



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing City Manager and Lodi Police Department to Renew the Tow Service Contract, Reset the Tow Truck Driver Application, Renewal, and VIN Verification Fees

MEETING DATE: March 19, 2013

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Adopt resolution authorizing City Manager and Lodi Police Department to renew the tow service contract, reset the tow truck driver application, renewal, and VIN verification fees.

BACKGROUND INFORMATION: The current tow service contract the Police Department has entered into with the approved tow operators (P.T.A.G., Geweke, Sam Berri, Pacific and City Wide) has expired. The Police Department will renew the contract with the approved tow operators and amend the fees for tow truck driver application and renewals.

The fees for the tow truck driver application and renewal, as approved by council on August 15, 2012, Resolution 2012-136, are currently \$50 and \$25 respectively. The fees should be \$110 and \$54. When the fees were adopted they were entered in error, and should have been entered as the higher fees.

The VIN verification fee approved by council on August 15, 2012, is \$35. The fee should have been \$45. This was a typographical error and needs correction.

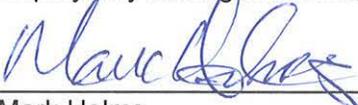
With Council approval, the Police Department will enter into agreement with the tow operators via the tow service contract and adjust the tow truck driver application, renewal and VIN verification fees.

FISCAL IMPACT: By adopting this resolution the tow truck operator initial fee will be raised \$8. Estimated revenue increase is \$80. The renewal fee will increase by \$29. Estimated revenue increase of \$638. The VIN verification fee will increase by \$10. Estimated revenue increase of \$130.

FUNDING AVAILABLE: No funding is needed.



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MH/DG/po
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cc: City Attorney

APPROVED: 

Stephen Schwabauer, Interim City Manager

CITY OF LODI
LODI POLICE DEPARTMENT
TOW SERVICE CONTRACT

This Tow Service Contract, hereinafter referred to as (“Contract”), is entered into this _____ day of _____, 2014 (“Effective Date”), at Lodi, California, between the City of Lodi, a municipal corporation (“City”) and _____, (“Tow Operator”).

This Contract contains rules and regulations that a company providing tow services within the City agrees to comply with in order to receive a rotation tow listing with the Lodi Police Department (“LPD”). For clarification purposes, refer to the following which are incorporated as though fully set forth herein:

1. Attachment A – Definitions
2. Attachment B - Operator/ Driver Permits
3. Attachment C – Tow Rate Schedule

1. SCOPE OF SERVICES

Any tow service provider desirous of participating in the City-generated tow rotation may apply to be included on the City’s tow rotation list by obtaining a copy of these standards and submitting the required form acknowledging that the provider has reviewed the standards and shall fully comply with the standards as a condition of being placed on the tow rotation list.

These standards shall become effective at 12:01 a.m. on March 19, 2014. In no event shall a provider’s participation in the tow rotation and compliance with these standards give rise to any contractual or legal obligation on the part of the City to continue the tow rotation for any fixed period of time, or at all. The rotation and/or the City’s use of the provider’s services may be discontinued by the City at any time. Any tow service provider who requests to be included in the City-generated tow rotation acknowledges that the City, at its sole discretion, reserves the right to cancel the rotation and/or discontinue the use of the provider’s services by giving advanced written notice of its intent 30-days prior to the effective date of the cancellation. The provider further acknowledges that under certain circumstances specified in these standards, the City may forgo the 30-days notice requirement and impose an immediate suspension or termination, and that upon exercising its discretion as provided in these standards, the City shall incur no liability of any kind to the provider or any subcontractor or supplier of the provider.

The City reserves the right, in its sole discretion, to amend these standards from time to time as it deems necessary to provide effective, efficient, and economical service to the motoring public and the citizens of Lodi. In the event the City desires

to amend these standards, the City shall furnish providers participating in the rotation with advanced, written notice of the amendment(s) a minimum of 30-days prior to the effective date of the amendment(s), except in the event of an emergency as deemed necessary by City.

In accordance with the specifications and upon the terms and conditions set forth herein, each tow service provider participating in the rotation shall provide tow services and subsequent lien sales and disposal of unclaimed vehicles towed at the City's request. The services shall include, but not be limited to, the following:

- A. Tows of vehicles impounded by the City for investigative purposes, as evidence in a criminal case, or for any other reason;
- B. Tows of vehicles involved in accidents or other emergency situations, stalled vehicles obstructing traffic, illegally parked vehicles, vehicles where the drivers are incapacitated or physically unable to drive, vehicles where the drivers have been arrested and/or detained, vehicles impounded under the mandatory 30-day impound provisions of California Vehicle Code section 14602.6, and/or vehicles with five (5) or more outstanding parking citations;
- C. "VIN" tows of vehicles necessitating special procedures to ascertain vehicle identification numbers in compliance with requirements of the California Vehicle Code;
- D. Tows of any abandoned vehicle, inoperative vehicle from any street, alley, highway, or other private or public property in the City pursuant to Sections of the Lodi Municipal Code and California Vehicle Code section 22669; and
- E. Any other vehicular tows requested by any police officer, police employee, or any other employee or agent of the City who is properly authorized to order such removal.

2. Rotation Lists

- A. The Lodi Police Department shall maintain a rotational tow list to establish an equitable distribution of calls.
- B. The rotational tow list will be established as follows:
 - (1) Each eligible tow company will be placed on a list.
 - (2) Each company will rotate on a call by call basis.
 - (3) If a company fails to timely respond to a call, the next company on the list will be called until one company responds.
 - (4) Any new eligible tow companies will be placed on the list by seniority. A new company will not be added until the Tow Operator furnishes the Lodi Police Department with proof of passing a California Highway Patrol ("CHP") inspection. Tow Operators applying for the Lodi Police Department's rotation shall have a minimum of three years of verifiable for hire towing experience as an owner or principal, named on a City of Lodi business license. Any new eligible tow company will not be added until the expiration of this Contract.

- (5) There shall be a maximum of **five (5)** Class A tow companies on the LPD rotation list.
 - (6) A copy of the current valid CHP inspection indicating a passing grade must be carried with each truck that responds to LPD tows. This inspection sheet will be made available to any peace officer on demand.
- C. If it is determined that the Tow Operator is not needed and is canceled by the Lodi Police Department, up to and including arrival at the scene, there shall be no charges to the City and the Tow Operator will be placed back on the top of the list.
- (1) If hookup or service has begun and is canceled by the vehicle owner or agent, charges owed shall be no more than the regular towing charge.
 - (2) A call to a Tow Operator shall constitute one turn on the list and the Tow Operator shall be moved to the bottom of the list. This includes when the Tow Operator fails to answer the phone, is unable to respond, is unable to perform the required service, refuses to respond or provide service, or is canceled due to excessive response time.
 - (3) Beginning with this contract, any Tow Company called by LPD for a San Joaquin County Sheriff's Department tow will be charged for a rotation call. We will keep track of calls initiated by the Sheriff's Office.
 - (4) Any passes will result in the Tow Operator being moved to the bottom of the list.
- D. Rotational tows shall include rotational obligation for abandoned vehicles, and providers shall not refuse any rotational calls. If a provider develops a pattern of declining its turn on the rotation list, it will be considered as evidence of the provider's inability or unwillingness to provide adequate service as required by these standards and shall result in the provider's suspension or termination from the rotation. The Chief of Police, in his sole discretion, shall determine whether a provider is incapable of providing the level of service required by these standards.
- E. If two (2) or more Tow Operators are called to the same incident, distribution of the vehicles shall be at the discretion of the Lodi Police Department scene manager. The scene manager will usually be the investigating officer or traffic control officer.

The Lodi Police Department scene manager may direct a Tow Operator to move vehicles to help clear a roadway or for life saving operations. The Tow Operator shall provide the requested assistance at no charge. Failure to do so shall constitute a major violation of these standards and may cause the provider to be suspended and/or terminated from the rotation.

- (1) In the interest of public safety and/or service to the public, any peace officer or employee directed so by any peace officer may deviate from this contract and normal rotation.

3. Tow Truck Classifications

- A. A Tow Operator shall equip and maintain tow trucks covered under this contract in accordance with the provisions set forth in the California Vehicle Code and consistent with industry standards and practices. You must meet the provisions of

Class A to be on the Lodi Police Department rotation list. Nothing shall prohibit Class B, C, or D Tow Operators from maintaining a place on a lighter class rotation list.

- B. There will be four classes of tow trucks covered under this agreement.
- (1) Class A – light duty. A Tow Operator shall maintain a minimum of two tow trucks with a manufacturer’s gross vehicle weight rating of 14,000 pounds. One of two trucks shall be a car carrier.
 - (2) Class B – medium duty. A Tow Operator shall maintain at least one tow truck with a manufacturer’s gross vehicle weight rating of 19,000 pounds. This truck shall be capable of providing air to the towed vehicle.
 - (3) Class C – heavy duty. A Tow Operator shall maintain at least one three axle tow truck with a manufacturer’s gross vehicle weight rating of at least 33,000 pounds. The truck shall be equipped with air brakes and must be capable of providing air to the towed vehicle.
 - (4) Class D – super heavy duty. A Tow Operator shall maintain at least one three axle tow truck with a manufacturer’s gross vehicle weight rating of at least 50,000 pounds. The truck shall be equipped with air brakes and must be capable of providing air to the towed vehicle.
 - (5) A Tow Operator and/or his/her tow truck drivers shall comply with all laws and requirements regarding gross vehicle weight rating standards for the tow truck.
- C. To properly and safely tow and service the wide variety of vehicles to be operated on the highway, a towing procedure may require the use of auxiliary equipment specifically designed for the purpose. This auxiliary equipment should be used when recommended.
- D. Each tow vehicle must be identified with permanent signs on both sides of the vehicle, clearly showing the Company name, address, phone number, and current California tow license number. Magnetic signs will not be allowed. The signs will be permanently affixed and in compliance with the requirements of section 27907 of the California Vehicle Code.

4. Tow Drivers

- A. The Tow Operator shall insure that only qualified and competent licensed tow drivers respond to calls initiated by the Lodi Police Department. Tow drivers shall be at least 18 years old and possess the following minimum class California driver’s license:
- (1) Class A tow truck. A valid Class C license or a valid Class A license with a valid medical certificate.
 - (2) Class B tow truck. A valid Class B license with a valid medical certificate.
 - (3) Class C tow truck. A valid Class A license with a valid medical certificate.
 - (4) Class D tow truck. A valid Class A license with a valid medical certificate.
- B. The Class A license must be endorsed to allow operation of special vehicle configurations and/or special cargoes.

C. The Tow Operator shall maintain a current list of drivers.

- (1) The Tow Operator shall provide a current list of his/her drivers to the Lodi Police Department upon the Effective Date of this agreement. The Tow Operator shall notify the Lodi Police Department upon any change in driver status, including the addition of any new drivers, or the deletion of any drivers. An updated list shall be provided to the Lodi Police Department within seven (7) calendar days of any change in driver status.
- (2) Tow Operators shall, as a minimum, maintain the following information for each employee:
 - (A) Full legal name;
 - (B) Date of birth;
 - (C) California driver's license number;
 - (D) Copy of valid medical certificate, if required;
 - (E) Job title/description;
 - (F) Types of trucks a driver has been trained and instructed to operate;
 - (G) Current home address and primary phone number; and
 - (H) Current Pull Notice as required by the California Vehicle Code.

D. All tow truck drivers and owner/operators shall be enrolled in the pull notice program through the Department of Motor Vehicles.

- (1) Upon the addition of new drivers, a Tow Operator will be granted a maximum of 30-days to enroll drivers in the pull notice program.
- (2) Pull notices shall be kept on file, signed, and dated by the Tow Operator.
- (3) The Tow Coordinator may require a Tow Operator to provide copies of pull notice reports at any time.
- (4) All tow drivers at the scene of an LPD tow will be required to wear a button up shirt, with a logo signifying the tow company, and a name patch identifying the first name of the driver. Coveralls may be worn, and shorts are acceptable.
- (5) No unauthorized persons shall be brought to the scene of an LPD tow, such as friends, relatives, etc.
- (6) All tow drivers and personnel authorized to operate tow equipment for the company shall be enrolled in a random drug and alcohol testing program administered by Central Medical Review of Lodi.
- (7) LPD Rotation Tow driver's shall wear a safety vest, meeting Occupational Safety and Health Administration (OSHA) requirements, as the outermost garment while engaged in LPD Rotation Tow operations.
Alternatively, the OSHA safety requirements may be incorporated into the uniform, jacket, or rain gear, as long as these items are worn as the outermost garment.
- (8) LPD Rotation Tow drivers will wear their LPD issued permits on the outer most clothing, during any and all responses to LPD rotation call outs.

E. It shall be a violation of this contract for any person to drive or operate a tow truck as described in California Vehicle Code section 615a without first obtaining a permit in writing to do so from the Chief of Police of the City of Lodi. (*see Attachment B*).

5. Rates

- A. Fees charged for response calls originating from the Lodi Police Department shall be reasonable and will not exceed rates established by the Lodi City Council as set forth in Attachment C.
 - (1) Tow Owner/Operators may request a review of rates once per calendar year by submitting a written request to the Lodi Police Department. The Lodi Police Department shall determine the reasonableness of the rates based upon the average of tow rates from the surrounding area. . The City Council reserves the right to change the fees from time to time and, agrees to provide not less than 30-days notice to Tow Operators of any change in fees.
- B. The rate for towing shall be computed from portal to portal from place of business. The time expended for towing up to the first hour shall be charged a flat rate not to exceed the hourly rate. Time expended in excess of one hour shall be at an hourly rate and shall be charged in 15 minute increments. There shall be no additional charges for mileage, labor, etc. The secondary towing requested by the customer may be negotiated by the Tow Operator in accordance with his/her private business practices.
- C. Rates for service calls (out of gas, lockout, etc.) shall be from portal to the end of the service, and may be at an hourly rate with a 30 minute minimum. Charges in excess of 30 minutes may be charged in 15 minute increments.
- D. The total fees charged for after-hours release shall be no more than ½ the hourly rate, and shall only be allowed if there is no person on duty at the storage facility for release and a callback is required. After hours release fees may only be charged between 6:00 PM and 8:00 AM.
- E. Business hours shall be posted in plain view to the public. The after-hours release contact phone number shall be posted in plain view to the public.
- F. The Tow Operator and/or his/her agent is required to be physically on site at the business location during normal business hours.
- G. The Tow Operator shall display in plain view at all cashier's stations, a sign described in section 3070 of the California Civil Code, disclosing all fees and charges in force.
- H. The Tow Operator shall, pursuant to 22651.1 California Vehicle Code, accept a valid bank credit card or cash for payment of towing and storage by the registered owner, legal owner, or owner agent claiming the vehicle.
- I. All tow companies SHALL release vehicles or personal property 24 hours a day, seven days a week. They shall be compensated at their after-hours rate if the time of day allows.

J. Storage fees.

- (1) The Tow Operator shall charge storage fees in accordance with the fees established by the Lodi City Council as set forth in Supplement C. .
- (2) The Tow Operator shall be allowed to charge an additional \$.50 per day storage and will be billed as a Lodi Safety Charge. This charge will apply to LPD ROTATION CALLS ONLY. This charge is to defray the costs to the Tow Operator to comply with Supplement B of this contract

K. Vehicles stored for 24 hours or less shall be charged no more than one day's storage. Each day thereafter shall be calculated by calendar day.

L. The schedule of rates charged by the Tow Operator shall be made available in the tow truck upon demand to the persons for whom the tow services were provided or to his/her agent.

M. The Tow Operator shall provide tow service to any City of Lodi Police Department vehicle within the city limits or ten (10) miles of the city limits at no cost to the City. This shall include towing the vehicle to the City's Municipal Service Center ("MSC") or designated repair shop, the changing of a tire, refueling of a vehicle, or starting a vehicle.

N. Vehicles towed to the LPD or MSC for investigative purposes and the recall for the transportation of the vehicle to the tow facility for storage shall be considered one tow service. The recall for removal of the vehicle shall not be considered a rotational tow thus the Tow Operator shall not lose their position on the rotation list.

6. Response to Calls

A. The Tow Operator shall respond to Lodi Police Department calls 24 hours a day, seven days a week, **with a maximum 20 minutes response time**. The Tow Operator will advise the Lodi Police Department dispatcher, at the time of notification, if they are either unable to respond or unable to meet the maximum response time. After accepting the call, if the Tow Operator is unable to respond or will be delayed in responding, the Tow Operator shall immediately notify the Lodi Police Department communications center. The Tow Operator shall not assign calls to other Tow Operators. If the Tow Operator is unable to respond or unable to meet the maximum response time they shall forfeit that turn on the rotation list.

- (1) Failure to respond and/or failure to meet the maximum response time requirements shall constitute failure to comply with the terms and conditions of this contract.
- (2) The tow coordinator may take immediate disciplinary action for a major violation of the requirement to respond within the maximum response time.
- (3) When a Tow Operator will be temporarily unavailable to provide services due to a pre-planned/scheduled activity, e.g., vacation, maintenance, medical leave, etc., he/she shall notify the Lodi Police Department in writing, at least 24 hours prior to the date that service will be unavailable, noting the times and dates.

- (4) Any refusal to respond or to perform the required towing service will subject the Tow Operator to suspension or termination if deemed appropriate by the Lodi Police Department.
- B. Tow trucks shall be equipped with two-way radio communication and shall have a 24-hour dispatch capability. Mobile phones will be acceptable substitutes for two-way radios.
- C. A Tow Operator shall not respond to a Lodi Police Department call assigned to another operator unless requested to do so by the Lodi Police Department.
 - (1) There may be times when a Tow Operator who was not called to the scene comes upon a collision scene where a vehicle or vehicles are blocking a roadway and a Lodi Police Department officer requests his/her assistance in clearing the roadway. In such a case, the Tow Operator may be requested to move the vehicle to a safe location, as directed by the officer, and leave it. There shall be no charge for this assistance, and the assistance provided shall not change the Tow Operator's place in the rotation. Refusal to provide such services shall constitute a major violation of these standards and may cause a provider to be suspended and/or terminated from the rotation.
 - (2) Under no circumstances will the Tow Operator or his/her agent of the tow company, solicit business while at the scene of a collision or while performing any service for the Lodi Police Department.
 - (3) Any company passing more than three (3) calls in a 30-day period will be subject to disciplinary action.

7. Storage Facility

- A. The Tow Operator shall provide adequate security of vehicles and property at the place of storage. At a minimum, a fence or a secure closed area shall be provided. The Lodi Police Department may modify security requirements when necessary to coincide with existing conditions. The Tow Operator is responsible for the reasonable care, custody, and control of any property contained in the towed or stored vehicles.
- B. The Tow Operator shall release personal property from the vehicle at the request of the vehicle owner or his/her agent.
 - (1) Personal property is considered to be items which are not affixed to the vehicle.
- C. Tow Operators shall maintain their business office and storage facility within the city limits of Lodi.
- D. The storage facility shall be at the same location as the business address. No two (2) tow companies shall share the same storage facility under the same physical address. The vehicle and personal property shall be released at the storage facility at the request of the owner or a person having a legal entitlement to the vehicle with a written or verbal authorization to the Tow Operator, by a Lodi Police Department official. Upon such request, the Tow Operator shall advise the need of the written or

verbal authorization. During non-business hours upon receiving notification of a request for property or vehicle release, the requested company shall respond to their facility within one (1) hour. Normal after hours gate fees apply even if it is determined that official Lodi Police Department permission has not been granted upon arrival to the facility.

(1) If the Lodi Police Department requires access to a Tow Operator's storage facility after normal business hours, the service shall be made at no charge.

- E. The Tow Operator shall provide for inside storage for a minimum of three (3) spaces.
- F. All tow trucks, offices, and storage yards, will be kept in a neat, clean and orderly fashion as determined by the LPD Tow Coordinator.
- G. Expensive car stereo equipment, or other devices added to the vehicle may be removed from a stored vehicle for security reasons, but must be replaced at the Tow Operator's expense to its original condition.

8. Insurance

INDEMNITY AND INSURANCE.

A. Indemnification: Except to the extent caused by the willful or intentional misconduct of City or of any agent, servant or employee of City, Tow Operator shall, at its sole cost and expense, indemnify and hold harmless City and all associated, affiliated, allied and subsidiary entities of City, now existing or hereinafter created, and their respective elected officials, officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnities"), from and against:

- (1) Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnities by reason of any act or omission of Tow Operator, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, to the extent arising out of or resulting from Tow Operator's performance of work hereunder or Tow Operator's failure to comply with any of its obligations contained in this Contract or any applicable federal, state or local statute, ordinance or regulation.
- (2) Any and all liabilities, obligations, damages, penalties, claims, liens costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the Indemnities by reason of any claim or lien to the extent arising out of Tow Operator's performance of work

hereunder, and, upon the prior written request of City, Tow Operator shall cause such claim or lien covering City's property to be discharged or bonded within thirty (30) days following such request.

B. Defense of Indemnities: In the event any action or proceeding shall be brought against the Indemnities by reason of any matter for which the Indemnities are indemnified hereunder, Tow Operator shall, upon reasonable prior written notice from any of the Indemnities, at Tow Operator's sole cost and expense, resist and defend the same with legal counsel mutually selected by Tow Operator and City; provided however, that Tow Operator shall not admit liability in any such matter or behalf of the Indemnities without the written consent of City, which consent shall not be unreasonably withheld or delayed, and provided further that the Indemnities shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Tow Operator. The indemnifying party's duty to defend shall begin upon receipt of a written notice identifying with specificity the allegations that give rise to this duty to defend and shall be co-extensive with the indemnifying party's indemnification obligations under the provisions of this Contract.

C. Notice, Cooperation and Expenses:

(1) City shall give Tow Operator prompt notice of the making of any claim or the commencement of any action, suit or other proceeding, including administrative, covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent City from cooperating with Tow Operator and participating in the defense of any litigation by City's own counsel. Tow Operator shall pay all reasonable expenses (attorney's fees and costs) incurred by City in response to any such actions, suits or proceedings. These expenses shall include all reasonable out-of-pocket expenses such as reasonable attorney's fees and shall also include the reasonable value of any services rendered by City's in-house attorney, and the actual reasonable expenses of City's agents, employees or expert witnesses, and disbursements and liabilities assumed by City in connection with such suits, actions-or proceedings but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided City by Tow Operator.

(2) If Tow Operator requests City to assist it in such defense, then Tow Operator shall pay all reasonable expenses incurred by City in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all reasonable out-of-pocket expenses such as attorney's fees and shall also include the reasonable costs of any services rendered by City's in-house attorney, and the actual reasonable expenses of City's agents, employees or expert witnesses, and disbursements and liabilities assumed by City in connection with such suits, actions or proceedings.

D. Insurance: During the term of this Contract, Tow Operator shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance:

- (1) Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance. A waiver of subrogation is required for workers' compensation.
- (2) Comprehensive commercial general liability insurance with minimum limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability.
- (3) Automobile liability insurance covering all owned, hired, and non- owned vehicles in use by Tow Operator, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of One Million Dollars (\$1,000,000) as the combined single limit for each occurrence for bodily injury and property damage.
- (4) All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims made basis.
- (5) Commercial business automobile liability insurance is required. Bodily injury and property damage with a combined single limit of not less than \$1,000,000 shall be maintained. These minimum standards are to include scheduled, not owned, and hired auto coverage.
- (6) Uninsured motorist – legal minimum, combined single limit.
- (7) On-hook coverage – insuring the vehicle in tow with limits based on the size of the tow truck.
 - (1) Class A tow truck \$ 50,000
 - (2) Class B tow truck \$ 75,000
 - (3) Class C tow truck \$100,000
 - (4) Class D tow truck \$100,000
- (8) Garage liability – includes premises and operations. Coverage for bodily injury and property damage with the combined single limit of not less than \$1,000,000.
- (9) Garage keepers liability – shall be the same minimum as on-hook coverage for vehicles in the care, custody, and control of the Tow Operator in the storage facility.

E. Additional Insured: All policies, except for business interruption and workers compensation policies, shall be endorsed to name City of Lodi, it's elected and appointed Council, Boards, Commissions, Officers, Agents, Employees, and Volunteers, as their respective interests may appear as additional insured's (herein referred to as the

“Additional Insured’s”). Each policy which is to be endorsed to add Additional Insured’s hereunder, shall contain cross-liability wording, as follows:

“In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder.”

F. Evidence of Insurance: Certificates of insurance and Additional Insured Endorsements for each insurance policy required to be obtained by Tow Operator in compliance with this paragraph, along with written evidence of payment of required premiums shall be filed and maintained with City annually during the term of this Contract. Tow Operator shall immediately advise City in writing of any claim or litigation that may result in liability to City or arises out of any City related tow. City shall immediately advise Tow Operator in writing of any claim or litigation that may result in liability to Tow Operator.

G. Cancellation of Policies of Insurance: All insurance policies maintained pursuant to this Lease shall contain the following endorsement:

“At least thirty (30) days prior written notice shall be given to City by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties named in this paragraph of the Lease.”

H. Insurance Companies: All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of California or surplus line carriers on the State of California Insurance Commissioner’s approved list of companies qualified-to-do business in the State of California. All insurance carriers and surplus line carriers shall be rated A+ or better by A.M. Best Company.

I. Deductibles: All insurance policies may be written with deductibles. Tow Operator agrees to indemnify and save harmless City, the Indemnities and Additional Insured’s from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Contract.

J. Primary Insurance: The policy shall be endorsed to show the Tow Operator’s insurance as primary to that of any carried by City.

K. Review of Limits: Once each calendar year during the term of this Contract, City may review the insurance coverage to be carried by Tow Operator. If City reasonably determines that higher limits of coverage are necessary to protect the interests of City or the Additional Insureds, Tow Operator shall be so notified in writing and shall obtain the reasonable additional limits of insurance, at its sole cost and expense. Deductibles in excess of ten thousand dollars \$10,000 shall be secured by a bond of equal amount.

9. Inspections

A. The Lodi Police Department recognizes that Tow Operators are subject to not less than one annual inspection of all tow trucks by the California Highway Patrol. Therefore; Tow Operators shall, upon completion of the yearly CHP inspection, furnish the Lodi Police Department with a copy of the results of that inspection. The Tow Operator shall not respond with a tow truck to a Lodi Police Department call that has not been inspected and approved by the CHP and the Lodi Police Department.

(1) A copy of this inspection shall be available inside the tow truck at all times.

B. The Lodi Police Department may conduct additional inspections with or without notice during normal business hours of the Tow Operator.

10. Business Records

A. The Tow Operator shall maintain records of tow services furnished, including a description of vehicle, nature of service, time, location of call, and total itemized costs of towing and storing. The Lodi Police Department may inspect all Tow Operator records with or without notice during normal business hours.

B. Records shall be maintained and available for inspection upon reasonable request for a period of the current year and previous two (2) years.

11. Financial interest

A. No Tow Operator or applicant shall be directly or indirectly involved in the towing related business of any other Tow Operator or applicant within the same city. Directly involved shall mean anything in common between Tow Operators or applicants with regards to any of the following:

- (1) business license;
- (2) insurance;
- (3) tow truck(s) or equipment ownership; or
- (4) employees.

Indirectly involved shall include:

- (1) silent partnerships.

B. The sale or transfer of controlling interest in the company shall immediately terminate this Contract without cause. The new owners may apply for rotation tow listing on the next contract. Any sale or transfer of less than controlling interest in a company shall be subject to the provisions of this contract. No City employee, spouse or immediate family member may have a financial interest in a tow company on the rotation list.

12. Annual Meetings

- A. The Lodi Police Department, at its discretion, may conduct meetings to discuss issues concerning the tow rotation list, service, or contract. When called, these meetings shall be mandatory for the Tow Operator or his/her designee. The Lodi Police Department shall give the Tow Operator thirty (30) days written notice of these meetings. Failure to attend or provide reasonable excuse shall constitute a breach of this Contract.

13. Compliance with Law

- A. The Tow Operator shall at all times comply with federal, state, and local laws and ordinances applicable to the Tow Operator, his equipment, and employees.
- B. The Tow Operator shall have a current, valid City of Lodi business license at the time of the award of the franchise and at all times during the term of this Agreement. All fees, including current or delinquent, must be paid in full. All Tow Operators, drivers and employees will comply with all Federal and State laws along with City of Lodi ordinances and zoning requirements.
- C. In the event of a traffic violation committed by the tow truck driver which is observed by the LPD, the Tow Operator shall be advised of the violation(s) and any enforcement action taken. The Tow Operator shall take necessary steps to ensure that its drivers are in compliance with the law. Any subsequent traffic violation(s) may be cause for disciplinary action against the Tow Operator and/or the involved employee(s).
- D. Any traffic violation as defined in California Vehicle Code, Division 11, which occurred during actual operation of a motor vehicle, may be cause for immediate disciplinary action against the Tow Operator and/or the involved employee as appropriate.
- E. The provisions contained in this Contract, Compliance with Law, do not preclude the LPD from taking appropriate enforcement or administrative action for any violation(s) of law.

14. Demeanor and Conduct

- A. While involved in a Lodi Police Department rotation tow operation or related business, the Tow Operator and/or his/her employees shall refrain from any act of misconduct, to include, but not be limited to, any of the following:
 - (1) Rude or discourteous behavior to the public or any public official.
 - (2) Lack of service or refusal to provide service to the public.
 - (3) Any act of sexual harassment or sexual impropriety.
 - (4) Unsafe driving practices.
 - (5) Exhibiting any objective symptoms of alcohol and/or drug intoxication or impairment.

- (6) Appearing at the scene of a Lodi Police Department rotation tow call with the odor of an alcoholic beverage or controlled substance on his/her breath or person.
 - (a) The Tow Operator/tow truck driver shall submit to a preliminary drug/alcohol screening test upon demand of any Lodi Police Department official.

15. Compliance with Contract

The Tow Operator agrees that as a condition of inclusion on the rotation tow list, to comply with the terms and conditions of this Contract. Furthermore; the Tow Operator agrees that failure by the Tow Operator or his/her agents to comply with these terms and conditions shall be cause for written reprimand, suspension, or termination from the Lodi Police Department's rotation tow list. Alleged violations of the tow service contract will be investigated by the Lodi Police Department. The Tow Operator will be notified of the Lodi Police Department's findings within 90-days of the initiation of the investigation.

16. Disciplinary Action

- A. The Lodi Police Department shall use the following as a guide for disciplinary action against Tow Operators for violations investigated and found to be true. This is only a guide, with the Chief of Police of the Lodi Police Department retaining discretion for other justifiable reasons. (i.e. criminal offenses, rudeness, discredit to the Lodi Police Department, etc.)
 - (1) First violation - written warning.
 - (2) Second violation within twelve (12) consecutive months – thirty (30) days suspension from the rotation tow list.
 - (3) Third violation within twelve (12) consecutive months – ninety (90) days suspension from the rotation tow list.
 - (4) Fourth violation within twelve (12) consecutive months – termination from the rotation tow list for the current year plus disqualification for the following year rotation tow contract.
 - (a) A violation shall be understood as any single infraction of this contract. However, based on an investigation, and at the discretion of the tow coordinator, lieutenant in charge, or Chief of Police, multiple infractions may be considered as a single incident. A single incident may be disciplined as a violation.
- B. Violations shall be purged after thirty-six (36) months and subsequent violations will be re-numbered accordingly.
- C. Nothing herein shall be deemed to prohibit the Lodi Police Department from immediately suspending any Tow Operator whose conduct is deemed, in the sound discretion of the Chief of Police, to be a danger to the motoring public or who has engaged in conduct constituting a major violation of the Lodi Police Department tow service contract.

17. Hearing/Appeal

- A. In the event that the Lodi Police Department serves the Tow Operator with a written reprimand or suspension or termination, the Tow Operator may request a hearing within five (5) calendar days by submitting a request in writing to the Chief of Police. If a hearing is requested, it shall be held as soon as practical. The hearing shall be conducted by the Chief of Police or his/her designee. The Tow Operator shall be entitled to present all relevant facts and circumstances in support of his/her position. The Tow Operator shall be further entitled to present testimony of at least one representative of a tow truck association or other qualified person. The Tow Operator shall be notified in writing of the decision of the Chief of Police within 30-calendar days of the date of the hearing.
- B. A suspension or termination shall not take effect until the hearing and administrative appeals process has been exhausted, with the exception of Tow Operators whose conduct is deemed to be a danger to the motoring public or whose conduct is a gross (or major or serious) violation of the terms and conditions of this contract. If a Tow Operator fails to request a hearing or appeal within the specified time, or fails to appear at a scheduled hearing or appeal, the action taken by the Chief of Police shall be final, and the suspension or termination shall take effect upon written notification to the Tow Operator by the Chief of Police. Appeals to the court shall not stay the Chief's decision.

18. Reinstatement to the Rotation Tow List

- A. Whenever a Tow Operator is removed from the rotation tow list for any reason, or has completed the term of suspension, and the Chief of Police or his/her designee is satisfied that continued compliance will be maintained, the Tow Operator shall schedule with the Lodi Police Department tow coordinator a facility and truck inspection. Upon passing the inspections the Tow Operator shall be restored to the rotation tow list at the beginning of the next calendar month.

19. Cancellation

- A. This agreement may be cancelled by either party, without prejudice, by giving a thirty (30) day written notice to the other party.

20. Approval Specifications

- A. Tow Operator shall submit a rate sheet to the Lodi Police Department tow coordinator for approval.

21. Tow Operator's Understandings

The undersigned Tow Operator agrees that as a condition to inclusion on the rotation tow list of the Lodi Police Department, he/she shall comply with these rules and regulations. Furthermore, the undersigned agrees that any failure to comply with these rules and regulations by him/her or anyone acting as his/her agent shall be cause for immediate

removal from the Lodi Police Department rotation tow list upon notification by the Chief of Police.

I certify that I have read and understand this Contract, including all attachments, and agree to abide by all the provisions. I further agree to indemnify, defend and save harmless the City of Lodi, its elected officials, officers, agents and employees from any and all claims and losses accruing or resulting to the Tow Operator in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Tow Operator in the performance of this Contract. The Tow Operator, and the agents and employees of the Tow Operator, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the City of Lodi.

The term of this Contract shall continue for so long as any Tow Operator remains on the rotation tow list or until the City of Lodi gives 30 days written notice of its intent to terminate this Contract.

ATTEST: CITY OF LODI, a municipal corporation

RANDI JOHL-OLSON
City Clerk

By: _____
STEPHEN SCHWABAUER
Interim City Manager

APPROVED AS TO FORM:

TOW SERVICE PROVIDER

JANICE D. MAGDICH
Interim City Attorney



By: _____
Name:
Title:
Company

- Attachments:
Attachment A – Definitions
Attachment B – Operator/Driver Permits
Attachment C – Tow Rate Schedule

Funding Source: 101032.7323

ATTACHMENT A

DEFINITIONS

- 1- L.P.D. and Lodi Police Department are synonymous..
- 2- Operator, tow operator, and tow company are synonymous
- 3- C.H.P. and California Highway Patrol are synonymous.

APPEAL

The final level of administrative review for pending disciplinary action.

CALL FOR SERVICE

The request made by the Lodi Police Department dispatch center to an operator to respond to a location as given by the dispatch center. The call for service begins when the call is received by the operator until the operator is relieved from the call for service by a Lodi Police Department official or secures the received motor vehicle in its storage facility.

FOR HIRE TOWING EXPERIENCE

Experience where the operator has owned and operated tow trucks for the purposes of rendering aid to motorists in the field of towing and road service or assisted a public agency in the towing and recovery of motor vehicles and where a fee for services was charged.

HEARING

The process of appeal in which the operator meets with the Chief of Police, at his arrangement of an appointment, after submitting a written request within seven (7) days of receiving any form of discipline.

OPERATOR

Refers to the company, its owners, and its managers who have authority to enter into a contract with the Lodi Police Department for towing services and to conduct business in accordance with the terms of this contract and its employees.

OWNER/AGENT

Any person having legal entitlement to property.

PORTAL TO PORTAL

Service shall start at the time of departure from the place of business or point of dispatch, whichever is closer to the location of the call, and shall end at the estimated time of return to the place of business or the completion of the call, if another call is pending, whichever is shorter. Return to place of business includes a reasonable and verifiable amount of time required to place the tow truck back into service when unusual circumstances require additional time that are not part of normal operating procedures. For the purposes of this contract, "portal to portal" shall also mean "portal to end of service".

POSSESSION

Pursuant to section 3068 of the Civil Code, possession is deemed to arise when the vehicle is removed and is in transit.

RESPONSE TIME

The period of time from an operator's notification by the Lodi Police Department dispatch center of a call for service to the arrival of the tow truck at the location requested.

RETAIL RATE

The usual customary retail rate charged by an operator to individual retail customers. This is the competitive rate a company has posted in the office and quotes over the phone.

ROTATION TOW LIST

A listing formed of the eligible operators successful in meeting the requirements of the City's tow service contract. Each operator on the list is sequentially rotated through on an as needed call for service basis. The list will show the Lodi Police Department case number of the call assigned to the operator. If an operator is passed losing a turn at rotation,

the list will show no case number and a marking identifying the rotation loss.

RULES AND REGULATIONS

The guidelines by which an operator agrees to comply with to conduct business with the Lodi Police Department and when representing the Lodi Police Department on calls for service. Rules and regulations may also be referred to as terms and conditions.

SUSPENSION

Removal of an operator from the Lodi Police Department's rotation tow list for a specified period of time. Suspensions may be for periods longer than the current term of the contract.

TERMINATION

Permanent removal of a tow operator from the Lodi Police Department's rotation tow list for the remainder of the term of the Tow Service Contract and disqualification from any further participation in the Lodi Police Department's rotation tow program.

TERMS AND CONDITIONS

See Rules and Regulations

TOW COORDINATOR

The individual appointed by the Lodi Police Department who is responsible for the administration of towing services.

TOW TRUCK

A tow truck as defined in section 615 of the California Vehicle Code. Also includes slide back carriers and wheel lift vehicles.

TOW SERVICE CONTRACT

A document which sets forth the terms and conditions of a contract between the operator and the Lodi Police Department.

WRITTEN REPRIMAND

A written notice to an operator which specifies and violation(s) of the Tow Service Contract, orders corrective action, and warns of further action(s) to be taken if corrective action is not taken.

ATTACHMENT B

TOW TRUCK OPERATOR/DRIVER – PERMITS

PERMIT REQUIRED:

All drivers and or operators of any towing vehicle described in California Vehicle Code section 615(a) shall first obtain a permit in writing to do so from the Chief of Police of the City of Lodi.

OPERATOR RESPONSIBILITY

It shall be a violation of the rules and regulations for any operator to allow or permit any driver to operate or drive within the City of Lodi a towing vehicle owned or under the control of said operator unless said driver has a valid permit issued to said driver.

APPLICATION FOR PERMIT

Application for Tow Truck Operator/Driver Permits shall be filed with the Chief of Police upon forms which will be furnished by the City of Lodi.

APPLICATION FEE

Before the Chief of Police shall accept and process an application for a Tow Truck Operator/Driver Permit, the applicant shall pay an application fee to the Lodi Police Department. Said fees will be those set forth and adopted by City Council.

INVESTIGATION

The Chief of Police shall cause an investigation to be made in order to determine the applicant's qualifications and fitness to be a Tow Truck Operator/Driver.

APPLICANT TO BE PHOTOGRAPHED AND FINGERPRINTED

In order that the Chief of Police may investigate the applicants' qualifications and fitness to be a Tow Operator/Driver, every applicant for a Tow Truck Operator/Driver Permit shall be photographed and fingerprinted.

PERMITS – TO WHOM ISSUED

A Tow Truck Operator/Driver Permit shall **not** be issued to any of the following persons:

- (a) Any person under the age of eighteen (18) years.
- (b) Any person who is not of good moral character to be determined by the Chief of Police.
- (c) Any person who has been convicted of a felony until the expiration of five (5) years from termination of confinement, parole, and/or probation.
- (d) Any person who has been convicted of driving a vehicle recklessly or while under the influence of intoxicants until the expiration of five (5) years from termination of confinement and/or probation.

- (e) Any person not possessing a valid driver's license issued by the State of California permitting said person to drive a tow vehicle.
 - (f) Any person who has not been a continuous resident of the County of San Joaquin/Sacramento for at least thirty (30) days immediately preceding the date of said person's application.
 - (g) Any person convicted of a crime involving moral turpitude regardless of whether the record of conviction has been expunged.
 - (h) Any person convicted of trafficking in, unlawful use, or driving while under the influence of narcotics, regardless of whether the record of conviction has been expunged.
 - (i) Any person convicted of a weapons violation until the expiration of five (5) years from termination of confinement, parole, and/or probation, whichever is later.
 - (j) Any person who would be denied and/or have revoked a State of California Tow Truck Driver Certificate pursuant to Section 13377 of the Vehicle Code of the State of California, and any amendments thereto.
 - (k) Any person who provided false, incomplete, or materially misrepresented information on the application for a Tow Truck Operator/Driver Permit.
 - (l) Any person who has failed to pay all fees required.
- (m) Any person required by the State of California to register as a sex and/or arson offender shall have no involvement with the public as it relates to the towing, releasing of vehicles, or collecting of monies of any Lodi Police Department rotational tow.

TOW VEHICLE DRIVER'S PERMIT – TERMS/CONDITIONS

Upon completion of the investigation, if the Chief of Police finds that the applicant meets the minimum standards established and is a fit and proper person to be a Tow Operator/Driver in the City of Lodi, the Chief of Police shall issue or cause to be issued to said applicant a Tow Truck Operator/Driver Permit. Said Permit, unless suspended or revoked, shall be valid for a period of one (1) year from the date of issuance and must be renewed annually.

It shall be a violation of the terms and regulations for any driver to operate or be in charge of any towing vehicle to fail, at all times while operating or in charge of such vehicle, to wear on his or her uniform or have visible and in his or her immediate possession the Driver's Permit required to be secured from the Chief of Police. It shall also be a violation of the terms and regulations for any driver operating or in charge of any vehicle to have a Driver's Permit issued to another person for the purpose of operating such vehicle.

DENIAL OF PERMIT

Upon completion of the investigation, if the Chief of Police finds the applicant does not meet the minimum standards established to be a Tow Truck Operator/Driver, the Chief of Police shall refuse to issue, suspend, or revoke a Tow Truck Operator/Driver Permit to that applicant.

REVOCAION, SUSPENSION, OR REFUSAL TO RENEW PERMIT

The Chief of Police may revoke, suspend, or refuse to issue a new Tow Truck Operator/Driver Permit if the driver or applicant has, since the granting of the original or renewed permit:

- (a) Been convicted of a felony or a crime involving moral turpitude; using, possessing, selling, or transporting narcotics; or imparting information for obtaining narcotics.
- (b) Been convicted of driving recklessly or while under the influence of alcohol or narcotics.
- (c) Had the State Driver's License revoked or suspended.
- (d) Been convicted of any of the offenses set forth in Sections 20001, 20002a, 22348, 22349, 22350, 22351, 23103, 23104, 23109, 23152 and/or 23153 of the Vehicle Code of the State of California and amendments thereto, or any combination of either or any of said offenses.
- (e) Been convicted within a one (1) year period of three (3) or more moving violations, other than those specified in subsection (d) of the Vehicle Code of the State of California.
- (f) When for any reason, whether specifically set forth herein or not, after due investigation, the Chief of Police finds that the applicant is an unfit person to drive a tow vehicle.
- (g) When driving for an Operator, that is obligated by a contract, that has charged or received a fee in excess of the rates established by the City of Lodi Tow Contract or violated any of the other provisions of said contract.
- (h) Any tow drivers that obtain four or more violation point counts in a 12 month period, six or more violation point counts in a 24 month period or eight or more violation point counts in a 36 month period, as referred to in California Vehicle Code section 12810.5, shall not be allowed to participate in any tows as part of the Lodi Police Department rotational tow list.

REVOCAION - HEARING

Denial or revocation of a Tow Truck Operator/Driver Permit shall be made only after a hearing granted to the holder of such permit before the Tow Coordinator, after five (5) days notice to said permit holder, setting forth the grounds of the complaint against said permit holder and stating the time and place where such hearing will be held. Upon revocation of any permit, such permit shall be forthwith surrendered to the Chief of Police. An appeal of the hearing can be filed in writing with the Chief of Police with five (5) days of the original hearing. The decision of the Chief of Police in revoking the permit shall be final and conclusive.

DECISION OF CHIEF OF POLICE FINAL

The decision of the Chief of Police of the City of Lodi as to the fitness or unfitness of the applicant, either before or after the issuance of a Tow Vehicle Driver's Permit, shall be final and there shall be no administrative appeal the

FAILURE TO OBTAIN NEW PERMIT

If the holder of a Tow Truck Operator/Driver Permit fails to renew said permit prior to the expiration date of the current permit, the Tow Truck Operator/Driver Permit shall cease to be valid and the permittee must make application for a new Permit as provided above.

TOW VEHICLE DRIVERS – LIST OF TOW COMPANIES

On or before the first day of January and the first day of June, each year, every operator who has employed any person or persons as a Tow Vehicle Driver or Drivers shall furnish the Chief of Police of the City of Lodi with the names of every person employed by such person, firm, or corporation as a Tow Vehicle Driver during the preceding six (6) month period.

ATTACHMENT C

Tow Rate Schedule

March 19, 2014

<i>Tow Fee</i>	<i>Inside Storage</i>	<i>Outside Storage</i>	<i>Gate Fee</i>
\$190 p/hr.	\$60 p/day	\$55 p/day	\$90

RESOLUTION NO. 2014-42

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER AND LODI POLICE DEPARTMENT TO RENEW THE TOW SERVICE CONTRACT AND RESET THE TOW TRUCK DRIVER APPLICATION, RENEWAL, AND VIN VERFICIATION FEES

WHEREAS, the current tow service contract with approved tow operators has expired and needs to be renewed; and

WHEREAS, the City periodically reviews and adjusts fees as needed to cover costs of providing the related service to the fee payer; and

WHEREAS, the City Council at its August 15, 2012, meeting by Resolution 2012-136, adopted the current tow truck driver application, renewal, and VIN verification fees; and

WHEREAS, the Police department found that the tow truck driver application, renewal, and VIN verification fees were entered incorrectly and need correcting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby agree to renew the current tow service contract and revise and establish the following fees to go into effect upon adoption:

	Original	Renewal
Tow Truck Driver Application	\$ 110	\$ 54
VIN verification	\$ 45	

Dated: March 19, 2013

I hereby certify that Resolution No. 2014-42 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 19, 2014, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, Nakanishi, and Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL-OLSON
City Clerk