

AGREEMENT
BETWEEN VALLEY TOWING, INC
AND THE CITY OF METHUEN

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This **AGREEMENT** made and entered into this 13th day of April 2016, by and between **VALLEY TOWING, INC.**, a corporation duly organized by law and having a usual place of business at 150 Merrimack Street, Methuen, MA, hereinafter called "CONTRACTOR", and CITY of Methuen, a Municipal corporation duly established by law in said Essex County and the Commonwealth of Massachusetts, hereinafter called, "CITY", **WITNESSETH THAT:**

WHEREAS, the CITY is desirous of contracting for the removal, towing, storage and/or disposal of motor vehicles parked on the streets of the CITY in violation of the Ordinances incorporated in the Code of the CITY of Methuen, as amended, The General Laws of the Commonwealth of Massachusetts, and Federal Motor Carrier Safety Regulations, and for the removal, towing, storage and/or disposal of motor vehicles which may under certain conditions' under "police power" be invoked; and

WHEREAS, the CONTRACTOR has offered to furnish the necessary labor and equipment to remove, tow, store and/or dispose of said motor vehicles; and

WHEREAS, the CITY has accepted the CONTRACTOR'S offer;

NOW THEREFORE, in consideration of the mutual agreements of the parties hereinafter set forth, the parties agree as follows:

Section 1

- A. In the case of a vehicle ordered removed, towed and stored for a violation of the City Ordinance, Chapter 9, Article V, Section 9-53, SNOW EMERGENCIES, the order must be given to the contractor or his representative by the Director of Public Works, or his designee, who within a reasonable amount of time will notify the Police Department of the removal of such vehicle.
- B. In the case of a vehicle ordered removed, towed, stored and/or disposed of for a violation of State Statute governing ABANDONED MOTOR VEHICLES. The order shall be given by the Director of Public Works or his designee and shall conform with Ch. 90, Sec. 22C.
- C. In the case of a vehicle ordered removed, towed and stored for a violation of City Ordinance, Chapter 9, Article V, Section 9-58, PROHIBITING UNREGISTERED VEHICLES OR TRAILERS ON THE PUBLIC WAY, a verbal order may be given by any regular police officer regardless of rank, who is a member of the Methuen Police Department.

- D. In the case of a vehicle ordered removed, towed and stored under specific conditions: (i.e., stolen vehicles, hazardous parking, tow request by the owner, vehicles used in the commission of a crime, accident vehicles, etc.) a verbal order may be given by any regular police officer regardless of rank, who is a member of the Methuen Police Department.

Section 2

The CONTRACTOR agrees to respond to all calls for service including but not limited to storage, tire changes, and jump starts for all City of Methuen vehicles without compensation. Towing and tire changes shall apply to all vehicles up to and including 20,000 pounds gross vehicle weight.

Section 3

The CONTRACTOR agrees that upon written or oral notice from the above designated officials/police officers of the City of Methuen under those specific conditions enumerated in the paragraphs above, he will undertake the removal, towing and storage of those vehicles and shall conduct the service expeditiously within a maximum of fifteen (15) minutes, on a twenty-four (24) hour basis, seven (7) days a week, from such places and at such time, upon receipt of the order.

Section 4

The CONTRACTOR agrees that it will charge fees in accordance with approved charges established by Items No. 1, 2 and 3 of "Schedule of Rates" for Police, Public Authority, established by the Department of Telecommunications & Energy, with the following exception.

- A. Per day means each 24 hour period or fraction thereafter.
- B. When the owner or operator appears to remove the vehicle, either when the tow firm arrives or is preparing to tow, the fee shall not exceed one half (1/2) of the fee allowed for that specific towing, as indicated above.

Section 5

The CONTRACTOR agrees that it must resort for payment to the owners of the vehicles removed, towed, stored and/or disposed of, as provided herein, and that there shall be no obligation on the part of the City for payment of any of the above charges incurred. Notwithstanding any other provisions of this Agreement, it is understood and agreed that abandoned motor vehicles requested to be towed by the City of Methuen shall be removed, towed and stored and/or disposed of at no charge to the City of Methuen.

Section 6

The CONTRACTOR agrees that it shall assume the defense of and indemnify and hold the CITY, its agents and employees harmless from all suits and claims against them or any arising from any labor or equipment of the CONTRACTOR or from any act or omission of the CONTRACTOR, its agents or employees in carrying out the contract or in failing to protect such property entrusted in his custody from loss, theft, or damage. CONTRACTOR shall pay all debts for labor and materials including vehicles, equipment and storage lots contracted for it and for any rentals, for, or on account of, work performed hereunder. CONTRACTOR shall conform to all requirements of law and all other public authorities, state or local, relating to the methods or materials to be used or to the persons to be employed in doing the work. CONTRACTOR shall assume the defense and indemnify and hold the CITY harmless for any and all liability of every nature and description which it may have suffered through damage to property or personal injuries including death or otherwise by means of negligence of the CONTRACTOR, its agents or employees of any subcontractor.

Section 7

The CONTRACTOR agrees that it shall carry on any work with due diligence and dispatch. All work shall be performed to the satisfaction of the Chief of Police, or his assigned representative, and shall be in strict accordance with the Contract requirements.

Section 8

The CONTRACTOR agrees that the Chief of Police and his authorized representatives shall have access to the CONTRACTOR's premises at all times for the purpose of insuring compliance with the CONTRACT and other required police investigations. The Chief of Police, or his assigned representative, shall have the authority to stop, alter or in any way affect the performance of the work agreed to, if it is not being performed in conformity with the Contract.

Section 9

The CONTRACTOR shall have and maintain during the life of this Contract "Fire Insurance" on vehicles in its custody at any time or place *in* the name of the owner, firm or corporation and to cover *his* own interest against loss or damage by fire as their interests may appear. The policy shall cover all such vehicles and shall be in a sum equal to at least 80 percent of the value of such vehicles at any time and from time to time in its custody.

Section 10

The CONTRACTOR shall have and maintain during the life of this contract such Liability, Property Damage, Fire Insurance as shall protect it from claims for damages for personal injury, including accidental death, as well as from claims for property damage,

which may arise from operations under this Contract, whether such operations be of himself or by any subcontractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:

- A. Personal Injury Liability - \$1,000,000.00/\$2,000,000.00
- B. Property Damage Liability - \$250,000 each event.
- C. Fire & Theft - \$100,000 each event.
- D. City to be named as additional insured.
- E. Workman's compensation.
- F. Public liability.
- G. It is further required that the CONTRACTOR submit with his application, a copy of his Massachusetts Department of Telecommunications & Energy "Certificate to Tow" and conditions.

Section 11

The CONTRACTOR agrees that it or its representative shall notify the rightful owner of the vehicle within five (5) days, beginning after the expiration of the first twenty-four hour period from the date and the time of such removal or towing, by REGISTERED MAIL, indicating the location the vehicle was towed from and location being stored. A copy of this notice shall be forwarded to the Records Department of the Methuen Police Department. The Methuen Police Department shall cooperate with the CONTRACTOR to determine the rightful owner. Failure to so notify the rightful owner by any negligence of the CONTRACTOR or its representatives shall constitute the loss of any storage fee beyond the fifth day. The CONTRACTOR agrees all vehicles; upon arrival at the storage area will note time on tow slip.

Section 12

The CONTRACTOR agrees to notify the Records Department of the Methuen Police Department of any and all vehicles stored on his premises for a period of three days or more.

Section 13

The CONTRACTOR agrees that all motor vehicles upon arrival at the storage area be **time stamped in** for a permanent record.

Section 14

The CONTRACTOR, in acceptance of a TOWING CONTRACT, shall further be aware of the right to terminate a Contract by the Chief of Police, in the best interest of the City, without having to show cause and that the Chiefs decision is final.

Section 15

The CONTRACTOR, in acceptance of the TOWING CONTRACT, shall further be aware that the Chief of Police, in termination of a Contract, without having to show cause, may take into consideration the FAILURE of the CONTRACTOR to meet or maintain the standards provided in the Contract, and, to include the following:

- A. Failure to respond to a towing or removal request by the Police as required by contract.
- B. Refusal of Contractor to accept a tow or removal assignment within the terms of the Contract.
- C. Failure to appear at the assigned location within the time frame established under paragraph No. 3 of this contract.
- D. Failure to Contractor to NOTIFY the records Department of the Methuen Police Department of ANY and ALL VEHICLES on his premises for three (3) days or more.
- E. Failure of Contractor to answer calls either by himself, his representative, or an answering service. Contractor may arrange with another firm, which is on Contract with the City to respond in his place in cases of EMERGENCY, providing he first informs the Police of this arrangement.
- F. The CONTRACTOR or his representative creating an uncooperative situation with the public and/or the POLICE.
- G. Failure of Contractor to provide for the safe keeping of personal property entrusted to him or his representatives.
- H. Failure of Contractor to comply with the procedures and conditions of the Contract.
- I. Any grievances or complaints relative to a specific job shall be reported to the Chief of Police, in writing, citing the time, date and location of grievance.
- J. Understanding by the Contractor that a removal, towing, storage and/or disposal of vehicles, so contracted, is by the authority of the Chief of Police of the City of Methuen as authorized by "Statute Law" and "Ordinance", and all decisions, in the

proper performance of this contract and/or in the best interests of the City of Methuen, are FINAL, without having to show cause.

- K. Failure of Contractor, to comply with Massachusetts General laws relating to Abandoned Motor Vehicles.

Section 16

The CONTRACTOR agrees that in the case of a vehicle ordered by the police to be removed, towed, stored, or impounded for reasons of use in a criminal case, every precaution shall be taken by the CONTRACTOR, or his representative or employees, for the protection of such evidence that is or may be present during such removal, towing or storage within their storage area. Further, the CONTRACTOR's attention is invited to the provisions of Chapter 266, Section 120D, as amended, Massachusetts General Laws, regarding the removal of vehicles parked or standing on a private way, or upon improved or enclosed property for compliance thereto, with the regulations established therein.

Section 17

The CONTRACTOR agrees that he shall be liable to the owner of the vehicle for any damage caused by negligence in their removal, towing, or storage of the vehicle. The CONTRACTOR or his representative will conduct an on scene inspection of the vehicle ordered to be towed in the presence of the officer ordering such removal. The condition and damage, if any, will be recorded on the Methuen Police Department Motor Vehicle Inventory Report and signed jointly by the officer and the CONTRACTOR or his representative. A copy of the report will be made available to the CONTRACTOR by the Police Department, upon request, during normal hours of business.

Section 18

It is agreed that the execution of this contract does not preclude the CITY from entering into like contracts with other bidders, but in the event more than one contract is executed by the CITY, with any other person, firm or corporation, the CITY agrees that its officer will make every effort for as equitable a distribution of work as possible.

Section 19

Neither the removal nor storage of a vehicle under provisions of this contract shall be deemed as services rendered or work performed by the City of Methuen Police Department

Section 20

The City of Methuen through the Chief of Police, awards this Contract in the best interest of the City and, as such, reserved the rights for immediate cancellation of the contract whenever, in the in the opinion of the Chief of Police, he so deems necessary without having to show cause.

Section 21

The CONTRACTOR, in agreement and acceptance of this Contract, understands the provisions of termination indicated in paragraph 15 above, and shall accept the decision of the Chief of Police in the event of termination of the Contract is final.

Section 22

Removal and towing under this Contract shall be construed as being removal and/or towing in their simplest meaning. Any complicated removal and/or towing shall be governed by those conditions as established by the Department of Utilities for the Commonwealth of Massachusetts under Chapter 159B, Sections 6B and 6C of the General Laws of the Commonwealth of Massachusetts.

Section 23

All rates and charges to be assessed under terms and conditions contained in the City of Methuen Contract shall be filed and in effect with the Massachusetts Department of Telecommunications & Energy before carrier may render service for the Methuen Police or other Methuen Public authority.

Section 24

The length of this contract shall be three years from the date of execution.

Section 25

The CONTRACTOR shall comply with all Massachusetts General Laws, including Chap. 159B, Sect. 6B, pertaining to the storage and disposal of abandoned motor vehicles whose lawful owners cannot be identified.

Section 26

Tow Truck Classifications:

Light Duty: Towing companies wishing to tow vehicles with a GVWR of up to 11,000 pounds shall be properly equipped and have:

- Two tow trucks, each 11,000 GVWR minimum, with dual winches and wheel lifts;

and,

- One car carrier, 14,500 GVWR minimums.

Heavy Duty: Towing companies wishing to tow vehicles over 11,000 GVWR shall be properly equipped and have:

- Two tow trucks, each with a minimum 25 ton capacity and dual winches. At least one truck will have an under-reach axle lift and must have the capability of towing a loaded tractor trailer unit.

Recovery: Towing companies wishing to tow Heavy Duty vehicles shall have in addition to the Heavy Duty requirements, sufficient auxiliary equipment to upright overturned vehicles and to perform other vehicle recovery operations, i.e. submerged vehicles.

Additional requirements: Each tow truck will have, in addition to the required equipment (appropriate chains, hooks, blocks, cable, lights), one broom and shovel, one five (5) gallon bucket of approved absorbent materials. The tow truck operator will be reasonably responsible for clearing the roadway and removal of any debris.

Section 27

Tow Operators:

The tow company shall maintain a current list of drivers and provide the list to the Chief of Police or his designee, along with a copy of the driver's license and medical card of the driver. Whenever a change to the list occurs, an updated list, along with a copy of the license and medical card, shall be provided to the Chief of Police or his designee within twenty-four (24) hours of such change.

All tow company drivers shall meet the following minimum standards:

- Hold an active license for the required license class,
- Hold a current valid medical card,
- Be trained to properly operate the necessary equipment.

Section 28

It is further required that the CONTRACTORS have the following:

- a. The capability to handle wheel-less vehicles.
- b. A fenced and lighted area shall be provided for at least seventy-five (75) vehicles, plus indoor storage for at least five (5) vehicles at all times. The tow company is responsible for the reasonable care, custody and control of any property

contained in towed or stored vehicles.

- c. Capability to tow large vehicles (trucks 30,000 lbs. or over).
- d. Wrecker equipped with wheel lift (for vehicles with a plastic front).
- e. Minimum of two (2) tow employees on call, for twenty-four (24) hour service, with radio equipped vehicles.
- f. Meet the requirements of M.G.L. Ch. 90, Sec. 9 (for towing unregistered vehicles).
- g. The tow company shall obtain authority from the Officer who has placed a vehicle on hold before releasing a vehicle impounded because of an active or on-going investigation, except if unable to contact the officer, a Captain or the Chief may release the hold.
- h. The primary storage facility shall normally be at the same location as the business address.
- i. If the storage facility is at another location, there shall be no charge for any additional distance traveled to and from the secondary location.
- j. Before the use of new storage facilities that are not listed in the contract, the tow company shall obtain the Chief of Police's approval and furnish the address.

Section 29

Inspections:

All tow operators will conduct a daily inspection of the tow truck and document the inspection in writing prior to towing any vehicles. Seven (7) days of inspection reports shall be kept inside the truck at all times, in an easily accessible place. They shall be immediately provided to any Police Officer upon his/her request.

All tow companies shall submit to an annual inspection of their fleet of trucks and their business location and storage facilities by any Law Enforcement Officer at the request of the Chief of Police.

Section 30

Contractor acknowledges that a minimum fee of \$25.00 per tow over the established rate as set by the State Department of Telecommunications and Energy, formerly DPU, rate has been included as part of the pricing proposal. The amount of \$25.00 per tow will be paid to the City of Methuen for each tow that is ordered under this agreement. This amount shall be paid monthly at the beginning of each month for the prior month or in any such other time period as may be required by the Mayor acting on behalf of the City.

CONFLICT OF INTEREST – GOODS AND SERVICES

The CONTRACTOR further, in light of the provisions of Chapter 268A of the Massachusetts General Laws, covenants that he/she has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the purchase of goods required under this contract. The CONTRACTOR further covenants that in the performance of this contract no person having any such interest shall be employed.

Ronald W. Perrino President
Signature of individual submitting bid or proposal

Valley Towing Inc
Name of Business

* Approval or a contract or other agreement will not be granted unless this certification clause is signed by the applicant.

their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of Mass. G.L. c. 62c, Sec. 49A

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union committee, club or other organization, entity or group of individuals.

Ronald W Panino President
Signature of individual submitting bid or proposal

Valley Towing Inc
Name of Business

TAX COMPLIANCE CERTIFICATION

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes.

Ronald W. Parnis President
Signature of individual submitting bid or proposal

Valley Towning Inc
Name of Business

042 928 723
Federal I. D. No.

IN WITNESS WHEREOF, the CONTRACTOR and the CITY OF METHUEN have hereunto and in duplicate and triplicate hereof caused their seals to be affixed and these presents, together with said duplicate and triplicate, to be signed individually or by their authorized officers or representatives, as the case may be, the date and year first above written.

CITY OF METHUEN

CONTRACTOR

Stephen N. Zanni
Stephen N. Zanni
Mayor

Ronald W. Parnis

APPROVED AS TO FORM:

By: *Anne L. Randazzo*
Anne L. Randazzo
Assistant City Solicitor

DATE: *4/13/16*