRICING |
|---|---|
| A. Class A (cars, vans, light trucks) | $75.00 ea. Tow |
| (1) Extra time at the scene (per one hr.) | $35.00 per hour |
| (2) Dollies | $35.00 ea. |
| B. Motorcycles (within City) | $50.00 ea. Tow |
| (1) Extra time at the scene (per 15 minutes) | $12.50 per ¼ hr. |
| C. Class B - Trucks over 25,000 GVW within City | $115.00 ea. Tow. |
| (1) Extra time at the scene (per one hr.) | $60.00 per hr. |
| D. Class C - Tractor & Trailer at the scene (per one hr.) | $150.00 ea. Tow |
| (1) Extra time at the scene (per one hr.) | $65.00 per hr. |

E. Junk or Abandoned Vehicles within City shall be the same as provided in a, b, c or d above.

| | |
|---|---|
| F. Road Service (City Vehicles or leased vehicles) | $ 40.00 ea. |

Per call to include but not limited to:
a) Assist start
b) Change tire
c) Unlocking door
d) Provide enough gas if City vehicle runs low to return to facility

| | |
|---|---|
| A. Mileage outside City limits over five (5) miles; per mile rate | $ 4.00 per mile |
| B. 4x4 Off Road vehicle recovery - 1st hour | $ 100.00 1st hr. |
| Additional per half hour rate | $ 30.00 per ½ hr. |
| C. Dive Fee first hour for underwater recovery | $ 150.00 1st hour |

**SECTION II**

**STORAGE RATES AND ADMINISTRATIVE FEE**

The following rates are for the storage of vehicles. Pursuant to Section 713.78 (2) (d), Florida Statues, "No storage fee shall be charged if the vehicle is stored for less than six (6) hours.

| **DESCRIPTIONS UNIT PRICING** | |
|---|---|
| A. Inside Storage Per Day | |
| (1) Cars | $35.00 per day |
| (2) Motorcycles and Scooters | $15.00 per day |
| (3) Any vehicle or Trailer over 20 feet | $35.00 per day |
| B. Outside Storage per Day | |
| (1) Cars | $25.00 per day |
| (2) Motorcycles and Scooters | $10.00 per day |
| (3) Any vehicle/trailer over 20 feet | $35.00 per day |
| C. Lien - Title Administrative Fee | |
| (1) To be charged after 24 hours (per vehicle) | $30.00 per day |
| D. Tarp Fee | $20.00 ea |
| E. Lowboy | $ 100.00 ea |

Proposers may be selected for an interview prior to a recommendation being presented to the City Council. As the best interest of the City may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. Proposers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive.

# TOWING AND STORAGE AGREEMENT

**THIS AGREEMENT,** made and entered into this 5th day of May 2009, by and between the City of Riviera Beach, a municipality in the State of Florida, herein referred to as the "City", and KAUFF'S OF PALM BEACH INC. DBA KAUFF'S TRANSPORTATIO SYSTEMS, a corporation authorized to do business in the State of Florida, hereinafter referred to as the" CONTRACTOR", whose Federal I.D. 59-1371159.

**WITNESSETH:**

**WHEREAS,** the CITY issued its ***Request for Proposals for Towing and Storage Services #19308, (collectively, the "RFP")*** pursuant to state and local law to solicit proposals to provide vehicle towing and storage services for the CITY; and

**WHEREAS,** the CONTRACTOR responded to the *RFP* by submitting its bid proposal and agreeing to abide by the CITY'S rate schedule, which Proposal was accepted by the CITY; and

**WHEREAS,** the CONTRACTOR along with three (3) other Contractors have been selected; and

**WHEREAS,** the *RFP* provides for a two (2) year contract with three (3) additional twelve (12) month renewal periods; and

**WHEREAS,** although the ***RFP,*** the Proposal and the Rate Schedule address in some detail the services to be provided, there are certain issues not addressed by these documents which the parties hereto desire to address.

**NOW, THEREFORE,** for and in consideration of the foregoing promise and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and the CONTRACTOR hereby covenant and agree as follow:

## SCOPE OF AGREEMENT, TERMS AND CONDITIONS

1. The vehicle towing and storage services to be provided to the CITY by the CONTRACTOR shall be on a non-exclusive, rotating basis with exception to Special Operations performed by the Police Department. One Contractor will be selected from a Special Operation Rotation schedule and will be required to stage at a minimum four (4) towing vehicles at the City of Riviera Beach Police Department.

2. It is the CITY'S desire to contract with several firms deemed qualified and responsive by the CITY. A representative of City of Riviera Beach Police Department, ("Police Department"), the affected Department, or any authorized representative of the CITY will accept and distribute all tow calls on a rotation basis as more fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

3. The owner or person in possession of any vehicle which has been involved in an accident or whose vehicle has been incapacitated in any other manner, as well as a detained driver of any vehicle which will not be impounded by the Police Department, will be given the opportunity to contact a wrecker or tow truck company of his/her own choice if the disabled vehicle does not create a

hazardous condition and a reasonable response time can be expected. Said person shall further be given the opportunity of having such vehicle towed to a garage or compound other than that of the CONTRACTOR.

4. When authorized by a representative of the Police Department, the affected Department or any authorized representative of the City, CONTRACTOR shall remove vehicles from the streets or other public property lying within the City limits and any abandoned, wrecked or junked vehicles on private property declared to be a nuisance by the City when so informed by the City.

5. Except as the law may otherwise require, the CONTRACTOR shall not move any vehicles to any location other than that designated by the City's Police Officer or other authorized City representative, or owner or person in lawful possession of the vehicle.

6. A tow as used herein is the actual removal of a vehicle. No double charges or second tows are allowed. Additional hook-ups will not incur another tow charge. No mileage charges are allowed from any point within the City limits.

7. The CONTRACTOR agrees to have no marking, lettering or symbol on any vehicle, building or correspondence that indicates or tends to indicate any official relationship between the CONTRACTOR and the CITY.

8. The CITY, vehicle owner, driver, or person lawfully in possession of such vehicle, shall have the right to cancel a request for services at any time, including up to the time of hook-up, without any charge being incurred. The CONTRACTOR agrees that the mere response to a service call scene without other action does not constitute a service for which charges are applicable. However, if the tow is cancelled, CONTRACTOR will retain its position in the rotation.

## CONTROLLING PROVISIONS

9. To the extent that there exists a conflict between the RFP, the Proposal, the Rotation Schedule and the Rate Schedule, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

## TERM OF AGREEMENT

lO. The period of the Agreement shall be for two (2) years (24 months) with an option to renew the contract for three (3) additional twelve (12) month periods. The option for renewal will only be exercised upon mutual written agreement and with all original terms, conditions and specifications of the Agreement remaining the same with no deviations.

a. Price adjustments will be made after the second year of the contract and upon the first renewal based on the consumer price index (CPI). Unit prices shall be adjusted upward or downward annually to reflect changes in the CPI for all Urban Consumers (CPI - U) subcategory "South Urban", subsection "Fuels". Beginning on January 15, 20 II and upon the first renewal on January 15, 2012, the unit contract prices shall be adjusted to reflect the increase or decrease in the CPI for the immediately preceding twelve (12) month period of January to January. The Independent Contractor shall notify the City in writing of increases that are based on the CPI, as provided in this section, no less than thirty (30) days prior to their implementation. Should the CPI be discontinued or substantially modified, an alternate index shall be chosen by mutual agreement of the Independent Contractor and the City.

## RESPONSE

11. Calls under this Agreement from the Riviera Beach Police Department will be given priority over all other non-emergency calls.

12. CONTRACTOR shall be expected to arrive at the site within twenty (20) minutes of the call. CONTRACTOR assumes all liability in meeting the twenty (20) minute response time including, but not limited to, any and all damages resulting from traffic accidents and motor vehicle infraction fines.

## LOCATION

13. CONTRACTOR shall have a Place of Business and Storage Facility located within a ten (10) mile radius of the Riviera Beach Police Station, ("Police Station").

14. CONTRACTOR agrees that it shall provide to the CITY, free of charge, all necessary towing, road service and storage required by the CITY in the operation and maintenance of all CITY vehicles. This includes towing from the CITY garage or the closest qualified commercial maintenance facility selected by the CITY to anywhere in Palm Beach, Broward, and Martin Counties. CONTRACTOR shall also provide, at no cost to the CITY, "stand-by" wrecker equipment and personnel whenever requested by the Police Department for Special Operations including, but not limited to, "sting operations", traffic checkpoints, or other special events as designated by the Chief of Police or his designee.

15. Services related to CITY owned or leased vehicle(s) or trailer (s) should be logged and forwarded by CONTRACTOR on a monthly basis to the CITY'S Police Department Asset Manager. All such logs shall identify the vehicle (s) or trailer (s) towed or the service rendered, the location from which it was towed, and the hours and dates applicable to CONTRACTOR'S services with respect to the vehicle (s) or trailer (s). The "service ticket" shall include the signature of the authorized CITY employee approving the tow of the CITY vehicle or trailer. CONTRACTOR shall provide such information, until such time as a form is provided to it by CITY, which then must be completed by CONTRACTOR

## CRIME SCENE CONFISCATED SPECIAL "HOLD STORAGE"

16. Vehicles towed for the Police Department that are seized as the result of any Special Operations and/or vehicles which will be held pending forfeiture and/or for other investigative purposes shall be towed by CONTRACTOR at no cost to the CITY.

17. Vehicles which have been marked "HOLD" by the Police Department shall be stored at the compound of the CONTRACTOR for a period of seven (7) business days excluding weekends without charge, in order to properly process the vehicle and conduct any necessary investigation. Absent a Court Order to the contrary, Police Department Personnel shall be permitted access to such vehicle at all reasonable times. CONTRACTOR agrees to seek recovery of any and all storage charges from the owner of such vehicle or in the sale of such vehicle as provided for by Sections 713.78 and 715.05. Florida Statutes.

18. Any vehicle towed or stored as a result of being marked "HOLD" relative to a crime scene investigation shall be handled with gloves (i.e. cloth, rubber, or leather) by the wrecker operator and towed to a facility or location that meets the specifications outlined in article 60.

19. Crime Scene vehicles shall be stored to prevent physical contamination or degradable evidence from deteriorating and shall be stored inside a facility. If inside storage is not available, CONTRACTOR shall surrender the tow and fee to the next tow company in rotation. This requirement shall not prevent CITY from removing the vehicle or trailer and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

20. If laboratory work on a crime scene vehicle is required and the vehicle must be processed at a location other than CONTRACTOR'S facility, the vehicle shall be transported to the CITY designated location and charged a basic tow rate listed on Exhibit "B" excluding mileage and billed to the vehicles owner.

21. Confiscated vehicles or vehicles involved in litigation shall be protected from the elements, preferable at an inside storage facility, as to maintain the vehicle in its condition at the time of towing. This shall not prevent the CITY from removing the vehicle and storing it at a CITY-owned or controlled facility or at another tow company's storage compound.

## CODE ENFORCEMENT

22. Vehicles to be towed and stored pursuant to the directive of the City of Riviera Beach Code Enforcement Department, (hereinafter "Code Enforcement"), shall also be subject to the rotation schedule as more fully set forth in Exhibit "A".

23. CONTRACTOR'S failure to perform Code Enforcement tows more than two (2) times during any twelve (12) month period may result in suspension or removal from the CITY rotation schedule. When vehicles, boats or trailers are towed from public property, including right-of-ways, after the appropriate notification, CONTRACTOR has the option of destroying the vehicle or keeping it safe for sale pursuant to Sections 713.78 and 715.05, Florida Statutes. CONTRACTOR shall remove, tow and store all such vehicles, boats, and trailers, at no charge to the CITY. CONTRACTOR hereby agrees to seek payment for such services solely from the owner of such vehicles, boats or trailers or in the sale of such vehicles, boats or trailers as set forth herein.

24. When vehicles, boats or trailers are towed from private property after receiving the appropriate notification, CONTRACTOR must proceed in accordance with the provisions set forth in Section 713.78 and 715.05, Florida Statutes and store the vehicles, boats, or trailer for a minimum period of thirty-five (35) days, after which time CONTRACTOR has the option to destroy or sell the vehicles, boats or trailers pursuant to Section 713.78, Florida Statutes. Any breach of any statutory provision with respect to such destruction or sale shall constitute a breach of this Agreement and shall be grounds for termination of this Agreement.

25. CONTRACTOR agrees that the CITY shall in no way compensate CONTRACTOR for such removal and! or storage and CONTRACTOR shall look to the vehicle, boat or trailer owner or the remedies as provided by the statutes referenced herein for payment.

## COMPENSATION

26. Services performed under this Agreement shall be charged for and compensated in accordance with the Rate Schedule attached hereto as Exhibit "B" and incorporated herein by reference.

27. The CONTRACTOR shall be responsible for the collection of all tow, storage, labor, service and mileage charges and fees. The CITY shall in no way be responsible for the collection or payment of any charge for services rendered by reasons of its having dispatched service in accordance with this Agreement. All such services rendered shall be charged to the owner of the towed or serviced vehicle or other lawful claimant in possession of such vehicle.

28. Storage fees shall be charged at the rates stated in the Rate Schedule for each twenty-four (24) hour period. No storage fee shall be applied until a vehicle is held in excess of twenty-four (24) hours.

29. CONTRACTOR shall prominently post in CONTRACTOR'S storage facilities a list of CONTRACTOR'S charges as set forth in the Rate Schedule. A list of such charges shall be provided to the owner or person lawfully in possession of each vehicle towed. CONTRACTOR shall not charge for any service that exceeds such posted, or listed amount, nor shall CONTRACTOR perform any service that is not delineated on any such posted or listed schedule without giving the owner of the vehicle or person lawfully in possession thereof a written estimate of the amount that will be finally due and payable upon the rendition of the services. No additional charges are allowed unless specified by this Agreement and new charges must be approved through negotiation with the CITY'S Purchasing Director.

30. No charges other than those set forth in the Rate Schedule will be levied against the vehicle owner, whenever the vehicle towing, recovery, or storage is authorized by the CITY, or its agents. A declaration as to the rates between the CONTRACTOR and the CITY will either be made a part of, or permanently attached to the invoice that is presented to the vehicle owner or the owner's representative.

## MINIMUM EQUIPMENT REQUIREMENT

31. The CONTRACTOR will be required to have available at all times sufficient equipment to perform all services required once on the scene in a timely and reasonable basis. All equipment must be housed within a ten (10) mile radius of the Police Department. CONTRACTOR must have at least one (1) wrecker capable of towing any CITY Fire Truck, whether loaded or empty. All equipment shall be modern, commercially manufactured or approved by the CITY and in good mechanical condition. All towing vehicles must be owned or leased directly by CONTRACTOR. Subcontracting of towing vehicles will not be allowed. No vehicle of the CONTRACTOR shall be used as an emergency vehicle. All towing vehicle must be equipped with two-way radios with a range extending throughout the entire CITY limits. Such radios shall not be tuned in to any police frequency. CONTRACTOR shall comply with all laws, rules and regulation of any governmental agency having jurisdiction in the premises including, but not limited to, licensing and minimum safety standards. In addition to the aforementioned, CONTRACTOR shall have the following:

**Vehicles**

a. Five Class "A" small wreckers of 4-ton capacity.
b. Two Class "A" slide back (flatbed) carrier of 10,000 Gross Vehicle

Weight, ("GVW"). (Note: these may be included as part of the total for (a) above).

c. One Class "B" large wrecker of 16-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.

d. One Class "C" large wrecker of 40-ton capacity equipped with twin booms or hydraulic equivalent, air brakes and auxiliary air supply.

e. One 48' hydraulic, roll back, tilt self-loading trailer, capable of hauling, among other things, the CITY'S Fire apparatus.

**Communication**

A business type communications system licensed and approved by the Federal Communications Commission capable of providing reliable communications between the driver and a place of business from anywhere within the city limits. A Citizen's Band (CB) radio or Family Radio Service (FRS) does not meet the requirements of this condition.

**Lights**

a. One or more amber colored rotator beam, or strobe lights, mounted on the top of the cab and positioned so that the light is visible from any direction.

b. Additional amber lights shall be installed to be visible from the front of the tow truck and red lights visible only from the rear of the truck.

c. Top mounted rotor beam or strobe lights WILL NOT be used while responding to a dispatch call unless authorized by the Police Department.

d. Top mounted rotor beam or strobe lights will be used while at the scene of a dispatch call.

**On-board Equipment**

a. Dollies for all vehicles except for class "B" &"C" and roll back carriers.

b. At least one heavy-duty push broom with a minimum width of 24 inches on each vehicle.

c. Flood lights on each hoist.

d. Minimum of one square shovel.

e. Minimum of one fire axe.

f. One crowbar or pry bar with a minimum length of 30 inches,

g. A minimum of one 5-pound C02, or dry chemical fire extinguisher or equivalent. The extinguisher must be of an approved type and have attached a current marked inspection tag.

h. One pair of bolt cutters with a minimum of ½ inch opening.

1. One set of battery jumper cables or a portable heavy-duty jump starting device.

J. One 4-way lug wrench or pneumatic tools capable of automotive wheel removal at scene.

k. One high intensity flashlight.

1. Five 30 minute fuses (flares), or equivalent in sufficient quantity to burn for 2 ½ hours.

m. One snatch block for each winch, manufacturers rating to match winch, except for roll back carrier.

n. Extra towing chain six to eight feet in length with hooks on both ends.

o. At least six safety cones or triangle reflectors.

p. Fifty pounds of "Oil Dry" or suitable absorbent material equivalent to handle spills or leaks.

q. One trash receptacle capable of holding 5 gallons or more.

## DRUG FREE WORK PLACE

32. In compliance with Section 287.087, Florida Statues, CONTRACTOR shall execute and submit with this Agreement the "Drug-Free Workplace Certification" attached hereto as Exhibit "C" and incorporated herein by reference.

## ETHICS AND CONDUCT

33. CONTRACTOR hereby agrees to conduct operations under this Agreement in a courteous, orderly, ethical and professional manner. As it is recognized by both parties that his Agreement is sensitive in nature and requires CONTRACTOR and its personnel and employees to work with the public on a daily basis, CONTRACTOR is required to extend common courtesies including, but not limited to:

a. Expedite release of vehicle in accordance with the terms of this Agreement;
b. Assist the vehicle or trailer owner in retrieving documents from the vehicle or trailer to establish ownership;
c. Permit the owner to remove the auto tag and any unattached personal possessions;
d. Explain fully and politely the reason for the tow and all charges levied;
e. If a dispute occurs, CONTRACTOR shall attempt to resolve the dispute promptly and politely. If it cannot be resolved satisfactorily, the dispute shall be reported to the CITY Chief of Police or designee no later than the next business day.

# CONDUCT OF CONTRACTOR

34. All employees of the CONTRACTOR shall conduct themselves in a courteous and professional manner at all times. Abusive language or gestures shall not be tolerated and could be cause for removal from contract. Caution shall be exercised to assure that their operations do not cause any safety hazards to the general public. Whenever questions, complaints, etc., are directed to an employee of the CONTRACTOR by the public, they are to acknowledge, record, and pass on to the City's Contact Person if unable to reply. Conduct determined to be unacceptable are listed as follows: Arrest; behavior contrary to public policy; suspension pending outcome; or any other known illegal activities.

## EMPLOYEES

35. The CONTRACTOR agrees that the owner(s) of the company or the officer(s) of the company (if a corporation) shall be responsible except as otherwise prohibited by law, for the acts of its employees while on duty.

36. The CONTRACTOR represents that it has, or will secure as its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the CITY.

37. All of the services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized, licensed or permitted under state and local law to perform such services.

38. The CONTRACTOR guarantees that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

39. The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of persons either directly or indirectly employed by the CONTRACTOR. Nothing contained herein shall create any contractual relationship between any such person and the CITY.

40. All of the CONTRACTOR'S personnel, while on City premises, will comply with all CITY requirements governing conduct, safety, and security.

## GENERAL OPERATING PROCEDURES

41. CONTRACTOR must be available for immediate response, twenty-four (24) hours per day, seven (7) days a week. Should extenuating circumstances prevent full time availability, the Police Department must be notified immediately.

42. CONTRACTOR is prohibited from "chasing" or "running" to vehicle accident scenes, unless properly authorized by the Police Department. CONTRACTOR shall be subject to suspension or removal from rotation schedule or suspension or termination from services.

43. CONTRACTOR agrees that it will not solicit on the scene of an official investigation.

44. Should CONTRACTOR remove any vehicle from any scene of any official investigation without the authorization of the Police Department, CONTRACTOR shall be subject to suspension or termination from services.

45. Although the CITY established a Special Operation Rotation or regular rotation schedule, the Police Department reserves the right to deviate from such a rotation schedule when in the sole opinion of the Police Department, there is a need for urgency and/ or public safety mandates calling another towing company or when superior equipment is required which cannot be furnished by the tow company next on the rotation schedule.

46. CONTRACTOR shall tow all vehicles requested to be towed except when CONTRACTOR is unable to handle all vehicles, in which case a second tow company will be called or upon request by an Owner.

## INDEPENDENT CONTRACTOR RELATIONSHIP

47. The CONTRACTOR is, and shall be, in the performance of all work services and activities under the Agreement, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

48. The CONTRACTOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Agreement.

## CONTRACTOR'S LIABILITY

49. The CONTRACTOR'S liability for any towed and/ or stored vehicle and all property contained therein shall commence from the time a wrecker is hooked to any vehicle to be towed. The CONTRACTOR and/or the Police Department shall inventory all personal property contained in the vehicle to be towed. Such inventory shall be made in triplicate and shall be signed by the person(s) composing it. One copy shall be given to the owner or the person in possession of the vehicle, and one copy shall be given to the Police Department or other authorized CITY personnel. The CONTRACTOR shall be solely liable and responsible for all personal property in the towed vehicle.

## CLEANUP

50. The CONTRACTOR, when called to the scene of an accident, shall remove and properly dispose of all broken glass, debris and other non-hazardous matter from the street, sidewalk, park or other CITY property. The cost of such normal accident cleanup shall be included in the basic towing rate and no separate charge made to the vehicle owner.

## LABOR CHARGE

51. Labor charges shall be included in the basic towing rate and no separate charge made to the vehicle owner. **In** event that unusual circumstances arise which require additional labor not contemplated in the provision of services hereunder, the cost of such labor shall be charged to the vehicle owner at the rate set forth in the Rate Schedule.

## NON-LIABILITY OF CITY

52. The CITY shall not be responsible or liable for the collection or payment of any charges for services rendered, including, but not limited to, towing, storage or mileage.

## REPORTS, RECORD KEEPING, AND AUDITS

53. The CONTRACTOR shall maintain and have available at all times for inspection by authorized CITY personnel detailed accounting and other records of all services rendered relative to the Agreement.

54. CONTRACTOR, shall provide within the first ten (10) days of each month-to the CITY'S Police Department Asset Manager one (1) copy of a complete, detailed listing of all vehicles which have been towed and released in the prior thirty (30) day period; a complete, detailed listing of all vehicles which have been impounded or stored for a period of thirty (30) days or longer, such listing to include all vehicles not claimed within thirty (30) days, and any such other information that the CITY may require.

55. The CONTRACTOR shall provide to the Police Department weekly reports faxed to Asset Management personnel in the Police Department at 561-845-4089 of vehicles and trailers towed pursuant to Police Department directive. Such weekly reports shall contain, to the extent available, the following information:

a. Name of owner or driver of vehicle, boat or trailer towed;
b. Model and make of vehicle, boat or trailer;
c. License plate number;
d. Vehicle, boat or trailer identification number;
e. Time, date and location of tow;
f. Circumstances requiring tow;
g. Whether or not a "HOLD" was placed on the vehicle by the Police Department;
h. Time dispatched to scene and time of arrival;
1. Storage facility where vehicle is stored;
J. The date times and name of employee releasing the vehicle; and
k. Police Department case number (CADD or report).

Failure to comply with the above weekly reporting or all the above and below record keeping requirements may result in removal of the CONTRACTOR from the towing schedule.

56. CONTRACTOR shall at all times maintain at its place of business records containing the following information:

a. A vehicle storage receipt of each vehicle on the premises.
b. A monthly log of all calls for service by the Police Department.
c. A notification log indicating the date, time and method of notification to the registered owner of the stored vehicle or trailer.
d. A daily log setting forth a list of all vehicles towed, as well as information on each vehicle as outlined above.

57. The CITY, from time to time, during normal business hours and with at least two (2) business days prior notice to CONTRACTOR, shall have the right to audit the CONTRACTOR'S books and records at the CITY'S expense with regard to the accounts of the Agreement being met. Failure by CONTRACTOR to permit such audit shall be grounds for immediate termination of this Agreement by the CITY.

## RELEASE OF VEHICLES AND/OR PERSONAL PROPERTY

58. CONTRACTOR agrees to release any vehicle, which has not been marked "HOLD" by the Police Department provided that proper proof of ownership or right of possession is presented to CONTRACTOR. Any vehicle, including any personal property in such vehicle and all accessories, which has been marked, "HOLD" by the Police Department, shall not be released without prior written authority from the Police Department. Should CONTRACTOR release personal property, upon proper proof of ownership or right of possession, the owner or person entitled to possession thereof shall sign a receipt provided by the CONTRACTOR for same.

## OWNER NOTIFICATION

59. CONTRACTOR agrees to be responsible for notifying the registered owner or agent of the whereabouts of the vehicle in accordance with Chapter 713, Florida Statues.

## IMPOUNDED VEHICLES

60. Should any owner or person lawfully entitled to possession of any impounded vehicle seek to reclaim the same from CONTRACTOR, CONTRACTOR shall provide such owner or person lawfully entitled to possession with an itemized statement of all charges relating to the impounding of such vehicle.

## STORAGE AND OFFICE FACILITIES

61. The CONTRACTOR will maintain an office facility, storage garage and outside storage facilities complying with all provisions of applicable building, zoning and environmental regulations sufficient to store all vehicles towed under this Agreement until such vehicle(s) are claimed by the owner or otherwise disposed of legally.

62. CONTRACTOR'S office and storage facility shall be open and manned for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and when closed, shall have prominently posted a sign indicating a telephone number where the CONTRACTOR of the site can be reached seven (7) days per week and twenty-four (24) hours per day. Upon receipt of a telephoned request to open the site to redeem a vehicle, the CONTRACTOR shall return to the site within one (1) hour or she or he will be in violation of this agreement and Florida statues 715.07 seven (7) days per week and twenty-four (24) hours per day and shall be equipped with twenty-four (24) hour on-premises radio-dispatching capabilities.

63. All outside storage facilities shall be enclosed with a solid wall or substantial wire fence not less than six (6) feet in height. The top of such fence or wall including all gates or doors or roofed open doors, shall be equipped with not less than 12" of barbed wire installed in such manner as to discourage access over the top of such fence or wall. All fences and walls shall be maintained in good repair throughout the tern of the Agreement. Damage to such walls or fences shall be repaired within twenty-four (24) hours. All storage areas shall be open twenty-four (24) hours per day, seven days a week, and authorized personnel or CONTRACTOR shall be available during such times to assure that the obligations and service required of CONTRACTOR shall be available and fulfilled. No charges or gate fees are allowed.

64. CONTRACTOR shall be capable of storing up to three (3) vehicles inside storage and shall maintain one (1) inside storage space which shall comply with the following specifications:

a. A working area of 9' x 20' per vehicle with at least an eight (8') foot high ceiling;
b. A paved floor (i.e. concrete, asphalt) that is free from dirt, standing water and vegetation;
c. An electrical lighting source sufficient to permit processing of a vehicle; and
d. One (1) outside window or a ventilation system.

65. CONTRACTOR'S office facilities shall include a telephone, restroom facilities, and a work area containing a desk, phone, facsimile machine, computer, etc. Such facility shall have the name of the company, the mailing address and the 24-hour phone number clearly visible to all.

**66.** Vehicles stored within an enclosed area shall be secured and locked. The CONTRACTOR shall protect all stored vehicles and any evidence or personal property contained

therein from theft and damage in accordance with all reasonable Police Department instructions and directives.

## INSPECTION OF PREMISES AND EQUIPMENT

67. Storage facilities and equipment shall be subject to periodic inspections during the term of this Agreement when deemed necessary by the Police Department. Notice of any discrepancies of deficiencies found by the Police Department to be a violation of a specific requirement of this Agreement shall be submitted to the CONTRACTOR in writing, and shall remedy the same within ten (l0) days of receipt of such notice. Upon failure by the CONTRACTOR to remedy deficiencies, the Agreement may be terminated at the option of the CITY.

68. CONTRACTOR shall permit members of the Police Department and other authorized CITY personnel to inspect CONTRACTOR'S compound, storage facilities, stored vehicles, and all of the CONTRACTOR'S records concerning CONTRACTOR'S duties under the Agreement at all reasonable times whenever, in the opinion of such members of the Police Department or other authorized CITY personnel, it is deemed necessary to do so.

69. CONTRACTOR shall be given at least two (2) business day's prior notice of any inspection to be conducted pursuant to this section.

## PROTECTION OF VEHICLES AND PERSONAL PROPERTY

70. The CONTRACTOR'S liability for any vehicle towed and all property contained therein will commence once the wrecker is hooked onto the vehicle.

## BENEFITS FROM REPAIRS

71. The CONTRACTOR shall not benefit directly or indirectly from any motor vehicle repair or painting with respect to vehicles towed by the CONTRACTOR under this contract, unless expressly consented to in writing by the vehicle owner or vehicle owner's authorized representatives. Such writing shall inform the owner or agent that he or she has the right to have the vehicle repaired or painted at a place of his or her choice.

## INSURANCE

72. The CONTRACTOR shall obtain and maintain throughout the term of this Agreement, at CONTRACTOR'S sole cost and expense, the following policies of insurance according to the minimum limits set forth below. Each policy shall be in the name of the Company and shall include coverage for towing and storage. The CITY shall be named as an additional insured, and all coverage afforded to the CITY shall apply as primary coverage and shall not be affected by any insurance which the CITY may carry in its own name. A copy of such insurance policy or policies, or certificated thereof, will be furnished to the CITY Purchasing Department by the CONTRACTOR.

a. Workman's compensation and employer's liability insurance as required by State Statute and local ordinance.

b. Comprehensive general liability insurance in amounts not less than $500,000.00 per occurrence for Bodily injury and $500,000.00 per accident for property damage. Said policy endorsed to include:

1. Legal liability covering perils of fire and explosion, theft of an entire vehicle, riot and civil commotion, vandalism and malicious mischief.

2. Combined single limits automobile liability insurance in an amount not less than $500,000.00 per occurrence or bodily injury and property damage covering all owned, non-owned and hired vehicles used in connection with the work.

c. Garage keepers legal liability insurance coverage in the minimum amount of $100,000 to protect owners of any and all vehicles, boats and trailers towed or stored by CONTRACTOR pursuant to this Agreement, from any loss or damage to such vehicle, boat or trailer on account of such removal or storage.

## INDEMNIFICATION AND HOLD HARMLESS

73. The CONTRACTOR shall indemnify and save harmless and defend the CITY, its agents, savants, and employees from and against any and all claims, liability, losses, and/ or cause(s) of action which may arise from any negligent act or omission of the CONTRACTOR, its agent, servants, or employees in the performance of services under this Agreement.

74. The CONTRACTOR further agrees to indemnify, save harmless and defend the CITY, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the CITY, its agents, servants or employees are alleged to be liable. Nothing contained in this Agreement shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

75. CONTRACTOR shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees, and court and/ or arbitration costs. These indemnifications shall survive the term of this Agreement or any renewal thereof.

76. The CONTRACTOR shall defend all actions in the name of the CITY, when applicable; however, CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the CONTRACTOR.

## CONTINGENCY FEES

77. The CONTRACTOR warrants that it is has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fees, commission, percentage, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement.

## DISCRIMINATION

78. CONTRACTOR will not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, sex, religion, political affiliation, natural origin or handicap.

## COMPLAINTS AGAINST CONTRACTOR

79. CONTRACTOR understands and agrees that any complaints received by the CITY, whether such complaints originate from City personnel or private individuals, concerning the performance of CONTRACTOR'S duties under this Agreement will be referred to the Chief of Police. The referral of any complaint (s) to the Chief of Police will be considered a material breach of this Agreement and cause for removal from the rotation schedule and or termination of services.

## SUSPENSION AND REMOVAL FROM ROTATION SCHEDULE

80. If at any time during the term of this contract, including any option terms, the CONTRACTOR is determined to be in violation of any of the terms and conditions of the Agreement, the Chief of Police or designee shall have the right to suspend the CONTRACTOR until the violation is resolved to the satisfaction of the CITY. If the violations is not promptly resolved or is of such serious nature that the CITY, in its sole discretion, determines that suspension is not adequate, the CITY reserves the right to terminate this agreement. Termination of this agreement shall be based on but not limited to the number, nature and severity of complaints received against the CONTRACTOR relative to the delivery of the services provided herein or failure to timely respond to calls for service.

81. In the event that the CITY receives three (3) or more complaints within a six (6) month period or six (6) or more complaints within one (1) year against the CONTRACTOR, that are not mutually resolved by all parties, this shall be grounds for immediate termination of the Agreement.

82. Any violation of the provisions or regulations of this Agreement may result in suspension or removal from the CITY'S rotation schedule, including, but not limited to, the following:

a Failure to possess all licenses and permits required by State Statute or local ordinances.

b Failure of the CONTRACTOR to respond to a tow call without valid reason.

c Habitual failure to respond to a tow call properly and within the time prescribed in this Agreement. .

d Voluntary request by CONTRACTOR to be removed temporarily or permanently from the rotation schedule.

e Storage facilities are in disrepair or lacking the requirements contained herein.

f CONTRACTOR knowingly overcharges a customer or fails to charge the agreed upon rates as set forth in the Rate Schedule.

## DISPUTES

83. CONTRACTOR expressly understands and agrees to relinquish any vehicle immediately upon the request of the CITY. Any dispute concerning billing shall be forwarded to the Chief of Police or designee for resolution. Such resolution by the Chief of Police shall be final and binding upon all parties.

## COMPLIANCE WITH LAWS AND ORDINANCES

84. CONTRACTOR shall comply with all applicable State and Federal laws and ordinances of the CITY now in existence or hereafter adopted, so long as the same do not impair the rights and privileges of CONTRACTOR in and to any contract signed by CONTRACTOR and the CITY as the result of this Agreement.

## NON-ASSIGNABILITY

85. This Agreement shall not be assigned, sold or transferred and any such attempt to do so shall render this agreement void.

86. The CITY reserves the right to terminate the Agreement upon any change in ownership whether from the sale of CONTRACTOR'S business or stock or transfer of authorized and issued shares, the issuance of authorized but unissued shares or the issuance of any additional shares authorized by increases in capital stock limitations.

## DISPOSAL OF VEHICLES

87. Should CONTRACTOR, as a result of this Agreement, have in its possession any vehicle or personal property for a period in excess of sixty (60) days, and should CONTRACTOR be ordered to relinquish such vehicle or personal property to the Police Department, CONTRACTOR agrees to immediately do so. A faxed list shall be provided to the Police Department of any vehicles held in storage on a weekly basis. Vehicles held longer then five (5) days at the request of the Police Department will incur daily storage charges as outlined in Exhibit "B" and charged to the vehicle owner.

## AUCTIONS

88. CONTRACTOR shall not auction any vehicle without the written approval of the Chief of Police, or the Chief's representative. All such auctions shall be conducted pursuant to Section 713.78, Florida Statutes.

## TERMINATION

89. The CITY or CONTRACTOR may elect to terminate this Agreement upon thirty (30) days written notice to the other party.

## NOTICE

90. All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

Clarence D. Williams, III Chief of Police
600 West Blue Heron Blvd
Riviera Beach, FL 33404

And if sent to the CONTRACTOR shall be mailed to:

KAUFF'S OF PALM BEACH, INC.
4701 EAST AVENUE
MANGONIA PARK, FL 33407

## VENUE

91. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

## REMEDIES

92. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## ENFORCEMENT COSTS

93. If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## SEVERABILITY

94. If any term of provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

## PUBLIC ENTITY CRIMES

95. This Agreement or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

## ENTIRETY OF CONTRACTUAL AGREEMENT

96. The CITY and the CONTRACTOR agrees that this Agreement and any attachments hereto or other documents as referenced herein sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

## HEADINGS

97. The Section and/or Paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

## WAIVER

98. Failure of the CITY to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

## PREPARATION

99. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## MATERIALITY

100. All provIsions of the Agreement shall be deemed material, in the event CONTRACTOR fails to comply with any of the provisions contained in this Agreement or attachments hereto, said failure shall be deemed a material breach of this Agreement and CITY may at its option and without notice terminate this Agreement.

# AGREEMENT WITH THE CITY OF RIVIERA BEACH

**IN WITNESS WHEREOF,** the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY _____
THOMAS A. MASTERS
MAYOR

BY _____ 8/5/09
CARRIE E. WARD, CITY CLERK,
*CMCIAAE*

·KAUFF'S OF PALM BEACH

BY: _____
RICHARD KAUFF
PRESIDENT

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
PAMALA H. RYAN
CITY ATTORNEY

DATE: 5/11/09

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
BENJAMIN GUY
DEPARTMENT DIRECTOR

EXHIBIT A

TOW ROTATION LIST PROCEDURE

1. Purpose

The purpose of the tow-rotation list is to have a procedure in place for wrecker call-out on a per incident basis. A tow log will be utilized and maintained by the Police Communication Center, (hereinafter "Center").

2. Procedure

A. Eligible Tow Contractors

K-1 KAUFF'S OF PALM BEACH INC. (dba) KAUFF'S TRANSPORTATION SYSTEMS
L-1 LAKE PARK TOWING
S-1 SHEEHAN'S TOWING, INC
P-1 PALM BEACH GARDENS TOWING

B. Wrecker Response

a. If a Tow Contractor is unable to respond to a call, the Tow Contractor will be moved to the end of the list, thereby forfeiting that rotation.

b. In the event of cancellation or other circumstances where the wrecker is not used and in which the Tow Contractor is not in any way at fault, the City official, agent or employee on the scene requesting the wrecker or tow shall notify the Center upon cancellation of the tow and the Contractor shall retain its position in the rotation.

c. Should the Center be unable to reach the Contractor or the Contractor has failed to respond in a reasonable time to a hazardous scene, the next tow company in line will be contacted. The City official, agent or employee shall determine, based on his sole discretion, whether the response time was excessive.

C. Rotation Tracking

a. A log will be used by the City to track all vehicle and trailers towed to include rotation wreckers.

b. The log shall contain the complete vehicle description including YIN number and TAG number when available, the CAD and/or case number assigned, the date and time of the tow, the tow company, and the City official, agent or employee dispatching and/or requesting such tow.

c. The rotation list shall be maintained in a manual log in which the first Tow Contractor on the list shall be given the first opportunity to accept the town and/or service request.

d. Specific requests from the vehicle or trailer owner or person lawfully in possession will not be charged against the rotation schedule. The request shall be logged as such by City

in the log. If an owner's request cannot be honored for any reason whatsoever, a rotation wrecker will be contacted and so charged on the rotation schedule.

e. In the event the Police Department exercises its option to ignore such rotation list pursuant to Section45 of the Agreement, such election shall not affect the order of the rotation list and the Contractor shall retain its position.

f. A tow request from the City for City owned or operated vehicle(s), Police Department "Hold" vehicles and Code Enforcement abandoned, wrecked or junked vehicles will not be charged against the Tow Contractor. The Tow Contractor will remain in its tow position until a civilian tow or other type of tow is requested. The request shall be logged as such by the City in the log.

    1. **Example:** Center Call (A-l) to tow a City vehicle because they are next on the rotation list. (A-l) will tow the vehicle and remain in their original tow position. Immediately thereafter if another City vehicle needs towing the Tow Contractor (1-2) will be called by Center. They will also remain in their original tow position.

EXHIBIT B

RATE SCHEDULE

CITY RIVIEARA BEACH
RATE SCHEDULE SHEET

**Established rates - rates established by the City herein are the only rates that may be charged by the contractor. All rates to remain firm for any resulting contract period. The City will not guarantee any specific number of tows, etc., during the contract period.

SECTION I
TOWING REMOVAL AND RECOVERY (ONE HOUR SERVICE AT THE SCENE).

| DESCRIPTIONS | UNIT PRICING |
|---|---|
| A. Class A (cars, vans, light trucks) | *$75.00 ea.* Tow |
| (1) Extra time at the scene (per one hr.) | $35.00 per hour |
| (2) Dollies | *$35.00 ea.* |
| B. Motorcycles (within City) | *$50.00 ea.* Tow |
| (1) Extra time at the scene (per 15 minutes) | $12.50 per ¼ hr. |
| C. Class B - Trucks over 25,000 GVW within City | *$115.00 ea.* Tow. |
| (1) Extra time at the scene (per one hr.) | $60.00 per hr. |
| D. Class C - Tractor & Trailer at the scene (per one hr.) | *$150.00 ea.* Tow |
| (1) Extra time at the scene (per one hr.) | $65.00 per hr. |

E. Junk or Abandoned Vehicles within City shall be the same as provided in a, b, c or d above.

| | |
|---|---|
| F. Road Service (City Vehicles or leased vehicles) | $ 40.00 *ea.* |

Per call to include but not limited to:
a) Assist start
b) Change tire
c) Unlocking door
d) Provide enough gas if City vehicle runs low to return to facility

| | |
|---|---|
| A. Mileage outside City limits over five (5) miles; per mile rate | $ 4.00 per mile |
| B. 4x4 Off Road vehicle recovery - 1[51] hour | $ 100.00 1[51] hr. |
| Additional per half hour rate | $ 30.00 per ½ hr. |
| C. Dive Fee first hour for underwater recovery | $ 150.00 1[51] hour |

**SECTION II**

**STORAGE RATES AND ADMINISTRATIVE FEE**

The following rates are for the storage of vehicles. Pursuant to Section 713.78 (2) (d), Florida Statues, "No storage fee shall be charged if the vehicle is stored for less than six (6) hours.

**DESCRIPTIONS UNIT PRICING**

| | |
|---|---|
| A. Inside Storage Per Day | |
| (1) Cars | $35.00 per day |
| (2) Motorcycles and Scooters | $15.00 per day |
| (3) Any vehicle or Trailer over 20 feet | $35.00 per day |
| B. Outside Storage per Day | |
| (1) Cars | $25.00 per day |
| (2) Motorcycles and Scooters | $10.00 per day |
| (3) Any vehicle/trailer over 20 feet | $35.00 per day |
| C. Lien - Title Administrative Fee | |
| (1) To be charged after 24 hours (per vehicle) | $30.00 per day |
| D. Tarp Fee | $20.00 ea |
| E. Lowboy | $ 100.00 ea |

Proposers may be selected for an interview prior to a recommendation being presented to the City Council. As the best interest of the City may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. Proposers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive.