

AMENDMENT NO. 1 TO WRECKER SERVICE AGREEMENT

The City of Daytona Beach, a Florida municipal corporation (the "CITY") and Daytona Wrecker Service., a Florida corporation ("CONTRACTOR"), hereby agree to amend Wrecker Services Contract (the "Contract"), approved by CITY Resolution No. 09-67, as follows:

1. Section 20, "Records, Books and Payment" is amended to add the following as paragraph C:

C. Public Records.

(a) To the extent applicable, CONSULTANT will comply with the requirements of Florida Statutes Section 119.0701, which include the following:

(1) Keeping and maintaining public records that the CITY requires for performance of the service provided herein.

(2) Upon the request of the City Clerk of the CITY, (i) providing the City Clerk with a copy of requested public records or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law.

(3) Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of this Contract, and following such completion if CONSULTANT fails to transfer such records to the CITY.

(4) Upon completion of the work required by a specific purchase order, keep and maintain public records required by the CITY to perform the service. CONSULTANT will meet all applicable requirements for retaining public records. All records stored electronically must be provide to the CITY upon request from the CITY Clerk, in a format that is compatible with the CITY's information technology systems.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONSULTANT MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:

(Phone)	386 671-8023
(Email)	clerk@codb.us
(Address)	301 S. Ridgewood Avenue Daytona Beach, FL 32114

(b) Nothing herein will be deemed to waive CONSULTANT's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

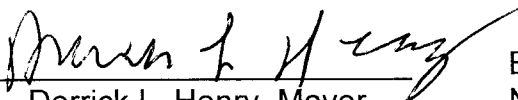
2. Exhibit B is replaced in its entirety with Exhibit B.1, attached.


All other provisions of the Contract remain in full force and effect.

IN WITNESS WHEREOF, the CITY and the CONTRACTOR have set their hands and seals, effective on the date that the last party has signed below.

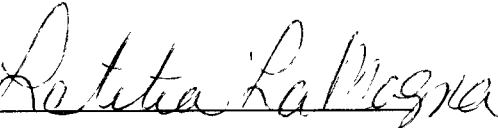
THE CITY

DAYTONA WRECKER

By: 
Derrick L. Henry, Mayor

By: 
Name Typed: Matthew McNamara
Title: General Manager
Date: 10/09/2017

Attest:

By: 
Date: 10-18-17

Approved as to Legal Form:

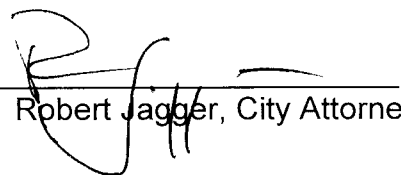
By: 
Robert Jagger, City Attorney

EXHIBIT B.1

**Daytona Wrecker Service
Requested Rate Change
Daytona Beach Police Department
Non-Consensual Towing & Trespass Towing**

Class A vehicles (gross vehicle weight rating at 9,999 pounds or less or a vehicle carrying a vessel 15 feet or less in length):

1. Trespass tow (flat rate) \$125.00
2. Nonconsensual tow 125.00
3. Nonconsensual tow, per mile over initial ten miles, per full extra mile 3.00
4. Nonconsensual tow, time beyond initial 30 minutes at scene, 15-minute block 25 00
5. Trespass or nonconsensual tow daily storage per day, inside storage 30.00
6. Outside storage, per day 25.00

Class B vehicles (gross vehicle weight rating at 10,000 pounds or more, but less than 19,500 pounds or vehicle carrying a vessel more than 15 feet, but less than 22 feet in length):

1. Trespass tow (flat rate) \$250.00
2. Nonconsensual tow 250.00
3. Nonconsensual tow, per mile over initial ten miles, per full extra mile 4.00
4. Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block.. 50.00
5. Trespass or nonconsensual tow daily storage per day, inside storage 35.00
6. Outside storage, per day 30.00

Class C vehicles (gross vehicle weight rating at 19,500 or more pounds, but less than 25,000 pounds or vehicle carrying a vessel more than 22 feet in length):

1. Trespass tow (flat rate) \$375.00
2. Nonconsensual tow 375.00
3. Nonconsensual tow, per mile over initial ten miles, per full extra mile 5.00
4. Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block .. 75.00
5. Trespass or nonconsensual tow daily storage per day, inside storage 60.00
6. Outside storage, per day 55.00

Class D vehicles (gross vehicle weight rating at more than 25,000 pounds):

1. Trespass tow (flat rate) \$500.00
2. Nonconsensual tow 500.00
3. Nonconsensual tow, per mile over initial ten miles, per full extra mile 6.00
4. Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block 100.00
5. Trespass or nonconsensual tow daily storage per day, inside storage 60.00
6. Outside storage, per day 55.00

An additional daily storage fee, as set forth above, may be charged for any vessel, trailer or other mobile item, whether motorized or not, which is mounted on wheels and attached to a towed vehicle.



DAYTONA WRECKER SERVICE

"Towing and Recovery Specialists"



Subject: Acknowledgment of Five (5) Year Extension of Wrecker Service Agreement between
The City of Daytona Beach and Daytona Wrecker Service first entered into March 4,
2009.

Dear Chief Chitwood:

This letter is to acknowledge that effective March 1, 2014 by the continued uninterrupted performance by both The City of Daytona Beach and Daytona Wrecker that The City of Daytona Beach has extended its contract for an additional five year period as provided in the referenced Wrecker Service Agreement at page 3, paragraph 3 and as previously authorized by City Ordinance 09-67.

Matthew L. McNamara, Owner
Daytona Wrecker Service

WRECKER SERVICE AGREEMENT

THIS AGREEMENT entered into this 4th day of March, 2009, by and between The City of Daytona Beach, Florida, a Municipal Corporation, hereinafter referred to as "City," and Daytona Wrecker Service, herein after referred to as "Towing Company," in consideration of the mutual covenants contained herein, and subject to the terms and conditions listed below:

WITNESSETH:

1. SERVICES TO BE PERFORMED BY TOWING COMPANY

The Towing Company shall provide the following services:

- A) The Towing Company shall provide for the towing and storage, when required, of motor vehicles and trailers from public or private property lying within The City of Daytona Beach when so authorized by a representative of the City, at a rate not greater than the applicable maximum rates specified herein in Exhibit B.
- B) When authorized by a representative of the City, the Towing Company shall, at a rate not greater than the applicable maximum rate specified herein, provide for the towing and storage of any motor vehicle, trailer, motorcycle, or motor scooter which is towed under the provisions of Chapter 45, Chapter 22, or other applicable provision of the Code of Ordinances of The City of Daytona Beach covering the removal and/or impounding of illegally parked or disabled vehicles, applicable State Statutes, or which is otherwise impounded or required to be moved by or at the direction of a police officer, from the point of origin to the place of business of the Towing Company, and at a rate no greater than the applicable maximum rate specified herein; and provide for the towing and storage of any vehicle or trailer from the scene of an accident to a location within the City, as designated by the owner, other than the place of business of the Towing Company.
- C) When authorized by a representative of The City of Daytona Beach, the Towing Company shall, at no charge for Police Department or Fire Department vehicles, owned or leased, vehicles seized under Chapter 932, F.S., and one-half the maximum fee allowed in the rate schedule for other City owned or leased vehicles (excluding refuse collection vehicles and vehicles leased by the City where the lessor is responsible for the towing/servicing) provide for the towing and/or servicing of any disabled vehicle. Any disabled vehicle which must be towed shall be removed from its point of disability within ten (10) air miles of the City limits to any point within the City, as may be directed by the City. For any points greater than ten air miles from the City Limits the Towing Company may charge the City up to one half the approved rate for all tows listed in this section.

- D) The Towing Company shall, at no cost to the City, promptly clean all debris off the public streets, ways, sidewalks, parks, avenues, and property of the City, and remove the same to a proper place away from the scene of any motor vehicle accident if the accident scene is to be, is being, or has been serviced by the Towing Company, or the agent, servants, or employees of the Towing Company.
- E) The Towing Company guarantees that wrecker service shall be rendered at any and all times, as required by this Agreement, twenty-four (24) hours a day, seven (7) days a week, including holidays, and that personnel will be subject to call at any and all times. The Towing Company further guarantees that, for at least 95 percent of all calls, it will be at the requested location within the City limits within fifteen (15) minutes from the time the Towing Company receives a call requesting that a wrecker be dispatched. It further guarantees that in the remaining 5 percent of calls, a wrecker will be at the location within thirty (30) minutes.
- F) The Towing Company shall answer expeditiously all calls from the Daytona Beach Police Department, or other City representative, for on-scene service at accidents and shall immediately remove all obstructions caused by accidents even if actual towing is not required (cleanups). The City shall be billed for the actual time of the removal of the obstruction based on the class of wrecker required. The rate shall be billed in 15-minute increments.
- G) Upon request, the Towing Company shall provide the Daytona Beach Police Department with reasonable assistance in the examination of vehicles stored by the Towing Company. Such assistance shall include the availability and use of a wrecker at the storage site for the moving of vehicles to be examined by the police.
- H) The Towing Company agrees to assist the City in the collection of any fees imposed by City Ordinance for police services in connection with the towing of vehicles.
- I) All services rendered by the wrecker under this paragraph (1) shall be at no expense to the City, unless specifically provided otherwise. This shall not prevent the wrecker from charging the owner of the vehicle for such services according to the rates provided in paragraph (4).

2. PAYMENT TO THE CITY

In consideration of the Towing Company being called by the City for the term as provided in paragraph (3) below, the Towing Company shall pay monthly to the City, beginning on March 1, 2009 the sum of \$15,278.51, so long as this Agreement is in effect.

3. TERM

A). The term of this Agreement shall be for a five (5) year period beginning March 1, 2009 and ending February 28, 2014

EXTENSION - The City shall have the option of extending this contract for one (1) additional five year period beginning on March 1, 2014. Any adjustments in the maximum wrecker fees allowed and corresponding monthly payments to the City may also be negotiated at the time of renewal.

B). It is further understood by the parties to this Agreement that in the event the Towing Company is unable to respond to a call during the term of this contract, with one of its own wreckers, it is still responsible for providing a wrecker. The Towing Company may utilize a wrecker from any other wrecker company licensed in the City; in such cases, the substitute wrecker must comply with the terms agreed upon herein.

4. RATE CHARGED OWNERS

In consideration for the services to be provided by the Towing Company under the terms of this Agreement, the Towing Company may charge the owner of the vehicle being towed or stored the rates listed below, provided that:

- The City shall not be liable in the event of nonpayment by the owner of the vehicle being towed.
- An increase in the maximum rates specified herein may be negotiated at the end of each year covered by this contract, along with a corresponding increase in payment to the City.
- The towing/servicing of City owned/leased vehicles shall be as outlined previously in 1(C).

A). The Towing Company shall provide for the towing and storage, when required, of motor vehicles and trailers from public or private property lying within The City of Daytona Beach when so authorized by a representative of the City, at a rate not greater than the applicable maximum rates specified herein in Exhibit B. In addition the Towing Company may charge a ten percent (10%) fuel surcharge based on the basic tow rate only. Storage and other labor charges shall not be used in the calculation of the fuel surcharge.

B). Towing Company agrees to tow abandoned or junked vehicles at no charge to the City, and City shall surrender all salvage rights to vehicle to Towing Company and shall retain no liens upon the vehicle.

C). No other charges or fees, other than those specified and authorized in Section 110-38, City Code, as amended, are allowed for services provided under this contract.

5. RATES CHARGED CITY

The City shall not be charged for any services rendered to it under this agreement except as specifically provided in this Agreement.

6. PROHIBITED CHARGES

The services called for in Section 1 of this Agreement entitled SERVICES TO BE PERFORMED BY TOWING COMPANY shall be provided at no cost to the owner of the towed vehicle whenever the City determines that the vehicle was towed in error at the request of the City, nor shall the City in such a case, be responsible for payment of a tow charge or storage costs.

7. SALVAGE RIGHTS

In consideration for the services to be provided by the Towing Company, under the terms of this Agreement, the City hereby grants the Towing Company all salvage rights that may be permitted by law on any vehicle which may be towed pursuant to this Agreement and as specifically outlined in 1(B), Excluding those vehicles seized and held for possible forfeiture by the City.

8. STORAGE FACILITIES

A) The Towing Company shall maintain a storage garage and/or outside storage facility complying with applicable building and zoning regulations. Such storage facility shall:

- 1) Contain a minimum of two hundred fifty (250) spaces in an area, which is completely fenced. The spaces shall all be located within a single compound.
- 2) Have available a minimum of four (4) spaces inside a building for the storing of vehicles which require police processing. These spaces shall be maintained to provide protection from the weather and security to preserve chain of custody for vehicles, which require police processing.

3) Be located in the City of Daytona Beach.

B) The Towing Company shall have an employee on duty at said storage facility twenty-four (24) hours a day, seven days a week, including holidays.

Said storage facilities shall be subject to inspection and shall be approved by the City prior to the award of any contract. Storage facilities shall be subject to periodic inspections at any time by the Chief of Police or his designee during the term of this Agreement when deemed necessary by the City to ensure compliance with this contract.

C) Notice of any discrepancies or deficiencies in contract compliance found by the City shall be submitted to the Towing Company in writing, and the Towing Company shall remedy the same within ten (10) days of receipt of such notice. Upon failure of the Towing Company to remedy the deficiencies in contract compliance, action may be taken by the City pursuant to paragraph 24 herein.

D) Vehicles, which have been marked "HOLD" for forfeiture purposes by the Police Department, shall be held at the storage facility, unless indicated otherwise, at no charge for storage to the City. If the City takes legal ownership of the vehicle after forfeiture the City shall pay the towing company a flat rate of \$150.00 for the initial tow and transfer to City Yards. If the vehicle is released back to the owner as part of a negotiated settlement the owner shall pay the tow bill and no more than five (5) business days storage or eight (8) total days including holidays and weekends at the wrecker yard prior to the City releasing the vehicle. Vehicles towed for criminal investigative purposes for the processing of evidence where the vehicle is the property of a victim or other person who is not a suspect or defendant in the criminal investigation shall be billed as follows. The City shall be responsible for the tow bill only of any vehicle held for investigative purposes. These rates shall be billed at one half the normal rate. The total towing and storage bill for vehicles towed for criminal investigative or evidence purposes shall not exceed two hundred dollars (\$200.00) for Class A or Class B vehicles, \$300.00 for Class C vehicles, and \$400.00 for Class D vehicles. Personnel of the Police Department shall be permitted access to such vehicles at any time. All vehicles stored in enclosed areas shall be secured from access by unauthorized persons. The Towing Company shall take reasonable steps to protect all stored vehicles and their contents from theft and damage. At such time the City releases the "HOLD", storage fees may begin to accrue against the owner of the vehicle.

9. WRECKER EQUIPMENT AND WRECKER COMPANY PERSONNEL

- A) The Towing Company shall, during the term of this Agreement, own or lease a minimum of six (6) wreckers to provide the services called for by this Agreement. The wreckers must include: one (1) Class "A" wrecker with four wheel drive; one (1) Class "B" wrecker; one (1) Class "D" wrecker; and three (3) car carriers. The wreckers of the Towing Company shall meet the requirements and specifications established and set forth in the Rules of the Police Department attached hereto as Exhibit "A".
- B) No owner, partner, employee, or agent of the Towing Company shall have been:
- 1) Convicted of any felony in the past five (5) years or, if less than five (5) years where the person's civil rights have not been restored;
 - 2) Convicted of any felony, misdemeanor, or municipal ordinance violation directly related to the business of operating a wrecker, regardless of length of time or whether civil rights have been restored. For the purpose of this rule, any offense involving perjury, false statement, or dishonesty shall also be considered to be directly related to the business of operating a wrecker.
 - 3) For the purposes of this section, a conviction shall mean an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or nolo contendere; or a jury verdict of guilty when adjudication is withheld and the accused is placed on probation.

- C) The Towing Company shall not hire or retain any employee, permanently or temporarily, who has been convicted of the offense of driving under the influence of alcohol or any controlled substance chemical substance to the extent that normal faculties are impaired or driving with a unlawful blood alcohol level, or of any criminal traffic offense, within the last five (5) years.
- D) The Towing Company shall comply with all the requirements for a drug free workplace certification.

10. RADIO COMMUNICATIONS

The City shall issue radios to the Towing Company for communication with the Police Department. The City shall be responsible for maintaining the radios while the contract is in force. The Towing Company agrees to pay for repairs or replacement of radios when damage or loss is due to the abuse or neglect of the Towing Company.

11. NON-EXCLUSIVENESS OF SERVICE

The Towing Company agrees that the owner or person in possession of any vehicle, which has been incapacitated, shall have the opportunity of contacting a wrecker or tow 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, at the accident or place of incapacity, shall be given the opportunity of having such vehicle towed to a location other than the storage facility of the Towing Company.

12. BENEFITS FROM REPAIRS

The Towing Company shall not benefit directly or indirectly, without the express written consent of the owner of the vehicle, or the owner's designated representative, from any motor vehicle repair or painting with respect to vehicles towed and/or stored by the Towing Company under the terms and provisions of any agreement between the City and the Towing Company. Any such agreement between the Towing Company and the owner, or between the Towing Company and a repair facility shall state the repairs/painting to be done as well as the price and terms of payment therefore.

13. LIABILITY OF TOWING COMPANY

The liability of the Towing Company for any towed vehicle and all property contained therein shall commence at the time a wrecker is hooked to any vehicle to be towed. The Towing Company or its employee, representative, or agent shall inventory all personal property contained in the vehicle to be towed or endorse the inventory sheet(s) prepared by the police officer in charge.

14. PERSONAL PROPERTY IN VEHICLES

To the extent provided by law, the Towing Company shall be accountable and liable for damage or loss of all personal property in the vehicles towed and for all vehicle accessories. Personal property situated in a vehicle stored by the Towing Company shall not be disposed of to defray any charges for storage or towing of the vehicle, except as provided by law. All such personal property must be returned at once, unless directed otherwise by the City, to the owner or person entitled to legal possession thereof upon proper proof of ownership or right to possession thereof upon proper proof of ownership or right to possession, as provided by law. The Towing Company shall make the determination of the owner or person entitled to legal possession. Should the Towing Company release any personal property, the owner or person entitled to possession thereof shall receipt the Towing Company for the same.

15. RELEASE OF THE VEHICLE

The Towing Company agrees to release any vehicle, which has not been marked "HOLD" to the proper owner, or person entitled to possession of the vehicle. Any vehicle, which has been marked "HOLD" by the Daytona Beach Police Department, cannot be released without prior authority from the Police Department. The Towing Company shall require proper proof of ownership or right to possession before releasing a vehicle, and the Towing Company shall be given a receipt for the vehicle. The Towing Company shall deliver to the Police Department on a regular basis as decided by the Police Records Supervisor a report of all vehicles released.

16. POSTING CHARGES

The Towing Company shall prominently post a sign at the storage facility in such a manner that it is conspicuous to the public with one-inch black lettering on a white background, which lists the charges to be imposed upon persons whose vehicles are towed pursuant to this Agreement. As to such persons, the Towing Company shall not impose any charges that exceed the amounts listed in Section 110-38, City code, as amended.

17. ITEMIZED STATEMENTS

Should any owner or person entitled to possession of a towed and/or stored vehicle seek to reclaim the same from the Towing Company, the Towing Company shall provide such owner or such person offering title to possession with an itemized statement of all charges relating to the towing and storage of such vehicle.

18. INDEMNIFICATION

The Towing Company shall indemnify and hold harmless The City of Daytona Beach and its agents, officers and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the work provided that the claim, damage, loss and expense is caused in whole or in part by any negligent act or omission of the City, the Towing Company, any subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder except the

Towing Company shall not have to indemnify and hold harmless the City if such claim, damage, loss and expense is the result of the sole negligence of the City or of anyone directly or indirectly employed by the City or anyone for whose acts the City may be liable.

19. INSURANCE

A) Required Insurance:

The Towing Company shall purchase and maintain, at its own expense, the following types and amounts of insurance, in form and companies satisfactory to the City:

1. Workers' Compensation Insurance:

Workers' Compensation Insurance for all employees and subcontractors of the Towing Company connected with the work which is the subject of this Agreement. The insurance required by this provision shall comply fully with the Florida Workers' Compensation Law and include Employers Liability insurance with limits of not less than \$500,000 per occurrence. No class of employee, including the Towing Company itself, if an individual, shall be excluded from the Workers' Compensation coverage.

2. Liability Insurance:

Commercial General Liability insurance, including coverage for operations, products-completed operations, and personal injury insuring the Towing Company and any other interests, including but not limited to any associated or subsidiary companies involved in the work. Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Towing Company for the work which is the subject of this Agreement. The Liability Insurance shall include contractual liability insurance applicable to the Towing Company's obligations under Section 18 of this Agreement. The Liability Insurance shall name the City as an additional insured. The General and Automobile liability insurance shall each have a limit of liability of no less than \$500,000 for injury or death and no less than \$1,000,000 for injury or death to two or more persons as a result of any one occurrence and no less than \$250,000 for property damage to one or more persons as a result of any one occurrence, or in lieu thereof, a combined single limit for bodily injury and property damage of no less than \$1,000,000. If insurance coverage is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$2,000,000. The limit of liability for personal injury shall be no less than \$1,000,000 and the limit of liability for contractual liability shall be no less than \$1,000,000.

3. Garage Keepers Legal Liability Insurance:

Garage Keepers Legal Liability Insurance in an amount reasonably sufficient to protect the owners of any and all vehicles towed or stored by the Towing Company, pursuant to this Agreement from loss or damages to such vehicle on account of such removal or storage. The insurance may be provided with a deductible in an amount deemed acceptable to the Risk Manager of the City.

B) Proof of Insurance

The Towing Company shall furnish proof of insurance acceptable to the City prior to acceptance of the Towing Company's bid and the Towing Company shall not commence work under this agreement until he has obtained all the insurance required under this Agreement and such insurance has been filed with and approved by the City. The Towing Company shall furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, the expiration dates, and shall contain the following language as to cancellation: "In the event of cancellation of this policy by the insurer or any insured, this company shall give not less than thirty (30) days advanced written notice to:

City Clerk
The City of Daytona Beach
P.O. Box 2451
Daytona Beach, Florida 32115-2451

If requested by the City, the Towing Company will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City. The Towing Company shall file replacement certificates thirty (30) days prior to expiration or termination of the required insurance occurring prior to the expiration of this agreement. In the event such insurance shall lapse, the City expressly reserves the right to renew the insurance at the Towing Company's expense.

20. **RECORDS, BOOKS AND PAYMENT**

The City reserves the right, during normal business hours, to inspect and audit the Towing Company records pertaining to service provided under this Agreement. All records must be maintained at one central location as provided hereinafter. Additionally, the monthly sum payable to the City by the Towing Company will be submitted to the Office of the City Finance Director on the first day of each month for the duration of this contract. Copies of all Towing Company paid invoices for services provided each month as a result of this contract shall be submitted with the monthly payment, if requested by the Finance Director. Such invoices may be in the form of electronic document or spreadsheet.

A). The Towing Company shall maintain for one year, following the towing of any vehicle towed under authority of a representative of the City, the following records of such tow:

- 1) Where the vehicle was towed from; the date towed; the driver who towed the vehicle; where it was towed to; a complete description of the vehicle; the name and address of the registered owner; the disposition of the vehicle; the date the vehicle was released or disposed of; and all correspondence sent or received concerning said vehicle.
- 2) The Towing Company shall be required to submit a list of all vehicles towed under authority of the Police Department to the Records Section of the Police Department on a regular basis as approved by the Information Resources Manager, describing each vehicle by Make, Year, Model, VIN and Tag Number.
- 3) The records shall be submitted utilizing the following procedures:
 - a. The Company shall computerize its record keeping procedures. The computer shall be of the type commonly called 100% IBM PC Compatible.
 - b. The program used to store and retrieve records from the company's computer shall be approved by the Police Department.
 - c. The records submitted to the Police Department shall be in an Excel Spreadsheet and shall be approved by the Police Department.
- B) The Towing Company shall provide Fax machines, as approved by the Police Department, capable of transmitting documents between the Police Department and the Towing Company.

21. RIGHT TO CANCEL SERVICE CALL

The City shall have the right to cancel a request for Towing Company services until the time the wrecker arrives on the scene, and there shall be no charge to the City or the vehicle operator/owner. When a wrecker is to be canceled, it must be canceled over the police radio prior to the wrecker's arrival on the scene. The term "arrives on the scene" is construed to mean that the responding wrecker has arrived within the close physical proximity of the vehicle to be towed and the wrecker has stopped in preparation to perform the towing service. The Towing Company may charge a service charge of no more than fifty dollars (\$50) to release the vehicle at the scene.

22. COMPLIANCE WITH LAWS AND RULES

The Towing Company agrees to and shall comply with all applicable provisions of the Florida Statutes, including Section 316.530, all applicable City ordinances, and the Rules of the Daytona Beach Police Department (Exhibit "A") unless otherwise provided by ordinance or this agreement.

23. CASH BOND

Prior to the effective commencement date of this Agreement, the Towing Company shall post a cash or surety performance bond in the amount of five thousand dollars (\$5,000.00) or the equivalent of one month's contract payment, whichever is higher with the City to be used by the City in the event:

- A) The Towing Company fails to provide wrecker service required by this Agreement, for the purpose of defraying costs incurred by the City in making adequate arrangements for the removal of vehicles.
- B) The Towing Company breaches the terms of this Agreement and it is terminated by the City as provided in Paragraph 24 entitled BREACH OF AGREEMENT, for the purpose of defraying the cost of re-bidding this Agreement.

24. BREACH OF AGREEMENT

- A) It shall be the right of the City Manager and any officials of the City which he may designate to observe closely the wrecker service operations and if, in the opinion of the City Manager, there has been a breach of contract, the City Manager shall so notify the Towing Company, in writing, specifying the manner in which there has been a breach of contract. If within a period of seven (7) days the Towing Company has not eliminated the condition considered to be a breach of contract, the City Manager may so notify the City Commission and a hearing shall be set for a date within fifteen (15) days of such notice. At that time, the City Commission shall hear the Towing Company and the City representatives, and shall make a determination as to whether or not there has been a breach of contract, and shall direct what further action shall be taken by the City, including but not limited to cancellation of this Agreement, as hereinafter provided. Any lesser remedial action than cancellation shall not waive the City's right to further remedial action.
- B) In addition to terminating this Agreement, the City may recover from the cash or surety bond all administrative costs as provided by Section 23 of this Agreement.
- C) The City may, if it so elects, pursue any other remedies provided by law for breach of this Agreement or any of its terms, covenants, conditions, or stipulations. No right or remedy herein conferred upon or reserved to the City or the Towing Company is intended to be exclusive of any other right or remedy, and each and every right and remedy given hereunder, or now or hereafter existing at law or at equity or by statute.

25. MISLEADING, DISHONEST AND ILLEGAL PRACTICES

The Towing Company warrants that it will not engage in any misleading, dishonest, or illegal practices with regard to the vehicles towed pursuant to this Agreement, the City shall promptly notify Towing Company of the alleged violation. If a satisfactory explanation is not received by the City within twenty-four (24) hours from Towing Company, or the violation is not otherwise remedied and assurances given that similar violations will not occur in the future within the twenty-four (24) hour period, the violation may be reported to the City Commission for cancellation of this Agreement or other appropriate action as provided by Paragraph 24 herein.

26. MISCELLANEOUS

- A) The descriptive headings appearing in this Agreement are for convenience only and are not to be construed either as apart of the terms and conditions hereof or as any interpretation thereof.
- B) The bid documents and specifications, attached hereto, are made a part of this Agreement.
- C) It is mutually understood and agreed that nothing contained in this Agreement is intended, or shall be construed, as in any way creating or establishing the relationship of copartners or joint ventures between the parties hereto or as constituting the Towing Company as agent or representative of the City for any purpose or in any manner whatsoever.
- D) The Towing Company shall not assign this Agreement and its rights hereunder, in whole or in part, except with the prior written consent of the City.

(Remainder of this page intentionally left blank)

Signatures on following page

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 4th
day of MARCH, 2009.

THE CITY of DAYTONA BEACH

Bobbie Yarbrough
Witness

[Signature]
Witness

By: [Signature]
JAMES V. CHISHOLM, City Manager

Attest: [Signature]
Jennifer Thomas, City Clerk

Daytona Wrecker Service
TOWING COMPANY

[Signature]
Witness

[Signature]
Witness

By: [Signature]
Signature

Attest: [Signature]

Approved as to legal form:

[Signature]
Marie Hartman, City Attorney

EXHIBIT "A"

RULES OF THE DAYTONA BEACH POLICE DEPARTMENT WRECKER QUALIFICATIONS AND REGULATIONS

I. SCOPE AND PURPOSE

- 1) These rules apply only to the wrecker company under contract to The City of Daytona Beach.
- 2) These rules are designed to assist private and commercial users of the highways of this City by insuring that only qualified, reputable wrecker operators and equipment are provided for removal of wrecked, disabled, stolen, or abandoned motor vehicles in the event the owner or operator is incapacitated, unavailable or leaves the procurement of wrecker service to the discretion of the public safety officer at the scene.
- 3) These rules do not apply to a vehicle owner's request for utilization of a specific wrecker operator, whether or not such operator is qualified under these rules. In such event, the owner's request will be honored without resort to these rules unless there will be an unreasonable time delay and a traffic problem exists.

II. DEFINITIONS

- 1) The Department - The Daytona Beach Police Department
- 2) The City - The City of Daytona Beach
- 3) Operator - The individual, partnership, corporation, or business entity engaged for hire in the recovery, towing or removal of wrecked, disabled, stolen, or abandoned motor vehicles under contract to the City. For the purpose of this rule, a employee shall be governed by these rules while on duty, and unless otherwise stated, shall be considered an agent for the wrecker operator.
- 4) Agreement - The Wrecker Service Agreement entered into between the City and Operator.

III. RESPONSE TO CALLS

- 1) The operator shall respond to all requests made through the Department as specified under Section 1(e) of the Agreement.
- 2) Unless authorized by the Department officer, flashing amber lights shall not be used while responding to a call for service.
- 3) Flashing amber lights shall be used at the scene and when towing from the scene in accordance with 316.2397(3), F.S.
- 4) When no hold is placed against the vehicle by the investigating officer, the operator shall tow to any location the owner requests within the limits of Daytona Beach.
- 5) Any ancillary service, such as the use of dolly, dropping and hooking up linkage, are to be performed only if required and appropriate.
- 6) The motor vehicle owner is responsible for payment of charges imposed by the operator.

IV.WRECKER CLASSIFICATION AND REQUIRED EQUIPMENT

- 1) Each tow truck owned or maintained by a wrecker operator shall be commercially manufactured and shall conform to the requirements set out herein. The wrecker and equipment shall be operable.
- 2) The tow truck and equipment shall be inspected by the Chief of Police or his designee annually.
- 3) Specifications and equipment for operators:

a) Class A Wrecker

1. A truck chassis with manufactures rated capacity of at least 10,000 pounds gross vehicle weight rating.
2. A complete, commercially manufactured crane and twin winch having a manufacturer's rating of at least 4+ tons for each winch must be mounted on the chassis.
3. A minimum of one hundred feet of 3/8-inch cable per winch.
4. Cradle or tow plate or tow sling to pick up vehicles. The cradle or tow plate is to be equipped with safety chains and so constructed that no further damage will occur when picking up vehicles.
5. Dual rear wheels.
6. Equipped with wheel lifts or equivalent.

b) Class A Car carriers (Roll-back or Slide-back)

1. A truck chassis with a manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight rating, with a minimum 16 foot bed.
2. Dual wheels.
3. One winch with an 4+ ton capacity.
4. A minimum of 50 feet of 3/8-inch cable.
5. A brake lock device.
6. A minimum of four safety + tie down chains ten feet in length.
7. Equipped with wheel lifts or equivalent.

c) Class B Wrecker

1. A truck chassis with a manufacturer's rated capacity of at least 18,000 pounds gross vehicle weight rating.
2. A complete, twin-winch, commercially manufactured crane and winch having a manufacturers rating of at least 10+ ton capacity mounted on the chassis.
3. A minimum of one hundred fifty feet of at least 1/2-inch cable.
4. A cradle, tow plate, or tow sling to pick up vehicles. The cradle or tow plate or tow sling is to be equipped with safety chains and so constructed that no further damage will occur when picking up vehicles.
5. Air brakes so constructed as to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.
6. Dual rear wheels.

d) Class C Wrecker

1. A truck chassis with a manufacturer's rated capacity of at least 30,000 pounds gross vehicle weight rating.
2. A complete, twin-winch, commercially manufactured crane and winch having a manufacturers rating of at least 25+ ton capacity mounted on the chassis.
3. A minimum of two hundred feet of at least 5/8-inch cable.
4. A cradle or tow plate or tow sling to pick up vehicles. The cradle or tow plate or tow sling is to be equipped with safety chains and so constructed that no further damage will occur when picking up vehicles.
5. Air brakes so constructed as to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.
6. Dual rear wheels.

e) Class D Wrecker

1. A truck chassis with a manufacturer's rated capacity of at least 58,000 pounds gross vehicle-weight rating.
2. A complete, twin-winch, commercially manufactured crane and winch having a manufacturers rating of at least 35+ ton capacity mounted on the chassis.
3. Equipped with a under-reach with a 45,000 pound retracted capacity and 15,000 pound extended capacity.
4. A minimum of two hundred fifty feet of at least 3/4-inch cable.
5. A cradle or tow plate or tow sling to pick up vehicles. The cradle or tow plate or tow slings to be equipped with safety chains and so constructed that no further damage will occur when picking up vehicles.
6. Air brakes so constructed as to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.
7. Dual rear axles.

f) Equipment Requirements

1. The name, address and telephone number of the Operator must be professionally lettered and painted in a conspicuous place on both sides of the truck as required by 713.78(6) F.S. Magnetic or removable signs or placards shall not meet this requirement.
2. The operator shall have nothing on vehicles, buildings or correspondence that implies any official relationship between the operator and Department or City.
3. Wreckers shall be properly equipped with clearance and marker lights and all other equipment as required by Florida Statutes.
4. There shall be a rotor beam or strobe light, amber in color, mounted on the wrecker in such a manner that it can be seen from the front, rear, and both sides.
5. Dollies, except Class C and D.
6. At least one heavy duty push broom with a minimum width of twenty-four inches.
7. Flood lights on the hoist (Car carriers shall mount on the top of the front of the bed).
8. One square shovel.
9. One axe.

10. One crowbar or prybar with a minimum length of 30 inches.
11. Minimum of one 5 pound CO2 or dry chemical fire extinguisher or equivalent.
The extinguisher must be of an approved type and have a current inspection tag attached.
12. One pair of bolt cutters with a minimum 1/2 inch opening.
13. One set of jumper cables.
14. One four-way lug wrench.
15. One flashlight.
16. One set of red reflectors.
17. Five 30-minute flares.
18. One snatch block for each winch, manufacturers rating to match winch, except car carrier.
19. One set of scotch blocks for wheels or hydraulic rear extendible scotch blocks (Class B, C, and D only).
20. External air hookup and hoses (Class B, C, and D only).
21. Extra towing chain - six to eight feet with hooks.
22. At least six safety cones or 3 triangle reflectors.
23. Fifty pounds of sand or equivalent.

g) Wrecker Operators

1. All operators are required to have a valid Florida CDL license in their possession at all times.
2. Wrecker operators are required to comply and be familiar with the Florida Uniform Traffic Control Law, Chapter 316, Florida Statutes.
3. Wrecker drivers properly at the scene of an accident shall remove only the vehicle involved at the direction of the Investigating officer.
4. Wrecker drivers shall sweep glass from the roadway and remove all debris or hazards from the scene as required by the agreement.
5. The wrecker operator shall be thoroughly familiar with the wrecker he is operating.
6. The operator shall be responsible for any damage to a vehicle caused by the driver.

Exhibit "B"
Towing Rate Structure
Daytona Beach Police Department

Class A vehicles (gross vehicle weight rating at 9999 pounds or less or a vehicle carrying a vessel 15 feet or less in length):

1.	Basic tow	\$100.00
2.	Basic tow, per mile over initial ten (10) miles, per full extra mile	3.00
3.	Basic tow, time beyond initial 30 minutes at scene, 15 minute block	25.00
4.	Inside storage per day	25.00
5.	Outside storage, per day	20.00

Class B vehicles (gross vehicle weight rating at 10,000 pounds or more but less than 19,500 pounds or vehicle carrying a vessel more than 15 feet but less than 22 feet in length):

1.	Basic tow	200.00
2.	Basic tow, per mile over initial ten (10) miles, per full extra mile	4.00
3.	Basic tow, time beyond initial thirty (30) minutes at scene, per fifteen (15) minute block	50.00
4.	Inside storage per day	30.00
5.	Outside storage, per day	25.00

Class C vehicles (gross vehicle weight rating at 19,500 or more pounds but less than 25,000 pounds or vehicle carrying a vessel more than 22 feet in length):

1.	Basic tow	300.00
2.	Basic tow, per mile over initial ten (10) miles, per full extra mile	5.00
3.	Basic tow, time beyond initial thirty (30) minutes at scene, per fifteen (15) minute block	75.00
4.	Inside storage per day	60.00
5.	Outside storage, per day	55.00

Class D vehicles (gross vehicle weight rating at more than 25,000 pounds):

1.	Basic tow	400.00
2.	Basic tow, per mile over initial ten (10) miles, per full extra mile	6.00
3.	Basic tow, time beyond initial thirty (30) minutes at scene, per fifteen (15) minute block	100.00
4.	Inside storage per day	60.00
5.	Outside storage, per day	55.00

An additional daily storage fee, as set forth above, may be charged for any vessel, trailer or other mobile item, whether motorized or not, which is mounted on wheels and attached to a towed vehicle.

The maximum rates established above shall be a flat fee which shall be all-inclusive and, by way of illustration, no additional charges shall be made for:

- a. Any fees for special equipment or services such as double hook- up, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, dollies, trailer or flat bed, lifts, slim jims, go jacks, removing bumpers, airing up brakes, and mileage, other than those specified in the rate schedule;
- b. Time spent at the scene of the tow, other than those specified in the rate schedule;
- c. Release fees during normal business hours (Monday-Friday, 8:00 a.m.- 6:00 p.m.)
- d. Storage for the first six (6) hours.

No other fees of whatever kind may be charged for services rendered during the first twelve (12) hours that the vehicle is in the possession of the wrecker, beginning from the time the vehicle is delivered to the storage facility, except as specifically provided herein. Storage fees as set forth above may be assessed after the initial six (6) hour period based on calendar day increments. An administrative fee for compliance with statutory notice requirements may be charged after the first forty-eight (48) hours so long as the wrecker service has actually complied with the requirements of F.S. §713.78, including execution and mailing of the lien notice. The fee must be based on actual costs for such compliance. Further, a "tarpaulin fee" in the amount of fifteen dollars (\$15.00) may be assessed when the towing service reasonably finds it necessary to install and maintain tarpaulin coverage on any Class A stored vehicle in order to protect the interior accessories or upholstery of such vehicle from damage by inclement weather. Tarpaulin fees for coverage of any other Class vehicle must be reasonable and based on actual costs. An after-hours (Monday-Friday, 6:00 p.m.-8:00 a.m., Saturday and Sunday and national holidays) release fee not to exceed twenty-five dollars (\$25.00) may be charged.

Service Charges

<u>Vehicle Lockout</u>	<u>50.00</u>
<u>Change Tire or Jump Start</u>	<u>35.00</u>
<u>Wrecker on scene and owner arrives</u>	<u>25.00</u>