

File No.: 04-1000-20-2021-324

October 1, 2021

s.22(1)

Dear s.22(1)

Re: Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")

I am responding to your request dated June 21, 2021 under the *Freedom of Information and Protection of Privacy Act, (the Act)*, for:

Record of City of Vancouver's Contract with Busters Towing as of June 21, 2021.

All responsive records are attached. Some information in the records has been severed, (blacked out), under s.21(1) of the Act. You can read or download this section here: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00.

Under section 52 of the Act, and within 30 business days of receipt of this letter, you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your FOI request by writing to: Office of the Information & Privacy Commissioner, info@oipc.bc.ca or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number (#04-1000-20-2021-324); 2) a copy of this letter; 3) a copy of your original request; and 4) detailed reasons why you are seeking the review.

Yours truly,

[Signature on file]

Barbara J. Van Fraassen, BA
Director, Access to Information & Privacy
Barbara.vanfraassen@vancouver.ca
453 W. 12th Avenue Vancouver BC V5Y 1V4

*If you have any questions, please email us at foi@vancouver.ca and we will respond to you as soon as possible. Or you can call the FOI Case Manager at 604.871.6584.

Encl.

:kt

TOWING SERVICES AGREEMENT

AMONG:

ALL TECH. TRANSPORT LTD. DBA BUSTERS TOWING

AND:

CITY OF VANCOUVER

AND:

VANCOUVER PUBLIC LIBRARY BOARD

AND:

VANCOUVER BOARD OF PARKS AND RECREATION

AND:

VANCOUVER POLICE BOARD

DATED

February 1, 2020

TOWING SERVICES AGREEMENT

THIS AGREEMENT is made as of February 1, 2020 (the "Effective Date")

AMONG:

ALL TECH. TRANSPORT LTD. DBA Busters Towing, a corporation organized under the laws of British Columbia and having an office at 455 Industrial Avenue, Vancouver, British Columbia, V6A 2P8

(the "Supplier")

AND:

CITY OF VANCOUVER, a municipal corporation continued under the *Vancouver Charter* (British Columbia) and having an office at 453 West 12th Avenue, Vancouver, British Columbia, V5Y 1V4

(the "City of Vancouver")

AND:

VANCOUVER PUBLIC LIBRARY BOARD, having an office at 350 West Georgia Street, Vancouver, BC V6B 6B1

("VPL")

AND:

VANCOUVER BOARD OF PARKS AND RECREATION, having an office at 2099 Beach Avenue, Vancouver, British Columbia, V6G 1Z4

("VPB")

AND:

VANCOUVER POLICE BOARD, having an office at 2120 Cambie Street, Vancouver, British Columbia, V5Z 4N6

("VPD" and, along with the City of Vancouver, VPL, and VPB, the "City")

WHEREAS the Supplier is in the business of providing car-towing services;

AND WHEREAS the City wishes to procure car-towing services from the Supplier upon and subject to the terms and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the premises and the covenants herein contained, the parties hereto agree as set forth herein.

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ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

- (a) **"Agreement"** means this agreement, including the schedules hereto, and all amendments made hereto or thereto by written agreement between the Supplier and the City;
- (b) **"Background IP"** has the meaning ascribed thereto in Section 13.4;
- (c) **"Business Day"** means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday;
- (d) **"Change in Control"** means an occurrence whereby a person (or persons acting in concert) acquires control of the relevant entity;
- (e) **"City Policies"** means any or all (as the context requires) of those procedures, standards and/or standard specifications, requirements, policies and the like listed in Schedule H or notified to the Supplier from time to time, as the same may be updated, modified, expanded, revised, supplemented and/or replaced from time to time by the City (as notified to the Supplier);
- (f) **"City's Manager"** means a manager who at the relevant time carries such designation from the City under, or in accordance with, ARTICLE 4;
- (g) **"Competent Authority"** means:
 - (i) any multinational, federal, provincial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, agency, commission, board or authority of any government or governmental body, domestic or foreign;
 - (ii) any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing; or
 - (iii) any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing;
- (h) **"Confidential Information"** means all or any confidential information (however recorded or preserved) disclosed before, on or after the date of this Agreement by either Party or any of its Representatives to the other Party or its Representatives in connection with this Agreement, concerning:
 - (i) this Agreement; or

- (ii) the affairs, operations, processes, know-how, suppliers, plans or intentions of the disclosing Party or of any member of the disclosing Party's Group, including, without limitation, any information which is not generally known to the public or which has been specifically identified as confidential or proprietary by the disclosing Party,

but does not include:

- (iii) any information that is or becomes generally available to the public or to industry professionals (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this Agreement);
 - (iv) any information that was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;
 - (v) any information that was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement or other duty of confidentiality with or to the disclosing Party or a member of the disclosing Party's Group or otherwise prohibited from disclosing the information to the receiving Party;
 - (vi) any information that was known to the receiving Party before the information was disclosed to it by the disclosing Party or its Representatives and was not subject to a confidentiality agreement or other duty of confidentiality (including any obligation under this Agreement) with or to the disclosing Party or a member of the disclosing Party's Group;
 - (vii) any information that the Parties agree in writing is not confidential or may be disclosed; and
 - (viii) any information unrelated to this Agreement that is developed by or for the receiving Party independently of and without reference to the information disclosed by the disclosing Party;
- (i) "**Consent**" means an approval, clearance, registration, franchise, right, privilege, certification, quota, consent, permit, licence, qualification, filing, exemption, certificate or permission and any such other matter or authorization whatsoever, including any condition thereof, that is lawfully and necessarily required under any Law or from any Competent Authority in connection with the Services or the Site;
 - (j) "**Contract Price**" means the amounts payable (subject to and in accordance with the terms of this Agreement) by the City to the Supplier in return for the proper performance by the Supplier of its obligations under this Agreement, as detailed in Schedule B;
 - (k) "**Documentation**" means calculations, computer programs and other software, drawings, designs, plans, manuals, records, reports, documents, papers, photos, typographical arrangements, models, contract documents, deliverables, agreements, tender/enquiry documents, and all other materials

in whatever form, including but not limited to tangible copies and electronic forms, supplied either by or on behalf of the Supplier or generated collaboratively by the Parties in the course of the provision of the Services under this Agreement;

- (l) **"Effective Date"** has the meaning ascribed to it on Page 1 of this Agreement;
- (m) **"Encumbrance"** means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien or claim of lien (statutory or otherwise), easement, deemed or statutory trust, restrictive covenant, adverse claim, exception, reservation, right of occupation, any matter capable of registration against title, right of pre-emption, privilege or other encumbrance or third party right of any nature or any other arrangement or condition that, in substance, secures payment or performance of an obligation;
- (n) **"Environmental Law"** means any Law which imposes any obligations relating to:
 - (i) the protection, management, conservation or restoration of the natural environment;
 - (ii) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances; and
 - (iii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.
- (o) **"Force Majeure"** means, exhaustively, any:
 - (i) war, hostilities (whether war is declared or not), invasion, act of foreign enemies;
 - (ii) rebellion, terrorism (or threat of terrorism), revolution, insurrection, military or usurped power or civil war;
 - (iii) riot, civil commotion or disorder, strike or lockout by persons other than the Supplier's personnel and other employees, Subcontractors or any other person for whom the Supplier is responsible;
 - (iv) natural catastrophe such as an earthquake, forest fire, landslide or flood; or
 - (v) change in Law or action by a Competent Authority, which makes it illegal or impossible for either Party to perform its obligations under this Agreement;
- (p) **"Good Industry Practice"** means, in relation to the Services or the performance of any other obligation under this Agreement, the practices, and the application of the skill, care, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced

international contractor carrying out or procuring equivalent services of similar type, scope and value, in the same or similar location and in similar circumstances to those pertaining to the Supplier;

- (q) **"Group"** means:
- (i) in respect of the Supplier, the group constituted from time to time by:
 - (A) the Supplier;
 - (B) all persons that directly or indirectly control or are controlled by the Supplier; and
 - (C) all persons that are directly or indirectly controlled by any person that directly or indirectly controls the Supplier; and
 - (ii) in respect of the City, the group constituted from time to time by:
 - (A) the City; and
 - (B) all bodies corporate directly or indirectly controlled by the City.
- (r) **"Hazardous Substance"** means any substance or material that is prohibited, controlled or regulated by any Competent Authority pursuant to any Environmental Law including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law;
- (s) **"Intellectual Property Rights"** means any and all current and future proprietary rights provided under patent law, copyright law, design patent or industrial design law, or any other applicable statutory provision or common law principle, including trade secret law, that may provide a right in ideas, formulae, algorithms, concepts, inventions, know-how, computer software, database or design, or the expression or use thereof, whether registered or unregistered, together with any right to apply for or register any of the foregoing;
- (t) **"Key Project Personnel"** means the persons named in Schedule I (Key Project Personnel) and any replacement(s) approved by the City in accordance with ARTICLE 6;
- (u) **"Laws"** means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, determinations or awards of any Competent Authority whether or not having the force of law and any legal requirements or bases of liability under the common law or civil law that affect or are otherwise applicable to the Services, the Supplier, the Sites, or any other lands affected by the Services, including:

- (i) all such Laws relating to Taxes, the environment, human health or safety, pollution and other environmental degradation, and hazardous materials;
- (ii) all City of Vancouver bylaws, including those governing or relating to vehicle parking, vehicle towing, vehicle licencing, or vehicles for hire;
- (iii) the *Motor Vehicle Act* (British Columbia); and
- (iv) the *Warehouse Lien Act* (British Columbia).
- (v) **"Living Wage"** means the hourly wage established by the Living Wage Certifier (defined below) from time to time during the Term, which, as of the Effective Date, is \$20.64 per hour, which includes: (i) direct wages; and (ii) the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits;
- (w) **"Living Wage Certifier"** means the Living Wage for Families Campaign, any successor entity, or, in the event the Living Wage for Families Campaign ceases to carry on operations, such other living wage certification entity designated by the City to the Supplier in writing;
- (x) **"Living Wage Employee"** means any and all employees of the Supplier and Subcontractors of the Supplier that perform any part of the Supply on a property owned by or leased to the City, including all streets, sidewalks and other public rights of way, for at least one consecutive hour;
- (y) **"OHS Requirements"** means all Laws applicable to the Services and related to occupational health or safety, and all of the City Policies that relate to occupational health or safety, and includes without limitation the WCA;
- (z) **"Other City Entity"** means each of the Vancouver Public Library Board, the Vancouver Police Board, the Vancouver Art Gallery Association, and the Parking Corporation of Vancouver;
- (aa) **"Parties"** means the City and the Supplier and **"Party"** means one of them or either of them, as the context requires;
- (bb) **"Permitted Purpose"** has the meaning ascribed thereto in Section 14.3;
- (cc) **"Proposal"** means the Supplier's proposal dated March 12, 2018, submitted by the Supplier to the City in response to the RFP;
- (dd) **"Release"** means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal;
- (ee) **"Representative"** means a Group member of a Party, or an official, officer, employee, agent, subcontractor or other representative of a Party or any member of its Group, or any other person for whom the Party is responsible;

- (ff) **"RFP"** means the City's Request for Proposal number PS20161091;
- (gg) **"Safety Incident"** means:
 - (i) a failure by the Supplier or any Subcontractor to comply with any OHS Requirements; or
 - (ii) any hazard, incident or accident caused by the Supplier or a Subcontractor.
- (hh) **"Sales Tax"** has the meaning ascribed to such term in Section 15.1;
- (ii) **"Services"** means the provision of the services, facilities, materials, equipment, goods, and works described in Schedule A (or, as the context requires, the particular such services, facilities, materials, equipment, and works provided or to be provided by the Supplier to the City at a particular time or times and in the particular combinations and quantities directed by the City in accordance herewith), and any other services to be provided by the Supplier pursuant to this Agreement;
- (jj) **"Site"** means each site or sites, as the circumstances dictate, where the Supplier performs the Services or any part of the Services, including but not limited to all locations at which and from which the Supplier or a representative, agent, or employee of the Supplier tows a given vehicle;
- (kk) **"Subcontractor"** means any person named in a schedule to this Agreement as a subcontractor, or any other person appointed by the Supplier, in accordance with this Agreement, to perform any part of the Services;
- (ll) **"Supplier's Manager"** means a manager who at the relevant time carries such designation from the Supplier under, or in accordance with, ARTICLE 4;
- (mm) **"Taxes"** means all taxes, duties, imposts, levies, assessments, tariffs and other charges imposed, assessed or collected by a Competent Authority, including:
 - (i) any gross income, net income, gross receipts, business, royalty, capital, capital gains, goods and services, harmonized sales, value added, severance, stamp, franchise, occupation, premium, capital stock, sales and use, real property, land transfer, personal property, ad valorem, transfer, licence, import, customs, profits, windfall profits, environmental, carbon, emissions, pollution, payroll, employment, employer health, pension plan, anti-dumping, countervailing, or excise tax, duty, import, levy, assessment, tariff or other charge;
 - (ii) all withholdings on amounts paid to or by the relevant person;
 - (iii) all statutory remittances, employment insurance premiums and social security or pension plan contributions or premiums and Canada pension plan contributions;
 - (iv) any fine, penalty, interest or addition to tax;

- (v) any tax imposed, assessed, or collected or payable pursuant to any tax-sharing agreement or any other contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency or fee; and
- (vi) any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law;
- (nn) **"Time(s) for Completion"** means the time(s) stated in Schedule E by which the Services or any particular Services or part thereof must be completed, as such time(s) may be adjusted (including in relation to a particular instance of Services), strictly in accordance with this Agreement;
- (oo) **"Variation"** has the meaning ascribed to such term in Section 3.8(a); and
- (pp) **"WCA"** means the *Workers Compensation Act* (British Columbia) and the regulations thereunder.

1.2 Headings

This division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms "hereof", "hereunder" and similar expressions refer to this Agreement, including its schedules, and not to any particular article, section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to articles, sections and schedules are to articles, sections and schedules of this Agreement.

1.3 Extended Meanings

In this Agreement:

- (a) words importing the singular include the plural and vice versa, words importing a gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, except where the context requires otherwise;
- (b) any provision calling for "agreement" requires the relevant agreement to be recorded in writing and signed by both Parties;
- (c) the words "include", "includes", "including" and "included" shall be construed without implying limitation by the words which follow those words and without prejudice to the generality of the provisions to which such words relate, unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;
- (d) each reference to a specific statute, regulation, law or any subordinate instrument or statutory or regulatory provision shall be construed as including any legal or regulatory provision which subsequently amends or replaces the same, and shall include any and all subordinate instruments, orders, rules, regulations and bylaws made thereunder or guidelines issued in respect thereof;

- (e) each reference to a writing means a writing that is hand-written, type-written, printed or electronically made, and which results in a permanent un-editable record; and
- (f) "control" when used to describe a relationship between one person and any other person, has the following meanings:
 - (i) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
 - (ii) a person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by that person and the person is able to direct the business and affairs of the entity;
 - (iii) the general partner of a limited partnership controls the limited partnership; and
 - (iv) a person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.

1.4 Schedules

The following are the schedules hereto, each of which is deemed to be part hereof:

Schedule A	Scope of Services
Schedule B	Prices for Services
Schedule C	Items to be provided by the City
Schedule D	Specific Deliverables
Schedule E	Time Schedule for Services
Schedule F	Preferred Suppliers
Schedule G	Project Budget
Schedule H	City Policies
Schedule I	Key Project Personnel
Schedule J	Sites
Schedule K	Intentionally Deleted
Schedule L	Bylaw Impounded Vehicle Storage Site Licence Agreement
Schedule M	Abandoned Vehicle Storage Site Licence Agreement

ARTICLE 2 EFFECTIVENESS

2.1 Effective Date

This Agreement shall come into full force and effect on the Effective Date.

2.2 Term

- (a) Unless earlier terminated pursuant to ARTICLE 11 and subject to the below Section 2.2(b), this Agreement shall terminate on the seventh anniversary of the Effective Date or on such later date as the Parties may agree in writing.
- (b) Subject to termination pursuant to ARTICLE 11, but notwithstanding Section 2.2(a), the term of this Agreement may be extended for up three successive one-year periods following the seventh anniversary of the Effective Date, at the option of the City, upon written notice from the City to the Supplier.
- (c) Notwithstanding the foregoing, if the City and the Supplier continue to deal with each other in respect of the subject matter of this Agreement following the expiry of this Agreement, without any additional or other written agreement in respect thereof, this Agreement shall be deemed to have been renewed on a month-to-month basis on the same terms and conditions as before the expiry of the Agreement and during that month-to-month period it may be cancelled without cause by either party on thirty (30) days' prior written notice to the other party.

ARTICLE 3 SERVICES; GENERAL TERMS

3.1 Services

- (a) During the term of effectiveness of this Agreement, the Supplier shall provide the Services to the City in accordance with the directions of the City and in conformity with this Agreement.
- (b) The Supplier shall maintain at all times sufficient business capacity and inventories of the supplies necessary for the provision of the Services to meet the business plans and requirements of the City.
- (c) In connection with the Services, the Supplier shall provide to the City, without additional compensation, all services, conveniences, materials or features proposed in the Proposal that are not otherwise expressly provided for herein, as well as all other ancillary materials or services that are not expressly mentioned either herein or in the Proposal, but are reasonably inferable from the descriptions of the Services herein or from the descriptions of proposed services, conveniences, materials or features in the Proposal.
- (d) Concurrent with the execution of this Services Agreement, the Supplier and the City will enter into a Bylaw Impounded Vehicle Storage Site Licence Agreement and an Abandoned Vehicle Storage Site Licence Agreement in the forms that are respectively attached as Schedule L and Schedule M to this Agreement.

3.2 Application to Prior Acts

Insofar as the Supplier has commenced any part of the Services prior to the Effective Date, such services shall, as of the Effective Date, be deemed to be performed under and subject to the terms of this Agreement, unless otherwise expressly agreed between the Supplier and the City.

3.3 Sufficiency and Competence of Personnel

- (a) The Supplier shall have and maintain at all times and in accordance with all applicable Laws, sufficient numbers of fit, skilled, qualified and experienced personnel to carry out the provision of the Services within the times and in the manner required by the City.
- (b) The Supplier warrants that it has (and its Subcontractors, if any, have) the experience, competence, certifications, qualifications and capacity necessary for the Services.
- (c) Insofar as the Services involves the Supplier in performing design work, such design work shall be carried out by qualified designers who are engineers or other professionals who comply with the criteria stated in Schedule A (Scope of Services) or, where not so stated, in accordance with Good Industry Practice.

3.4 Standards and Requirements

The Supplier shall (and shall ensure that its Subcontractors) provide the Services and perform all other obligations under this Agreement in an expeditious manner and at all times in accordance with:

- (a) all applicable Laws and Consents;
- (b) the specific requirements of Schedule A (Scope of Services), Schedule D (Specific Deliverables), Schedule E (Time Schedule for Services), Schedule G (Project Budget), and the instructions of the City;
- (c) the City Policies; and
- (d) where no higher standard is expressly required of the Supplier under this Agreement, Good Industry Practice,

and the Supplier shall comply with the standards and requirements in Sections 3.4(a) to 3.4(d) in the order of priority in which such standards or requirements are listed (with Section 3.4(a) being of highest priority).

3.5 Consents

The Supplier shall, at the Supplier's sole expense, obtain, maintain and comply with all Consents required by Law to enable it to perform its obligations under this Agreement, except to the extent otherwise expressly stated in the schedules hereto.

3.6 Warranties

- (a) The Supplier warrants that the Services shall be performed in accordance with this Agreement and to the best practice standards of diligence, skill, care and efficiency expected of a competent contractor performing work of a similar nature to the Services.
- (b) All goods or materials provided under the Agreement as part of the Services or that are required for the Supplier to perform the Services in accordance with

this Agreement shall be new and fully warranted for a period of two (2) years against defects in design, manufacturing, materials, workmanship and performance, and the Supplier affirms and covenants that such warranty is, and shall be, provided by the Supplier if and to the extent it is not fully and effectively provided to the City by third-party manufacturers or suppliers of the goods or materials.

- (c) All services, facilities, materials, equipment, goods, and works provided under the Agreement as part of the Services shall be non-defective and fit for their intended purposes and shall function safely in all respects.
- (d) All costs associated with warranty replacements or repairs shall be the responsibility of the Supplier, including repair, adjustment, and shipping costs, and replacements of goods or materials.
- (e) If requested by the City, the Supplier shall handle and manage any claim on a manufacturer warranty for any defect in goods or materials provided as part of the Services.
- (f) The Supplier shall deliver to the City all such documentation as the City may require to evidence any warranty required by this Section 3.6 or to evidence the Supplier's compliance with this Section 3.6, and the Supplier shall assign all warranties, and do all other things necessary, to ensure that the City receives the full benefit of each warranty or other covenant set forth in this Section 3.6.
- (g) If there is an emergency in Vancouver, British Columbia at any time during the Term in the City's sole discretion, the Supplier will immediately perform any part of the Services required by the City in the City's sole discretion as a result of that emergency.

3.7 Relationship Between the Parties, Non-Exclusivity, and the City's Right to Remedy

- (a) The Supplier in its provision of the Services and its performance of its obligations under this Agreement shall at all times act as an independent contractor on its own account and shall have no authority to act as the City's agent unless expressly empowered to do so by the City. This Agreement shall not be deemed to create any relationship of partnership, agency, joint enterprise or other like relationship between the Parties, and the Supplier shall be solely responsible for all employment-related obligations in connection with its employees, its other Representatives and its Subcontractors and their employees.
- (b) The City is not bound to treat the Supplier as its exclusive supplier of the Services or any part of the Services during the Term. The Supplier acknowledges and agrees that the City may at any time during the Term contract with an entity other than the Supplier to perform any part of the Services concurrently with the Supplier.
- (c) If the Supplier does not perform the Services or any part of the Services or does not properly perform the Services or any part of the Services in the City's sole

discretion, the City may, without prejudice to any other right or remedy it may have, perform the Services or any part of the Services or hire another entity to perform the Services or any part of the Services and deduct and set off the cost thereof from and against any amounts due to the Supplier.

3.8 Variations Requested by the City

- (a) Any instruction given by the City that constitutes or gives rise to a variation from the scope of the Services expressed in Schedule A (Scope of Services), a time expressed in Schedule E (Time Schedule for Services) or the items expressed in Schedule D (Specific Deliverables), shall constitute a "Variation" and shall be governed by and subject to this Section 3.8.
- (b) During the term of this Agreement, the City may at any time effect a Variation by notice in writing to the Supplier, and the Supplier shall not be entitled to refuse to implement any Variation unless the carrying out of such Variation would contravene any Law (in which case the Supplier shall promptly give notice to the City).
- (c) If the Supplier is of the opinion that a Variation justifies an increase to the Contract Price or a change to any of the Time(s) for Completion, the Supplier must, as a condition to being entitled to any such increase to the Contract Price, no later than 10 Business Days after the City gives notice of the Variation, submit a claim to the City that sets out the Supplier's assessment of the impact the Variation should have on the Contract Price due for such Services and thereafter:
 - (i) the City shall consider that claim as soon as possible and may request the Supplier to Services such further evidence as is reasonably required to confirm the details of such claim (and, as soon as practicable after such further evidence is available to it, the Supplier shall provide it to the City); and
 - (ii) within ten Business Days after the receipt of all the information requested by the City, the Supplier and the City shall meet in order to agree any variations to the Contract Price for such Services and corresponding changes to Schedule G (Project Budget), as necessary, which such agreement must be evidenced in writing.
- (d) If no agreement is reached under 3.8(c)(ii) within 20 Business Days of the Parties' first meeting (or such other period as the Parties may agree), the Parties may then refer the matter for arbitration in accordance with ARTICLE 16.
- (e) Notwithstanding the foregoing, the City shall be entitled to replace, revise, expand or modify the City Policies at any time upon notice to the Supplier, and no such change shall be considered to be a Variation.

3.9 Assurances

- (a) On or before the Effective Date, the Supplier will deliver to the City a clean, unconditional, irrevocable demand letter of credit payable in the amount of

ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) issued in favour of the City by Schedule I Canadian Chartered Bank or a Schedule II Canadian Chartered Bank on terms satisfactory to the City. The Supplier will ensure that the letter of credit will be in effect throughout the Term and will include a term stating that the issuing bank must give the City at least 60 days' prior written notice before it either expires or is cancelled. The letter of credit is to be held by the City during the Term as partial security for the Supplier's performance of the Services and will be returned to the Supplier within 90 days following the expiry or termination of this Agreement if no event entitling the City to draw down on the letter of credit has occurred. The Supplier acknowledges and agrees that the City may draw down on the letter of credit if the Supplier breaches any provision of this Agreement that results in a loss to the City, whether financial or otherwise, or if the City incurs a loss or makes any payments as a result of the Supplier making a general assignment for the benefit of creditors, instituting proceedings to have itself adjudicated as bankrupt or insolvent, becoming the subject of bankruptcy or insolvency proceedings, or being adjudged bankrupt or insolvent by a court of competent jurisdiction. On or before each anniversary of the Effective Date during the Term, the Supplier will deliver a new letter of credit to the City on the foregoing terms and conditions, except that the amount of the letter of credit will be ten percent greater each year. For clarity, on or before the first anniversary of the Effective Date, the Supplier will deliver a letter of credit to the City in the amount of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000), on or before the second anniversary a letter of credit in the amount of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000), and so on.

- (b) The Supplier will pay for and deliver to the City on or before the Effective Date a performance bond in favour of the City in the amount of **ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000)** that will include provision for the coverage of the performance of all terms and conditions of this Agreement. The Supplier acknowledges and agrees that the performance bond will be issued by a duly licenced surety company authorized to transact the business of suretyship in British Columbia and the Supplier will ensure that the performance bond will be maintained in good standing throughout the Term.

3.10 Living Wage

- (a) It is a condition of this Agreement that, for the duration of the Term:
 - (i) the Supplier pays all Living Wage Employees not less than the Living Wage; and
 - (ii) notwithstanding the previous subsection, the Supplier has up to 6 months from the date on which any increase in the Living Wage is published by the Living Wage Certifier to increase wages for all Living Wage Employees such that all Living Wage Employees continue to be paid not less than the Living Wage.
- (b) The Supplier will ensure that the requirements of this Section 3.10 apply to and are adhered to by all Subcontractors.

- (c) A breach by the Supplier of its obligations under this Section 3.10 will constitute a material breach by the Supplier of this Agreement that will entitle the City to terminate this Agreement with immediate effect.

ARTICLE 4 CONTRACT MANAGERS

4.1 City's Managers

- (a) The City hereby designates each of Cathy Palmer and Augusto (John John) Ng as a "City's Manager." Each City's Manager, including any additional City's Managers designated by the City in accordance herewith, has, for so long as he or she remains a City's Manager, full authority to act on behalf of the City in relation to all matters arising under this Agreement.
- (b) Any instruction from the City to the Supplier pursuant to this Agreement shall be issued through an executive officer of the City or through a City's Manager and shall be effective if in writing or confirmed in writing within seven days of oral instruction. Failure to comply with this Section 4.1 shall render any purported City's instruction invalid, unless it is later ratified by the City. However, this restriction does not apply to any instruction issued in an emergency situation or which relates to a threat or potential threat to the life, health or safety of any individual.
- (c) Notwithstanding the foregoing, each City's Manager may, in writing, delegate his or her authority hereunder to others.

4.2 Supplier's Managers

- (a) The Supplier hereby designates each of Kyle Schrump and Mary Schrump as a "Supplier's Manager." Each Supplier's Manager, including any additional Supplier's Managers designated by the Supplier in accordance herewith, has, for so long as he or she remains a Supplier's Manager, full authority to act on behalf of the Supplier in relation to all matters arising under this Agreement, and any instruction given by the City to either of them shall be deemed to be valid and effective.
- (b) Each Supplier's manager may, in writing, delegate his or her authority hereunder to others, upon the written agreement of the City.

4.3 Designation of New Managers

The City may designate new City's Managers, or remove that designation from any individual, and the Supplier may designate new Supplier's Managers, or remove that designation from any individual, from time to time, each at its own discretion, through notice to the other Party. In the case of the Supplier, any such designation or removal must be in writing to the City.

ARTICLE 5
SUPPLIERS' WARRANTIES AND COVENANTS

5.1 General Representations and Warranties

The Supplier represents and warrants that:

- (a) the Supplier has the full right, power, and authority to enter into this Agreement and to perform the Services;
- (b) the Supplier is a corporation duly organized, validly existing and in good standing under the laws of Canada and is lawfully authorized to do business in the Province of British Columbia;
- (c) the Supplier is not a party to or bound by any agreement (written or oral), indenture, instrument, licence, permit or understanding or other obligation or restriction under the terms of which the execution, delivery or performance of this Agreement does or shall constitute or result in a violation or breach;
- (d) the Supplier has a valid City of Vancouver business license or a Metro West Inter-Municipal business license that applies to all of the Services;
- (e) all statements made by the Supplier in its Proposal are true and accurate;
- (f) the Supplier is fully experienced in the design and management of projects or works of a similar scope, purpose, complexity, size and technical sophistication as the Services;
- (g) the Supplier possesses a level of skill and expertise commensurate with Good Industry Practice, which it shall utilize in the performance of its obligations under this Agreement;
- (h) the Supplier understands that the City is relying upon the skill, judgment and expertise of the Supplier and its Subcontractors (if any) in the carrying out of the Services and the co-ordination and planning thereof;
- (i) the Supplier's and any Subcontractors' employees are accredited to carry out the relevant portions of the Services to the extent required by applicable Laws and all of them are appropriately skilled, competent and experienced and possess relevant qualifications having regard to the nature and extent of the Services and the Sites;

5.2 General Health and Safety-Related Acknowledgements and Covenants

The Supplier shall:

- (a) in the provision of the Services, comply at all times with the OHS Requirements and take all reasonably necessary steps to ensure similar compliance from its Representatives and its Subcontractors, if any;
- (b) if the Services involves any type of manual labour, prior to their attendance at any Site, deliver to each of its Representatives and each of its Subcontractors,

if any, and to their employees, if applicable, copies of the OHS Requirements relevant to the Site;

- (c) at all times take all reasonable precautions to maintain the health and safety of workers;
- (d) be at all times registered and in good standing with the relevant workers' compensation insurance Competent Authorities, and provide to the City copies of any notices, correspondence or directions issued by any government or Competent Authority relating to workplace-related employment, human rights, labour, immigration policy, health, safety or environmental matters within 24 hours of the Supplier's receipt of such notice, correspondence or direction;
- (e) appoint a qualified health and safety coordinator to ensure coordination of health and safety activities in the provision of the Services;
- (f) report (with full details) any accident, injury, illness or other incident relating to workplace health and safety or the environment to the City as soon as reasonably practicable, investigate the accident, injury, illness or other incident reasonably thoroughly (and in any event in accordance with any applicable OHS Requirements) and promptly report to the City the results of each such investigation;
- (g) maintain such records and make such reports concerning health, safety and welfare of persons, and damage to property, or the natural, physical or biological environment, as the City may reasonably require; and
- (h) to the extent a "prime contractor", as defined in the WCA, is not already designated by the City for any portion or the entirety of a Site or Sites, be and act as the prime contractor at that portion of a Site or the entirety of the Site, and the Supplier assumes and is wholly responsible for the health and safety of all persons at such locations on the basis described in the WCA.

5.3 Covenants Regarding Violations of Health and Safety Requirements

Without prejudice to any remedies available to the City hereunder, if any Subcontractor or person employed or engaged by the Supplier (or by a Subcontractor) violates any OHS Requirement, the Supplier shall:

- (a) ensure that the violation is promptly resolved;
- (b) ensure the violation is promptly and appropriately reported to the City and to the applicable competent authorities (if and to the extent required by the OHS Requirements);
- (c) promptly take all reasonable steps necessary to avoid recurrence of the violation;
- (d) communicate to the City its plan to avoid recurrence of the violation; and

- (e) without prejudice to the foregoing Section 5.3(c), promptly remove any person responsible for the violation from the provision of the Services if reasonable to do so or if requested to do so by the City.

5.4 Covenants Regarding the Environment

- (a) The Supplier shall:
 - (i) at all times, be conscious of the importance of the protection of the natural, physical and biological environment at and in the vicinity of the Sites;
 - (ii) conduct, and cause its Representatives to conduct, their respective activities that relate to the Services in a manner that shall have the least possible adverse effect on the natural environment and in compliance with all Environmental Laws and Consents, all at the Supplier's expense;
 - (iii) perform the Services with the least degree of environmental degradation during and as a result of such performance; and
 - (iv) without restricting the generality or application of any other provisions of this Agreement, comply, and cause its Representatives to comply, with all applicable Laws and Consents and with all plans and instructions contained in this Agreement or issued in writing by the City concerning the existence, Release, removal, handling, transport, storage, disposal and treatment of any Hazardous Substances or other materials that are or may be hazardous to the life or health of any person or that endanger the environment or that are regulated by applicable Law.
- (b) During the term of this Agreement, the Supplier shall not bring or store or permit to be used at any Site, any Hazardous Substances unless such Hazardous Substances are (i) reasonably required to carry out the Services, and (ii) brought or stored or permitted to be used at any Site in compliance with all Laws (including Environmental Laws). The Supplier shall not Release nor permit the Release of any Hazardous Substances into the environment. The Supplier is solely responsible for all Hazardous Substances introduced to the Sites or the environment by the Supplier or its Representatives or Subcontractors, and the Supplier shall promptly and fully remediate, to the City's satisfaction, any release of Hazardous Substances on or from any Site, or in the vicinity of any Site.

5.5 Further Covenants Regarding the Sites

The Supplier shall:

- (a) at its sole cost, keep any portion of any Site used in connection with the Services in a safe and tidy condition and to maintain and operate the Supplier's equipment in a good, workmanlike and safe manner; and

- (b) not to do anything at any Site which is or may become a nuisance, danger or disturbance to the City or to any other occupants or users of the Site or adjacent areas or to any works or structures or installations thereon.

5.6 Covenants Against Encumbrances

- (a) The Supplier shall keep each Site and the goods included in the Services, and each part thereof, free of all Encumbrances filed pursuant to any Law or otherwise in respect of any such work or materials. In any event, if any Encumbrance has been filed in relation to the Site or any improvement thereon, or in relation to any goods included in the Services, the Supplier shall cause any such Encumbrance to be discharged within 30 days after the Encumbrance has come to the notice of the Supplier.
- (b) The Supplier acknowledges and agrees that, in the event the Supplier fails to discharge any Encumbrance contemplated in Section 5.6(a) within 60 days of written notice of such Encumbrance being given by the City, in addition to any other right or remedy, the City may, but shall not be obligated to, discharge the Encumbrance by paying to the applicable Competent Authority, the amount claimed to be due or the amount due, together with a reasonable amount for costs and the amount paid by the City shall be paid by the Supplier to the City forthwith upon demand. In no case shall the City be required to investigate the validity of the Encumbrance prior to discharging the same in accordance with this Section 5.6(b).

5.7 Absence of Conflicts of Interest

- (a) Neither the Supplier, nor any of its Representatives has given or shall give or offer to give to the City or any official, officer, employee or agent of the City any gratuity, reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act in connection with this Agreement.
- (b) To the best of the Supplier's knowledge, the Supplier, its Subcontractors, and their respective directors, officers, employees and agents have no pecuniary interests or any other current or past interests or dealings, including with any officials, officers or employees of the City, that would cause any conflict of interest or be seen to cause a conflict of interest in respect of the Services. Should such a conflict or perceived conflict arise during the term of this Agreement, the Supplier shall declare it immediately in writing to the City. The City may direct the Supplier to resolve any conflict or perceived conflict to the satisfaction of the City. The Supplier warrants that neither the Supplier nor any of its Subcontractors, or any of their respective directors, officers, employees or agents, has any predisposition, affinity or association with any third party which would impair or be seen to impair or qualify the Supplier's provision of the Services.

ARTICLE 6 PERSONNEL

6.1 Separate Personnel

- (a) It is the intention of the Parties that any personnel utilized or supplied by the Supplier or any Subcontractor hereunder shall remain employees of the Supplier or Subcontractor, respectively, for the purposes of any applicable Law and no activity performed by such personnel shall be deemed to create or imply any employment or other like relationship between such personnel and the City. If contrary to this intention such personnel are treated as employees of the City for the purposes of any applicable Law, the Supplier shall indemnify the City against any loss, cost, expense, complaint, claim, levy, assessment, penalty or fine (including any Tax liability) resulting therefrom.
- (b) If any persons are brought by the Supplier into Canada for purposes of the Services, the Supplier shall be responsible for all immigration matters, and for the expatriation and repatriation of such personnel, and the costs of the same shall be deemed included in the Contract Price.

6.2 Changes in Personnel

The City may request the removal or replacement of any personnel engaged by the Supplier or any Subcontractor in relation to any part of the Services, provided that such request is made in writing stating the City's detailed reasons. The Supplier shall comply with such request as soon as reasonably practicable and shall bear the cost of replacement where the City is of the opinion that the personnel in question are guilty of misconduct, do not have acceptable qualifications or are otherwise unable or unfit to perform satisfactorily and safely. If the City requests a replacement for a reason other than the immediately aforementioned reasons, the City shall reimburse the Supplier its reasonable properly incurred costs of replacement.

6.3 Key Project Personnel

- (a) Where there are Key Project Personnel the Supplier shall:
 - (i) use best endeavours to retain Key Project Personnel for the duration of the provision of the Services;
 - (ii) take reasonable steps to ensure that Key Project Personnel dedicate their time fully to the Services (unless otherwise agreed or approved by the City in writing);
 - (iii) promptly inform the City should any of the Key Project Personnel leave, or give notice of an intention to leave the Supplier, and obtain a substitute or substitutes;
 - (iv) not reassign or allow the reassignment of the Key Project Personnel to other projects during the term of this Agreement without the City's prior written consent (such consent not to be unreasonably withheld or delayed); and

- (v) take all reasonable steps to ensure that the Key Project Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between the Parties.
- (b) If:
 - (i) the Supplier wishes to reassign or to replace an individual designated as Key Project Personnel; or
 - (ii) an individual designated as Key Project Personnel gives notice of his or her intention to leave or is otherwise no longer able to perform the duties, including for reasons of illness, injury or personal hardship,

the Supplier shall provide a substitute with experience and qualifications equivalent or greater than the Key Project Personnel to be replaced, and shall provide documentation to the City to establish such experience and qualifications.
- (c) Key Project Personnel who are reassigned to other work shall, to the extent possible, remain available to the project team until completion of the Services.
- (d) All the Supplier's Key Project Personnel must be fluent in both spoken and written English, except as may be agreed to the contrary between the City and Supplier in relation to specific individuals or positions to be filled from time to time.

ARTICLE 7 REPORTING

7.1 Progress Reports

- (a) The Supplier shall prepare and submit to the City in a format reasonably acceptable to the City quarterly progress reports within seven days after the last day of the quarter to which it relates.
- (b) Each such progress report shall include (as a minimum):
 - (i) charts and detailed descriptions of progress in preparing Documentation and in otherwise delivering the Services;
 - (ii) copies of any quality assurance documents;
 - (iii) disclosure detailing the type(s) and quantity(ies) of fuel(s) used by the Supplier and its Subcontractors to operate vehicles, equipment and machinery in the delivery of the Services from the date of the last such report (or, if none, from the Effective Date) to the date that is 15 days before the date of the report.
 - (iv) information and statistics relating to health, safety, environmental and community relations aspects of the Services;
 - (v) health and safety statistics, including details of:

- (A) any Safety Incidents or other injuries, accidents, or safety or near-miss incidents relating to the safety of the Services; and
- (B) any hazardous accidents, incidents and activities relating to environmental aspects of the Services or community relations, including any Releases of any Hazardous Substances; and
- (vi) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardise any aspect of the Services or the timing therefor.

7.2 Assistance regarding Reporting Requirements

The Supplier shall, and shall cause its Representatives to, provide the City with reasonable assistance and information which is necessary to enable the City to comply with any Law.

7.3 Other Reports

The Supplier shall provide any additional reports and information regarding the Services or the Site reasonably requested by the City at any time.

ARTICLE 8 PAYMENT; AUDITS; ASSURANCES

8.1 Payment to the Supplier

- (a) Subject to ARTICLE 11 and Section 8.2, the City shall pay the Supplier for the Services in accordance with Schedule B (Prices for Services), following the receipt of invoices prepared and delivered in accordance with Section 8.2.
- (b) Unless otherwise expressly stated in the schedules hereto, the Supplier shall pay any and all costs, including freight, marine and transit insurance, Taxes, and transportation and delivery charges on all equipment or things of whatsoever nature provided by the Supplier as required by it for the purposes of the Services and any other incidental costs and all such costs shall be deemed to be included in the Contract Price.
- (c) The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of Schedule B (Prices for Services) and to have obtained all information and to have taken into account all circumstances, risks and other contingencies that may affect the cost of performing the Services (including any circumstances, risks or contingencies that a contractor exercising Good Industry Practice would typically expect to encounter) and any other obligation under this Agreement. The Supplier shall not be entitled to any additional compensation beyond the Contract Price (including without limitation for escalation in the prices of goods, materials and labour) except as otherwise expressly stated in this Agreement.
- (d) Notwithstanding any other provisions of this Agreement, the Supplier shall not be entitled to payment for any Services that has not been performed in compliance with the provisions of this Agreement.

8.2 Procedure for Invoices

- (a) The Supplier shall address each of its invoices to the City, Attention: Accounts Payable, and email it to APInvoice@vancouver.ca, or to such other address as is specified in an applicable purchase order. The City shall thereafter pay the invoice within 30 days, provided the other requirements of this Agreement have been satisfied and subject to the other provisions hereof.
- (b) The City shall not be liable for any interest on any invoice amount in respect of any period for any reason.
- (c) The City expects to make payments by electronic funds transfer and the Supplier shall provide banking information to the City to enable it to do so.

8.3 Currency of Payment

All currency amounts stated herein are denominated in, all invoices hereunder shall be stated in, and all payments hereunder shall be made in, Canadian dollars.

8.4 Contested Claims for Payment

If any item contained in an invoice submitted by the Supplier is contested by the City, the City shall give prompt notice thereof, together with reasons to the Supplier.

8.5 Audits

- (a) The Supplier shall maintain up-to-date records and accounts which clearly document the provision of the Services and shall make the same available to the City upon request. The City may request copies of all such records and accounts which shall be provided to the City by the Supplier (subject to reimbursement of the Supplier's reasonable copying costs and any other direct costs and expenses, if any) at any time prior to the expiry of 365 days after completion of all of the Services or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Supplier in accordance with this Section 8.5(a) shall be deemed to be Confidential Information;
- (b) Not later than three years after the completion of all of the Services or earlier termination of this Agreement, the City can itself, on notice of not less than 14 days, require that a firm of accountants, surveyors or other auditors nominated by it audit any such records and accounts of the Supplier by attending during normal working hours at the office where the records are maintained. For avoidance of doubt, any records and accounts or other documents provided by the Supplier in accordance with this Section 8.5(b) shall be provided only subject to the accountants, surveyors or other auditors, and each of them, being subject to and agreeing to meet such of the Supplier's reasonable requirements as to confidentiality as the Supplier deems (at its sole discretion) to be appropriate in the circumstances; and
- (c) Any overpayments by the City discovered during the course of any such audit pursuant to Section 8.5(b) shall be payable by the Supplier to the City within 30 days of such discovery, and if the overpayments have been caused by an act or

omission of the Supplier and the amount of those overpayments is no less than one quarter of the total amount paid by the City to the Supplier in respect of the Services, then the costs of the relevant audit shall be for the account of the Supplier.

8.6 Set Off

Notwithstanding any provision to the contrary in this Agreement and without prejudice to any other remedy which the City may have (whether in common law or equity), the City shall be entitled to deduct from and set off against any sum(s) otherwise due to the Supplier hereunder any sums which are due from the Supplier to the City or which the Supplier is liable to pay to the City under this Agreement or in connection herewith (including without limitation any monies overpaid to the Supplier under this Agreement or otherwise due and payable to the City by reason of any error in payment under this Agreement).

ARTICLE 9 CERTAIN ADDITIONAL OBLIGATIONS OF THE CITY

9.1 Scheduled Items

The City shall make available, free of cost and without delay or in accordance with any agreed timetable or schedule set forth in Schedule C (Items to be Provided by the City), to the Supplier for the purpose of the Services, the personnel, equipment, facilities, services (including services of third parties) and information described in such Schedule C (if any), and in accordance therewith.

9.2 Other Information

The City shall, within a reasonable time following a written request by the Supplier, provide to the Supplier free of cost such further information, which the City considers relevant to provision of the Services and which is either already in its possession or reasonably within its power to obtain.

9.3 Decisions in Writing

On all matters properly referred to it in writing by the Supplier, the City shall (wherever practicable) give its decision in writing within a reasonable time having regard to the Time(s) for Completion and the Supplier's obligations with regard to the Services.

9.4 Access to Sites

Except to the extent prohibited by applicable Law or any Consent, the City shall grant to the Supplier non-exclusive, timely and in accordance with any agreed schedule, access (as the City is reasonably able to provide) to all necessary areas of the Sites on and from the Effective Date and such other non-exclusive access as is necessary or appropriate to perform the Services and the Supplier's other obligations in accordance with this Agreement.

**ARTICLE 10
LIABILITY AND INSURANCE**

10.1 Covenants of Indemnification by the Supplier

- (a) The Supplier shall indemnify and keep indemnified and hold the City, the Other City Entities, and their respective officials, officers, employees and agents harmless against all losses, liabilities, claims, demands, costs and expenses (including legal fees), fines, penalties and charges (including those imposed by statute or otherwise imposed), arising out of or in connection with, or consisting of:
- (i) any:
- (A) damage to a Site or any part thereof, or any property whether located at a Site or otherwise, which occurs during the provision of the Services;
 - (B) any claim by a Subcontractor under the *Builders Lien Act* (British Columbia);
 - (C) damage to the natural environment, including any remediation cost recovery claims;
 - (D) loss or damage arising from a claim by any third party concerning or arising out of the Services, or by any employee or Subcontractor of the Supplier for any reason;
 - (E) occupational illness, injury or death of any person, whether at a Site or otherwise, which occurs during, or as a result of, the provision of the Services;
 - (F) failure by the Supplier to fully comply with the provisions of this Agreement;
 - (G) breach by the Supplier or any Subcontractor of any Law in the course of, or as a result of, the provision of the Services;
 - (H) actual or alleged infringement of any Intellectual Property Rights caused by the provision of the Services or the use of any process, work, material, matter, thing or method used or supplied by the Supplier or any Subcontractor in the provision of the Services; or
 - (I) breach of the warranties of the Supplier contained herein,
- in each case to the extent that it is due to any act, omission, or default, or any breach of Law or this Agreement, of the Supplier, a Subcontractor, or any Representative of the Supplier or any employee, agent, or contractor of any of them; or

- (ii) any defect in a good, work, or material provided as part of the Services or any failure of any such good, work, or material to function safely or to satisfy any applicable safety standard.
- (b) Nothing in this Section 10.1 nor otherwise in this Agreement shall limit or exclude any direct liability (whether in contract, tort, for breach of statutory duty, or any other legal basis) of the Supplier to any person, including without limitation any liability for:
 - (i) the Supplier's default hereunder or fraud, fraudulent misrepresentation or reckless misconduct in the provision of the Services; or
 - (ii) any loss or damage flowing from the termination of this Agreement.
- (c) The Supplier appoints the City as the trustee of the Other City Entities and of their and the City's officials, officers, employees and agents in relation to the covenants of indemnification of the Supplier contained in this Section 10.1 and the City accepts such appointment.

10.2 Contamination of Lands

Without limiting any other provision hereof or any other remedy available to the City hereunder, the Supplier agrees and covenants that if, at any time during the term or following the expiry of this Agreement, the Site or any other lands affected by the Services or the lands licenced to the Supplier pursuant to Section 3.1(e) and the Bylaw Impounded Vehicle Storage Site and Abandoned Vehicle Storage Site Licence Agreements are found to be contaminated or polluted (as determined pursuant to Environmental Laws) as a result of or in connection with the Services, the Supplier shall forthwith at its sole cost:

- (a) undertake all necessary audits, investigations, tests and surveys to determine the nature and extent of the contamination or pollution;
- (b) notify the City of the nature and extent of the contamination or pollution and any proposed or required work necessary to control, abate, dissipate or remove (as appropriate) the pollution or contamination as required by Environmental Laws; and
- (c) undertake the work referred to in the foregoing paragraph (b).

10.3 Conduct of Claims

In the event of any claims, statutory fees, costs, charges, penalties (including without limitation any legal costs), contributions, compensations, cost recoveries, expenses or fines being levied or claimed from a person in respect of which an indemnity is provided by the Supplier pursuant to ARTICLE 10, the following provisions shall apply:

- (a) subject to Sections 10.3(b), 10.3(c) and 10.3(d), where it appears that a person is or may be entitled to indemnification from the Supplier in respect of all (but not part only) of the liability arising out of a claim, such person entitled to indemnification may at its sole election and subject to:

- (i) approval by any relevant insurers (without prejudice to Section 10.3(f); and
- (ii) the Supplier providing the party entitled to indemnification with a secured indemnity to its reasonable satisfaction against all costs and expenses (including legal expenses) that it may incur by reason of such action,

permit or require the Supplier to dispute the claim on behalf of the person entitled to indemnification at the Supplier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations; provided that the person entitled to indemnification shall give the Supplier (provided at the Supplier's cost) all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim;

- (b) with respect to any claim conducted by the Supplier pursuant to Section 10.3(a):
 - (i) the Supplier shall keep the person entitled to indemnification fully informed and consult with it about material elements of the conduct of the claim;
 - (ii) the Supplier shall not bring the name of the person entitled to indemnification (or any Group Member thereof) into disrepute; and
 - (iii) the Supplier shall not pay or settle such claims without the prior consent of the person entitled to indemnification, such consent not to be unreasonably withheld or delayed;
- (c) a person entitled to indemnification shall be free to pay or settle any claim on such terms as it thinks fit (and without prejudice to its rights and remedies under this Agreement) if:
 - (i) the Supplier is not entitled to, or is not permitted or instructed, take conduct of the claim in accordance with Section 10.3(a); or
 - (ii) the Supplier fails to comply in any material respect with the provisions of Sections 10.3(a) or 10.3(b);
- (d) the person entitled to indemnification pursuant to ARTICLE 10 shall be free at any time to give notice to the Supplier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which Section 10.3(a) applies. On receipt of such notice the Supplier shall promptly take all steps necessary to transfer the conduct of such claim to the person entitled to indemnification, and shall provide to the person entitled to indemnification all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim;
- (e) if the Supplier pays to the person entitled to indemnification an amount in respect of an indemnity and the person entitled to indemnification subsequently recovers (whether by payment, discount, credit, saving, relief or

other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the person entitled to indemnification shall forthwith repay to the Supplier whichever is the lesser of:

- (i) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out-of-pocket costs and expenses (including legal expenses) properly incurred by the person entitled to indemnification in recovering the same; and
- (ii) the amount paid to the person entitled to indemnification by the Supplier in respect of the claim under the relevant indemnity,

provided that there shall be no obligation on the part of the person entitled to indemnification to pursue such recovery and that the Supplier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the Supplier exceeds any loss sustained by the person entitled to indemnification;

- (f) the Supplier shall inform the person entitled to indemnification of the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement and in relation to such the person entitled to indemnification shall issue instructions accordingly; and
- (g) any person entitled to an indemnity from the Supplier must take all reasonable measures to mitigate any loss, damage or liability that it may suffer in respect of any such matter.

10.4 Insurance

- (a) In addition to those mandatory insurance policies that the Supplier is required to carry by any applicable Laws, the Supplier shall take out and maintain in force, with a reputable insurance company legally authorized to conduct business in British Columbia, during the term of this Agreement and for a period of five years afterwards, commercial general liability insurance with coverage of not less than \$5,000,000 million per occurrence and at least \$5,000,000 million of annual aggregate coverage endorsing the City as an additional insured on a primary and non-contributory basis and providing a waiver of subrogation in favour of the City.
- (b) The Supplier shall ensure that any Subcontractors also maintain the same insurance as the Supplier, having regard to the obligations under this Agreement which they are contracted to fulfil.
- (c) The Supplier's liabilities under this agreement shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Section 10.4(a).
- (d) The cost of the insurances arising under this Section 10.4 shall be deemed to be incorporated into the prices specified in Schedule B.

- (e) As a condition precedent to any payment from the City to the Supplier under this Agreement, and as and when reasonably requested by the City, the Supplier shall provide documentary evidence (to the reasonable satisfaction of the City, including by completing the City's standard reporting documents used for this purpose) that the insurances required by this Section 10.4 have been taken out and are being maintained.

10.5 Requirements for All Policies

- (a) Minimum Limits - Without limiting any of its obligations or liabilities under this Agreement, the Contractor and its sub-contractors will obtain and continuously carry during the Term of this Agreement, the following insurance coverages with minimum limits of not less than those shown in the respective items set out below.
- (b) Premiums - The Contractor will pay all premiums and deductible costs for all insurance required to be effected under this Agreement provided always that under no circumstances does the payment of such premiums give the Contractor any interest in the proceeds of such insurance or any control over such policies as they relate to the City's interests.
- (c) Insurers - All policies must be written with companies licensed to do business in British Columbia with a financial rating of VIII or better and a policy holder's rating of A- or better in the latest edition of Best Rating Guide on Property and Casualty Insurance Companies.
- (d) Form of Policy - All insurance policies must be in a form acceptable to the City's Director of Risk Management. Self-funded, policy fronting or other non-risk transfer insurance mechanisms are not permitted.
- (e) Notice to City - All insurance policies must provide the City with sixty (60) days' prior written notice of cancellation or material change resulting in reduction of coverage. The policy must provide that the notice will identify the Contract Title, number, policy holder, and be delivered to the City of Vancouver.
- (f) Insurance Obligations Separate - Neither the providing of insurance by the Contractor in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing will be held to relieve the Contractor from any other provisions of this Agreement with respect to the liability of the Contractor or otherwise.
- (g) Primary Coverage - The insurance coverage will be primary insurance with respect to all claims arising out of the operation of the Contractor. Any insurance or self-insurance maintained by or on behalf of the City, its officials, officers, employees or agents will be excess to the insurance effected by the Contractor under this Agreement and will not contribute with it.
- (h) Property Disclose - The Contractor will properly disclose all risks in each insurance application, ensure that it does not violate or void any policy and will

otherwise comply at all times with the requirements of the insurers and underwriters.

- (i) Failure to Provide - If at any time the Contractor fails to provide a certificate of insurance or certified copies of all insurance policies as required in Section 10.6 - Evidence of Insurance, the City may (but is not obligated to or liable for the manner in which it does so) effect such insurance on behalf of the Contractor and the cost of doing so will be paid by the Contractor to the City upon request and, in any event, within five (5) calendar days of such a request.

10.6 Evidence of Insurance

- (a) Proof of Insurance - Prior to the Effective Date, the Contractor will provide the City with evidence of all required insurance to be taken out in the form of a detailed certificate of insurance. The certificate of insurance must identify the Contract Title, number, policy holder and contract subject-matter, and must not contain any disclaimer. Similar evidence of renewals, extensions or replacements of all required insurance must be forwarded to the City's Designated Representative. At any time, upon request, the Contractor will provide the City's Designated Representative with certified copies of all insurance policies required by this Agreement.

Upon request, the Contractor will deposit with the City's Designated Representative detailed certificates of insurance for the policies it has obtained from its sub-contractors and a copy of the insurance-related clauses from those agreements.

10.7 Commercial General Liability ("CGL") Insurance

- (a) Must Carry CGL - The Contractor will maintain insurance in sufficient amounts and description to protect the Contractor, its sub-contractors, the City and their respective officials, officers, employees and agents against claims for damages, personal injury including death, bodily injury and property damage which may arise under this Agreement.
- (b) Minimum Limit of Insurance - The limit of commercial general liability insurance must be not less than \$5,000,000 per occurrence and a deductible not greater than \$5,000, inclusive for personal injury, death, bodily injury or property damage and in the aggregate with respect to products and complete operations.
- (c) Form of Policy - The policy of insurance will:
 - i) be on an occurrence form;
 - ii) add the City and its officials, officers, employees and agents as additional insureds;
 - iii) contain a cross-liability or severability of interests clause; and

iv) extend to cover non-owned automobiles, contingent employer's liability, blanket contractual liability, contractor's protective liability, broad form property damage, broad form completed operations and operations of attached machinery.

10.8 Motor Vehicle Liability Insurance

- (a) The Contractor will maintain motor vehicle liability insurance for owned and leased or licensed vehicles with limits of \$5,000,000 inclusive for accidental injury to or death of one or more persons or damage to or destruction of property as a result of any one accident. Whether or not the policy has been issued pursuant to a government operated automobile insurance system, the Contractor will provide the City's Director of Risk Management with confirmation of the automobile insurance coverage for all automobiles registered in the name of the Contractor and its permitted Sub-contractors used in connection with this Agreement.

10.9 Property Insurance

- (a) Form of Coverage - The Contractor will maintain an All-Risks insurance policy covering the Contractor's property of every description.
- (b) Waiver of Subrogation - The policy must contain a provision in which the insurer waives all rights which it may acquire by payment of a claim to recover the paid amount from the City or its officials, officers, employees or agents (a "Waiver of Subrogation").

10.10 Garage Automobile Policy

- (a) In accordance with Garage automobile policy (APV4) - section 3A and 3B, the Contractor will maintain insurance covering legal liability for damage to vehicles in the care custody and control of the Contractor in an amount no less than three million dollars (\$3,000,000.00).

10.11 Comprehensive Dishonesty, Disappearance and Destruction Insurance

- (a) Form of Coverage - A Comprehensive Dishonesty, Disappearance and Destruction Insurance policy will be arranged and maintained in full force by the Contractor for the Term of this Agreement and for a further period of two (2) years following expiry of the Term or any Renewal Term or extension, covering the following:
 - (i) Employee Dishonesty - Form A covering the loss of money, securities and other property sustained by the City in the aggregate amount of five hundred thousand dollars (\$500,000) resulting from one or more fraudulent acts committed by an employee, sub-contractor or agent of the Contractor whether acting alone or in collusion with others;

- (ii) Broad Form Money and Securities covering the destruction, disappearance or wrongful abstraction of money or securities collected by the Contractor on behalf of the City:
 - i) within or from the premises, banking premises, night depository, or safe maintained by a bank or trust company;
 - ii) outside the premises while being conveyed by the Contractor, an employee, agent or subcontractor of the Contractor, an armoured motor vehicle company or any other person authorized to have custody thereof or while temporarily within the home of the Contractor, an employee, agent or subcontractor of the Contractor or any authorized person;
- (iii) Computer Theft or Funds Transfer Fraud of money or securities collected by the Contractor on behalf of the City; and
- (iv) at the Contractor's discretion, Depositor's Forgery covering the losses caused by forgery or alteration of written promise order or in direction to pay a sum of money, made or drawn by or upon the Contractor.

The amount of coverage for each of the insurances defined in 6.1 b., c. and d. above (if applicable), shall not be less than the maximum amount of money or securities at risk at each or any one location.

ARTICLE 11 FORCE MAJEURE; TERMINATION

11.1 Force Majeure

- (a) Neither Party shall be deemed to be in breach of this Agreement or otherwise liable to the other Party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement reasonably due to Force Majeure.
- (b) If either Party's performance of its obligations under this Agreement is affected by an event of Force Majeure, then:
 - (i) it shall give written notice to the other Party, specifying the nature and extent of the event of Force Majeure, within ten days after becoming aware of the event of Force Majeure;
 - (ii) performance of such obligation(s) shall be deemed suspended but only for a period equal to the delay reasonably caused by such event;
 - (iii) it shall not be entitled to payment from the other Party in respect of extra costs and expenses incurred by virtue of the event of Force Majeure;

- (iv) the Time(s) for Completion shall be extended to take into account such delay; and
- (v) within five days of the cessation of any Force Majeure event, the Party affected thereby shall submit a written notice to the other Party, specifying the actual duration of the delay of its obligations caused by the event of Force Majeure and the consequences resulting from such delay, and submit a specific plan to minimize and mitigate those consequences.
- (c) The affected Party shall use all reasonable diligence in accordance with Good Industry Practice to mitigate the cause and the result of an event of Force Majeure and to remedy the situation and resume its obligations under this Agreement, including complying with any instructions from the City, as to how to do so.
- (d) Notwithstanding the obligations of a Party affected by an event of Force Majeure pursuant to Sections 11.1(b) and 11.1(c), if the event of Force Majeure renders it impossible or impractical for the Supplier to provide the Services in accordance with this Agreement for a period of at least 45 days, the City may terminate this Agreement upon notice delivered to the Supplier at any time following the expiration of such period of 45 days.

11.2 City Suspension and Termination Rights

The City shall have the following rights:

- (a) The City may order the suspension of all or part of the Services at any time and for such period as it determines, by notice with immediate effect to the Supplier, in the event of a Safety Incident and upon receipt of any such notice of suspension, the Supplier shall immediately cease performing the Services, minimise expenditure and comply with any reasonable instructions of the City relating to such Safety Incident, including any investigations.
- (b) Without prejudice to Section 11.2(a), the City may suspend all or part of the Services (for such period as it determines) or terminate this Agreement at any time (and for its convenience) upon 60 days' written notice to the Supplier, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Services and to minimise expenditure, including complying with any instructions from the City as to how to do so.
- (c) If the City reasonably considers that the Supplier is not discharging any of its material obligations under this Agreement, the City may inform the Supplier by notice stating the grounds for the notice. If evidence of remediation satisfactory to the City, is not received as soon as practicable or in any case within 14 days or such longer period as agreed by the Parties, the City may by a further notice to the Supplier of at least 14 days terminate this Agreement.
- (d) The City may terminate this Agreement with immediate effect if:
 - (i) the Supplier becomes bankrupt or insolvent, goes into liquidation, has a receiver or administrator appointed over it or any of its assets of

undertaking, enters into any arrangement for the benefit of its creditors, becomes the subject of any moratorium or carries on business under a receiver, trustee, manager or arrangement for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events; or

- (ii) a Change in Control of the Supplier occurs and the City reasonably considers that the Change in Control shall substantively affect the Supplier's ability to perform its obligations under this Agreement.

11.3 Supplier Termination Rights

After giving at least seven days' written notice to the City, the Supplier may terminate this Agreement, or at its discretion and without prejudice to the right to terminate, may suspend or continue suspension of performance of the whole or part of the Services when:

- (a) 90 days after the due date for payment of an invoice, it has not received payment of that part which has not by that time been contested in writing by the City and provided always that:
 - (i) the Supplier has issued a notice of reminder to the City following the due date for payment in relation to such unpaid sum; and
 - (ii) the termination notice may not be issued until the expiry of 30 days following the issue of such reminder notice; or
- (b) the City commits any material or persistent breach(es) of its obligations under this Agreement that render(s) performance by the Supplier of its obligations under this Agreement or a substantial part thereof impossible or significantly adversely affect(s) such performance of this Agreement as a whole and further which, remain(s) irremediable after 60 days.

11.4 Consequences of Termination

The following consequences shall apply upon a termination:

- (a) On termination of this Agreement for any reason, the Supplier shall, as soon as reasonably practicable:
 - (i) deliver to the City all work and Documentation produced by or on behalf of the Supplier during the course of performing the Services;
 - (ii) return (or destroy if otherwise directed by the City in writing) all Confidential Information provided to it for the purposes of this Agreement;
 - (iii) return all of the City's Site access cards, equipment and other items provided under this Agreement, failing which, the City may enter the relevant premises and take possession thereof, and, until any such access cards, equipment and other items have been returned or repossessed, the Supplier shall be solely responsible for its or their safe-keeping;

- (iv) if so requested by the City, take reasonable steps to assign any Subcontractor contracts to the City and do all things and execute all documents necessary to give effect thereto; and
 - (v) otherwise comply with all reasonable requirements of the City arising from the cessation of the Services or the continuing development of the Site.
- (b) The Supplier shall be entitled to be paid its reasonable properly incurred costs of compliance with Section 11.4(a) and its reasonable demobilization costs, up to a maximum of \$5,000, in aggregate, save in circumstances in which the City reasonably claims that the termination was a consequence of a Safety Incident or a default by the Supplier in the provision of any part of the Services, in which case all such costs shall be for the Supplier's own account.
- (c) On termination of this Agreement for any reason, the Supplier shall be entitled to payment for any completed portion of the Services rendered in full compliance herewith prior to the time of termination, in accordance with Schedule B (Prices for Services).

11.5 Other Surviving Rights and Liabilities of Parties

- (a) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
- (b) After termination of this Agreement, the provisions of Sections 3.6 and 8.5, ARTICLE 10, ARTICLE 13, ARTICLE 14, and ARTICLE 16 shall remain in force.

ARTICLE 12 ASSIGNMENT AND SUBCONTRACTING

12.1 Assignment

Neither Party shall assign, transfer, mortgage, charge or deal in any other manner with this Agreement or any of its rights and obligations under or arising out of the Agreement (or any document referred to herein), or purport to take any such action without the prior written consent of the other.

12.2 Subcontracting

- (a) The Supplier shall not subcontract the whole or substantially all of the Services.
- (b) Without prejudice to the foregoing Section 12.2(a), save in the case of Subcontractor(s) whose role in the provision of the Services is expressly provided for in the schedules hereto (and only to the extent so provided for), the Supplier may not subcontract any part of the Services without the City's prior written consent.
- (c) The Supplier shall include in each contract by which it engages a Subcontractor a provision allowing the benefit of such contract to be assigned by the Supplier to the City upon request.

- (d) The Supplier shall not without the written consent of the City (which shall not be unreasonably withheld or delayed) initiate or terminate any contract with a Subcontractor.
- (e) If the Supplier is unable to enter into a contract with a Subcontractor whose role in the provision of the Services is expressly provided for in the schedules hereto, it shall as soon as reasonably practicable inform the City of the reason for such inability and procure the services of a replacement subcontractor that is acceptable to the City, acting reasonably.
- (f) The Supplier shall be responsible for the acts, defaults or neglect or any omission of each Subcontractor, its employees and agents in all respects as if they were the acts and defaults or neglect or omission of the Supplier its employees or agents themselves.

ARTICLE 13 INTELLECTUAL PROPERTY

13.1 Assignment

The Supplier acknowledges and agrees that the City is the exclusive owner of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein. The Supplier shall assign and hereby assigns to the City all right, title, and interests in and to the Documentation, including, without limitation, all existing and future Intellectual Property Rights in and to the Documentation, effective upon their creation to the fullest extent permitted by Law. Insofar as such right, title, and interest do not so vest automatically or immediately in the City by operation of law or under this Agreement, subject to Section 13.2, the Supplier holds legal title of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in trust for the City and grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence to, itself and through contractors and agents, use, copy, amend, reproduce, modify and create derivative works of such Documentation for any purpose. Such licence shall include the right to sub licence to any third party without restriction.

13.2 Further Assistance

If and to the extent that any of the right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, is not assigned automatically or immediately to the City under Section 13.1, the Supplier undertakes, at the expense of the City and at any time either during or after this Agreement upon request from the City (notwithstanding that the City may do so in its own name and at its own cost), to execute all documents, make all applications, give all assistance and do all acts and things as may, in the reasonable opinion of the City, be necessary or desirable to vest all right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in the City and to register them in, the name of the City and otherwise to protect and maintain such right, title, and interest. The Supplier further agrees to cooperate fully with the City both during and after the termination of this Agreement, with respect to signing further documents and doing such acts and other things reasonably requested by the City to confirm the transfer of ownership of the Documentation or to obtain or enforce patent, copyright, trade secret, or other protection for the

Documentation. The Supplier shall not receive any consideration or royalties in respect of such transfer of ownership, beyond the fees, provided that the expense of obtaining or enforcing intellectual property protection shall be borne by the City.

13.3 Supplier Undertakings and Representations and Warranties

- (a) The Supplier undertakes:
 - (i) to notify the City in writing of the full details of Documentation promptly upon its creation;
 - (ii) whenever requested to do so by the City and in any event on the termination of this Agreement (as provided for in ARTICLE 11), promptly to deliver to the City all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any parts of the Documentation which are in its possession, custody or power;
 - (iii) that the Supplier shall not, either during the term of this Agreement or thereafter, directly or indirectly, contest, or assist any third party to contest, the City's ownership of the Documentation or of any Intellectual Property Rights related thereto, and
 - (iv) not to register nor attempt to register any Intellectual Property Rights in the Documentation unless requested to do so by the City.
- (b) The Supplier represents and warrants to the City that:
 - (i) it has not given and shall not give permission to any Subcontractor or third party to use any of the Documentation, nor any of the Intellectual Property Rights in the Documentation, other than as provided for in this Agreement or otherwise in accordance with the instructions of the City;
 - (ii) it has not given, and shall not give, to the City, nor shall it use in the provision of the Services, any confidential material or documents of any former client or customer of the Supplier or of any other third party, unless the Supplier has received prior written authorization to do so from the City and from the owner of the confidential material or documents;
 - (iii) it has the absolute right to make the assignments of the right, title, and interest in and to the Documentation contemplated in this Agreement and to grant the rights granted under this Agreement;
 - (iv) it is unaware of any use by any third party or any unauthorized use by a Subcontractor of any of the Documentation or any Intellectual Property Rights in the Documentation; and
 - (v) the use of the Documentation or the Intellectual Property Rights in the Documentation by the City shall not, to the knowledge of the Supplier, infringe any Intellectual Property Rights of any third party.

13.4 Background Intellectual Property

Notwithstanding and superseding anything to the contrary in this ARTICLE 13, each Party retains title to all Intellectual Property Rights owned or possessed by it or any of its affiliates prior to or independent of performance of this Agreement and used by it in fulfilling its obligations under this Agreement, as well as any modifications or improvements made thereto in the course of performing this Agreement ("**Background IP**"). To the extent that one Party acquires any right, title, or interest in and to any aspect of the modifications or improvements to the Background IP of the other Party, such first Party shall assign such right, title, and interest to the second Party, immediately following such acquisition. If any of the Supplier's Background IP is included in or required to use the Documentation provided by the Supplier to the City, the Supplier hereby grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence (including the right to sub-licence only to members of the City's Group) to, itself and through contractors and agents, use, copy, amend, reproduce, modify, create derivative works of, use, commercialize, and otherwise exploit the Supplier's Background IP but only to the extent required to use such Documentation for the purpose (or any reasonably inferred purpose) for which it has been provided or for the provision of the Services under this Agreement (excluding any software source code).

13.5 Supplier Employees' and Subcontractors' Rights

The Supplier:

- (a) warrants that the Supplier's employees, Subcontractors and agents have waived or shall have waived in whole all moral rights (including, without limitation, any similar rights allowing the rights holder to restrain or claim damages for any distortion, mutilation, or other modification of works or any part thereof, and to restrain use or reproduction of works in any manner) they may have in the Documentation;
- (b) indemnifies the City, its officers, agents, contractors and employees against any liability, cost, loss or damage (including legal costs on a solicitor-client basis) suffered or incurred that arises under any breach of the warranty contained in Section 13.5(a); and
- (c) must do all things requested by the City, including signing or procuring the signature of particular forms, to give full effect to Section 13.5(a).

13.6 No Additional Remuneration

The Supplier acknowledges that, except as provided by Law, no further remuneration or compensation (beyond that expressly provided for in this Agreement) is or may become due to the Supplier in respect of the performance of its obligations under this ARTICLE 13.

ARTICLE 14 PRIVACY; CONFIDENTIALITY

14.1 Freedom of Information and Protection of Privacy Act

The Supplier acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the

City's contractors to protect all personal information acquired from the City in the course of providing any service to the City.

14.2 No Promotion

The Supplier shall not, and shall ensure that its Subcontractors shall not, disclose or promote any relationship with the City, including by means of any oral declarations, announcements, sales literature, letters, client lists, press releases, brochures or other written materials, without, in each case, the express prior written consent of the City. The Supplier shall not use the City's logo or any of the City's official marks without the express prior written consent of the City.

14.3 Confidentiality Obligations

Each Party shall keep the Confidential Information of the other Party confidential and each Party shall not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement or where, in the case of the City, otherwise necessary to pursue the public business of the City (a "**Permitted Purpose**"), or disclose the Confidential Information in whole or in part to any third party, except as expressly permitted by this ARTICLE 14.

14.4 Disclosure to Representatives

A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure, and at all times it is responsible for such Representatives' compliance with the confidentiality obligations set out in this ARTICLE 14.

14.5 Disclosures Required by Law

A Party may disclose Confidential Information to the extent required by any applicable Laws or by any Competent Authority provided that, where legally permitted, it notifies the other Party before doing so, gives the other Party a reasonable opportunity to take any steps that the Party considers necessary to protect the confidentiality of that information, and notifies the third person that the information is Confidential Information. In any event, a Party shall furnish only that portion of the Confidential Information which it is legally required to disclose and shall use its reasonable endeavours to obtain a protective order or other reliable assurance that the Confidential Information shall be accorded confidential treatment.

14.6 Other Disclosures by the City

The City's obligations under this ARTICLE 14 are wholly subject to and qualified by, the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and, notwithstanding any other provision of this ARTICLE 14, the City may disclose Confidential Information in any manner compliant with such statute or otherwise in furtherance of its public role or duties, including in the course of publicly reporting to the Vancouver City Council.

14.7 Interpretation; Enforcement and Survival

- (a) Notwithstanding anything in this ARTICLE 14 to the contrary, nothing in this ARTICLE 14 shall affect the Parties' rights and obligations under ARTICLE 13.
- (b) The Parties acknowledge that a breach of any of the obligations or provisions contained in this ARTICLE 14 could cause the other Party to suffer loss which may not be adequately compensated for by damages and that the other Party may, in addition to any other remedy or relief, enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual or special damage and notwithstanding that in any particular case damages may be readily quantifiable, and such breaching Party must not plead sufficiency of damages as a defence in the proceeding for such injunctive relief.

ARTICLE 15 TAXES

15.1 Taxes for Own Accounts

Unless otherwise expressly stated in this Agreement, any Taxes becoming due and payable by either Party pursuant to any applicable Laws as a result of the entering into, the performance of obligations under or the taking of payment pursuant to this Agreement, shall be for the account of that Party, and for greater certainty the Contract Price includes all such Taxes, except for applicable Taxes arising under all sales, excise and value added tax legislation (including, without limitation, the *Excise Tax Act* (Canada) and similar Canadian provincial legislation) (collectively, "*Sales Tax*") as a result of the sale of the Services within Canada hereunder, unless it is clearly stated that they are intended to be Sales Tax-inclusive.

15.2 Withholding Taxes

- (a) Notwithstanding any other provision to the contrary, if the City determines that it is necessary to satisfy its obligations under any Law relating to Taxes, the City may:
 - (i) withhold an amount from a payment made to the Supplier; and
 - (ii) pay the withheld amount directly to the relevant Competent Authority.
- (b) If an amount withheld in accordance with Section 15.2(a) is paid by the City to the relevant Competent Authority, it is deemed to have been paid to the Supplier on the date on which the remainder of the payment to which it relates was paid to the Supplier.
- (c) The Supplier agrees and acknowledges that it has no claim against the City for any amounts withheld and paid to the relevant Competent Authority in accordance with Section 15.2(a).
- (d) If the City does not withhold an amount under Section 15.2(a) which it is required to withhold pursuant to any laws relating to Taxes, the Supplier agrees to pay that amount to the City, upon request by the City.

- (e) The Supplier agrees that the City shall not be required to increase any payment to the Supplier by the amount withheld by the City under Section 15.2(a)

ARTICLE 16 DISPUTE RESOLUTION

16.1 Optional Procedure

All claims, disputes or issues in dispute between the City and the Supplier in relation to this Agreement shall be decided by mediation or arbitration, if the Parties so agree in writing, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.

16.2 Arbitration

In the event that Parties agree to arbitration pursuant to Section 16.1:

- (a) the arbitration shall be conducted pursuant to the *Commercial Arbitration Act* (British Columbia) and shall be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the Parties, and failing agreement by the Parties, shall be appointed by a court of competent jurisdiction within the Province of British Columbia;
- (b) the parties shall share equally the costs of the arbitration but shall be responsible for their own separate costs and expenses in relation to the arbitration including legal fees and disbursements; and
- (c) the arbitration shall take place in Vancouver, British Columbia and shall be governed by the laws of British Columbia.

ARTICLE 17 MISCELLANEOUS

17.1 Time of the Essence

Time is of the essence of this Agreement, including without limitation in relation to the Time(s) for Completion.

17.2 Costs

Each of the Parties hereto shall pay their respective legal fees and other costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

17.3 Benefit of this Agreement

- (a) This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties hereto.

- (b) Except as expressly set forth in the foregoing Sections 17.3(a) or 10.1, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Supplier.

17.4 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties in relation to the subject matter hereof other than as expressly set forth in this Agreement.

17.5 Amendments and Waiver

Subject to Section 3.8, no modification of or amendment to this Agreement is valid or binding unless set forth in writing and fully executed by both of the Parties hereto and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by the Party purporting to give such waiver and, unless otherwise provided, is limited to the specific breach waiver.

17.6 Notices

- (a) Any order, demand, notice or other similar communication to be given to a Party in connection with this Agreement must be given in writing and shall be deemed to be validly given if given by personal delivery to a City's Manager or a Supplier's Manager, as applicable, or delivered by registered mail, by courier or by electronic transmission (with delivery confirmation or receipt of a reply email effectively acknowledging delivery), addressed to a City's Manager or a Supplier's Manager, as the case may be, or, in each case to such other individual as is designated in writing by the relevant recipient Party (including as designated in writing hereinbelow) at the relevant address or facsimile number listed below:

- (i) if to the Supplier:

All Tech. Transport Ltd. DbA Busters Towing
455 Industrial Avenue
Vancouver, BC V6A 2P8

Attention: Mary Schrump
Facsimile: 604-879-8181
Email: mary.schrump@busterstowing.com

- (ii) if to the City:

City of Vancouver
Supply Chain Management
453 West 12th Avenue
Vancouver, BC V5Y 1V4

Attention: George Kavouras

Email: george.kavouras@vancouver.ca

or such other address or facsimile number as may be designated by notice given by either Party to the other, provided that, notwithstanding the foregoing, the Supplier's invoices shall be addressed as specified in Section 8.2 or as otherwise specified in the relevant City purchase order.

- (b) Any order, demand, notice or other communication given (and, in the case of electronic transmission, confirmed or acknowledged) in accordance with Section 17.6(a) shall be conclusively deemed to have been given:
 - (i) if given by personal delivery, on the day of actual delivery thereof;
 - (ii) if given by registered mail or courier, on the Business Day following confirmation by the postal service or the courier that the notice has been delivered; and
 - (iii) if given by electronic transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

Notwithstanding the foregoing, if the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication must not be mailed but must be given by personal delivery, courier or electronic transmission.

17.7 Governing Law and Jurisdiction

- (a) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.
- (b) All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.
- (c) This Agreement is subject to the exclusive jurisdiction of the courts in the Province of British Columbia except:
 - (i) as otherwise agreed by the Parties pursuant to ARTICLE 16; and
 - (ii) to the extent necessary to enforce, in another jurisdiction, any decision or award made pursuant to ARTICLE 16 or any judgment of any court in the Province of British Columbia.

17.8 Further Assurances

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

17.9 Severance

If any term or condition of this Agreement is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this Agreement and the validity and enforceability of the remainder of this Agreement shall not be affected or impaired thereby. If any term or condition of this Agreement is found to be illegal, invalid ineffective, inoperable or otherwise unenforceable, but would not be so if some part of it were deleted, the term or condition shall apply with such modifications as may be necessary to make it enforceable.

17.10 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

17.11 Independent Legal Advice

THE SUPPLIER ACKNOWLEDGES THAT THE SUPPLIER HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE EXECUTING THIS AGREEMENT.

17.12 Electronic Execution

Delivery of an executed signature page to this Agreement by either Party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written by and on behalf of the Parties by their duly authorized signatories.

ALL TECH. TRANSPORT LTD. DBA BUSTERS TOWING

X [Signature]
Signature

SPENCER E. SCHRUMP DIRECTOR
Print Name and Title

[Signature]
Signature

Mary Schrupp, Director
Print Name and Title

CITY OF VANCOUVER

[Signature]
Signature

ALEXANDER RALPH, CPO
Alexander Ralph, Chief Procurement Officer

[Signature]
Signature

Cheryl Nelms, GM Engineering
Cheryl Nelms, General Manager of Engineering

OF [Signature]
Signature

Francie J. Connell
Francie Connell, Director of Legal Services

VANCOUVER PUBLIC LIBRARY BOARD

[Signature]
Signature

JULIA MORRISON
Director, Corporate Services + Facilities
Name and Title

VANCOUVER BOARD OF PARKS AND RECREATION

[Signature]
Signature

Malcolm Bromley
Malcolm Bromley, GM
Van. Board of Parks and Recreation

VANCOUVER POLICE BOARD

[Signature]
Signature

CHIEF CONSTABLE ADAM PALMER
Name and Title
2020-01-30

SCHEDULE A - SCOPE OF SERVICES

1 SCOPE OF SERVICES

The Supplier will provide the provision of efficient and cost-effective towing services for the removal and relocation of Vehicles at the request of City Staff, Police Members, Parking Enforcement Officers, and Engineering Staff Members within a Reasonable Time to specific storage places and other places within the City and occasionally outside of the City, as directed from time to time, and the towing of and the disposal of Abandoned Vehicles and Scrap Vehicles in accordance with the instructions set out in this RFP.

To be specific, the Supplier shall, except for emergency situations or where the Supplier will, in the opinion of City Staff, be unable to respond within a Reasonable Time, be called to perform towing and other associated services in each of the following circumstances;

- a) Pick-up and towing of Vehicles from the scene of a motor vehicle accident where the owner or operator of a Vehicle does not specify a towing contractor or is unable or unwilling to do so and where a Police Member calls the Proponent.
- b) Pick-up and towing of Bylaw Impounded Vehicles.
- c) Pick-up and towing of Abandoned Vehicles, including the disposal thereof, when applicable.
- d) Pick-up, towing, ditch recovery and extrication of City and Police Vehicles and, when requested and when not otherwise handled by City employees, emergency roadside service calls for City and Police Vehicles.
- e) Pick-up and towing of City owned non-motorized equipment such as work/construction trailers, containers, and generators.
- f) Pick-up and towing all Vehicles required for Police Department investigations within the City limits or from other areas as directed by the Police Department; and
- g) Pick-up and towing of non-City owned Vehicles requiring relocation.

2 PRIORITIES

The following are priorities for the City and the Supplier will support the City with these priorities;

- a) Industry experience; The Supplier will provide expertise and knowledge as it pertains to towing services; examples of support include demand planning and towing services optimization.
- b) Assurance & variety of supply; The Supplier will provide the volume and type of Towing Vehicles required, including the ability to provide more sustainable Towing Vehicles.
- c) Competitive pricing; The Supplier will provide competitive market pricing for towing services for the City and the public for the term of the Agreement.
- d) Environment Leadership and Safety; The Supplier will comply with all safety and environmental policies and regulations; in addition the Supplier will manage and reduce GHG emissions associated with the service.
- e) Performance management; The Supplier will monitor, track and report on performance; provide a dedicated account management team that provides efficient, effective and professional services and processes to ensure towing services are executed quickly and

professionally; in addition, the Supplier will provide Employees that are courteous and professional.

- f) Technology; The Supplier will use technology to support the City; examples of support include trip optimization; fleet telematics; dispatch, invoicing and reporting.
- g) Integration; The Supplier will provide near real time integration with the Supplier's tracking and dispatch software solution and the City's software solution with a preference for an API.

3 VEHICLE STORAGE FACILITIES

The following list provides a brief description of the City's vehicle storage facilities;

- a) The "Abandoned Vehicle Storage Site (Current)" is located at 1150 East Kent Avenue South. This is a storage facility for abandoned vehicles for Engineering/Parking Enforcement (see attached Schedule 1 - Abandoned Vehicle Storage Site (Current)). This storage facility is operational Monday - Friday from 8:00a.m. - 4:00 p.m.
- b) The "Bylaw Impounded Vehicle Storage Site (Current)" is located at 425 and 455 Industrial Avenue. This is a storage facility for By-law Impounded Vehicles for Engineering/Parking Enforcement and Police Department (see attached Schedule 2 - Bylaw Impounded Vehicle Storage Site (Current)). This storage facility is operational 24 hours a day, 7 days a week.
- c) The "Evans Service Yard" is located at 955 Evans Avenue and is a facility for the Parks Board Equipment Services branch. This storage facility is operational Monday - Friday from 7:00 a.m. - 3:00 p.m.
- d) The "Fire Training Yard" is located at 900 Heatley Avenue and is a storage facility for the City's Fire & Rescue Services. This storage facility is operational 24 hours a day, 7 days a week.
- e) The "Manitoba Works Yard" is located at 250 West 70th Avenue and is the operations centre for numerous Engineering branches. Manitoba Works Yard is comprised of five buildings. This storage facility is operational Monday - Friday from 7:00 a.m. - 12:30 a.m.
- f) The "National Works Yard" is located at 701 National Avenue and incorporates the operations of three (3) City branches along with associated administrative support for the facility, including the Administrative Center and Parking Operations Building. The National Works Yard is comprised of five buildings. This storage facility is operational Monday - Friday from 7:00 a.m. - 10:00 p.m.
- g) The "VPD Industrial Vehicle Storage Site" is located at 455 Industrial Avenue and is a storage facility with a secured compound. This storage facility is operational 24 hours a day, 7 days a week.
- h) The "VPD Cambie Lot" is located under the Cambie Street Bridge and is a storage facility with a secured compound. This storage facility is operational 24 hours a day, 7 days a week.

4 OPERATIONAL REQUIREMENTS

4.1 General

- a) The Supplier will tow Vehicles when directed to do so by the City.
- b) The Supplier will operate a current computerized dispatch and tracking system with the capability to integrate with the City's software solution (currently Gtechna) to provide data visibility and reporting access to the tracking status of City-requested Tows.
- c) The Supplier must provide the City's Technology Services (and/or) City contracted service providers a well-documented digital mechanism (API) for the City to add, update and close tow requests.

Key Requirements of the API

- i. Secured connection between City data feed and Supplier system
- ii. Well documented connection and data feed requirements (including confirmation codes, update status mechanisms and error codes)
- iii. Well documented confirmation of connection and data entry/update of data flow between City and the Supplier's system
- d) The Supplier's computerized dispatch system shall provide near real-time updates back to the City's Parking Enforcement Platform on the status of towed Vehicles;
 - i. Date & Time Dispatched to Driver
 - ii. Start Time Attended by the Driver on scene
 - iii. End time on scene by the driver
 - iv. Status (e.g. In Transit, Drop Fee Charged, Gone on Arrival, etc.)
 - v. Time Arrived at Impound Yard
 - vi. Address / GPS coordinates of the tow pickup
 - vii. Associated City PEO ticket/request #
 - viii. Type of impound: (MVA, By law enforcement, City service, Abandoned vehicle request)
- e) The Supplier shall provide a mechanism for the City's Parking Enforcement Officers in the field (and/or dispatch) to cancel a tow request in the event the Vehicle is moved before the tow driver arrives on scene.
- f) The Supplier shall have a digital mechanism to hold communications in a queue in the event that the City network connection is unavailable, which will update once the network becomes available again.
- g) The Supplier shall have a manual process in circumstances in which the City and/or the Supplier network is unavailable to communicate between systems and dispatchers are still updated on tow statuses. The Supplier shall operate and maintain a computerized dispatch system utilizing vehicle-based GPS to ensure efficient deployment of resources.
- h) The Supplier shall operate and maintain a computerized dispatch system utilizing vehicle-based GPS to ensure efficient deployment of resources.
- i) The Supplier shall keep five (5) Towing Vehicles on duty in the City, twenty-four (24) hours a day, seven (7) days a week, exclusively for Police purposes.
- j) The Supplier shall keep a minimum of six (6) Towing Vehicles on duty in the City exclusively for Sanitation during October - January of each year during the term of the Agreement for the leaf cleaning season.
- k) The Supplier shall keep a minimum of ten (10) additional Towing Vehicles in the City, and on call, in readiness exclusively for calls pursuant to the Agreement, at least three (3) of which Towing Vehicles shall be capable of towing heavy trucks, semi-trailers, Fire Vehicles and buses (at least one (1) of these Towing Vehicles shall be a tandem axle Towing Vehicle).

- l) The Supplier shall, from 3:00 p.m. to 6:00 p.m. on Monday to Friday inclusive during the term of the Agreement, but excluding statutory holidays, keep an additional ten (10) Towing Vehicles on duty in the City's downtown core in readiness exclusively for calls pursuant to the services described in this RFP.
- m) The Supplier shall keep on call in readiness exclusively for calls at all times pursuant to the Agreement at least two (2) motorcycle trailers and one (1) suitable vehicle capable of towing a loaded tandem trailer.
- n) The Supplier shall establish and maintain adequate records of the services performed and, if the City so requests, the Supplier shall, within forty-eight (48) hours of the City's request, permit the City to inspect, review, retain and/or copy all records pertaining to the provision of services described in the RFP.
- o) The Supplier shall supply all equipment, insurance and manpower to perform all necessary procedures to carry out the services.
- p) The Supplier will ensure that all Vehicles are kept secure, especially Police Vehicles. The Supplier will not have access or will not attempt to gain access to interior or trunk of the Police Vehicles at any time.
- q) The Supplier shall be Payment Card Industry compliant.
- r) The Supplier is required to notify the City of Vancouver Parking Enforcement one (1) year prior to labor contract expiry and updates at six (6) month and three (3) month prior to contract expiry and 72 hour notice of any potential labor disputes.

4.2 Performance Standards

- a) Within any period of thirty (30) consecutive days during the term of the Agreement, the Supplier shall:
 - i. Attend one hundred percent (100%) of the Bylaw requests for Impounded Vehicle tows.
 - ii. Impound forty-five percent (45%) of the Bylaw requests for Impounded Vehicle tows.
 - iii. Attend one hundred percent (100%) of City Vehicle service calls.

The above requirements need to be met within the standards for timelines set out in the Agreement and requested by a City employee or any alternate response time as may have been determined by the Chief Constable or City Engineer or Contract Administrator. The City will reserve the right to terminate the Agreement in accordance with Article 11 of this Agreement.

- b) From time to time, the City requires time critical tows. The Supplier will receive a request for time critical service and shall, at the time of the request, confirm whether or not it is able to meet the time requirement. If the Supplier confirms it can meet the time requirement and subsequently fails to do so, the Supplier may, at the sole discretion of the City, be required to pay all extra costs incurred by the City in consideration for its failure to provide the service in accordance with its confirmation to the City.

4.3 Employee Standards

- a) It is the responsibility of the Supplier to ensure that each of its Employees performing services under the Agreement conducts himself or herself in a courteous and professional manner at all times.
- b) The Supplier shall ensure its Employees are appropriately trained and certified where applicable for the tasks they are responsible to perform.

- c) The Supplier shall ensure its Employees are neat and clean in appearance and wear a photo identification card with a first name and employee number clearly visible on the front side and a last name on the reverse side that matches a valid BC driver's license.
- d) Should the City receive complaints in regard to the conduct, appearance or activities of any of the Supplier's Employees, such complaint shall be sent to the Supplier. It shall be the responsibility of the Supplier to deal with its Employees in regard to such complaints and to notify the City in writing in a timely manner of the resolution it recommends to conclude the complaint.
- e) Should the City receive repetitive *bona fide* complaints from members of the public or from City staff in regard to a specific Employee and the Supplier has been unable to successfully resolve these complaints as documented by the Supplier's written confirmation of actions to the Contract Administrator, then the Supplier shall remove the Employee from the performance of services under the Agreement within two (2) working days of receipt of written notification from the City to do so.
- f) Should the City receive a complaint, which in the sole opinion of the Contract Administrator is of a highly serious nature, then upon written request by the Contract Administrator, the Supplier shall immediately remove the Employee from the performance of services under the Agreement.

4.4 Personnel and Equipment Requirements

- a) The Supplier must have at least twenty-five (25) Towing Vehicles of adequate size and/or capacity, together with sufficient operating personnel available for the services. The Towing Vehicles shall be deployed at locations within the City specified by the Chief Constable and/or City Engineer.
- b) The Supplier shall use energy-efficient vehicles to deliver the services in order to reduce the GHG emissions associated with the services.
- c) If, in the opinion of the City Staff, whose opinion shall be final and binding, the twenty-five (25) Towing Vehicles are inadequate to meet the service response times stated in the Agreement, the City may give the Supplier thirty (30) calendar days' notice, after which time the Supplier must prove that it has procured up to ten (10) additional vehicles to perform the services. The Supplier may choose to sub-contract, lease or buy these additional vehicles.
- d) All Towing Vehicles used, or required to be used pursuant to this Agreement:
 - i. Must be painted the same color prior to commencement of the services
 - ii. Shall carry a distinctive sign or decal at least twenty-four (24) inches in diameter which clearly identifies the Supplier
 - iii. Shall display a unique identifying number on each side of the vehicle
 - iv. Shall be in general good repair, where the exterior appearance of the vehicle and the condition of its interior finishing is of a standard commensurate with its original construction
 - v. Shall be radio controlled by a central dispatcher
 - vi. Shall have a handheld or vehicle enabled GPS system for efficient dispatching and also provides real-time status updates on the towed vehicle
 - vii. Shall have a transponder (gate entry remote) installed/removed at the Supplier cost
- e) The Supplier must have at least one (1) clear radio channel devoted exclusively to Bylaw Impounds and a second channel devoted exclusively to other City departments for services to be performed as described in the RFP. The Supplier is to provide identification of these radio

frequencies or the process and application documents to be utilized by the Supplier to obtain the required frequencies

- f) Within fourteen (14) calendar days of Agreement execution, the Supplier shall provide and pay for:
 - i. a dedicated telephone line/number between the Bylaw Impounded Vehicle Storage Site and the Police Communications Centre at E-Comm
 - ii. a dedicated telephone line/number with one (1) extension between the Bylaw Impounded Vehicle Storage Site and the Engineering Parking Enforcement Branch at 814 Richards Street, Vancouver, BC; and
 - iii. a fax telephone line separate from the City telephone line in the portable office building located at the Abandoned Vehicle Storage Site, or alternate accommodation as may be approved by the City.
- g) Prior to an Employee(s) being assigned by the Supplier to work in the office of the Bylaw Impounded Vehicle Storage Site or the Abandoned Vehicle Storage Site, the Employee(s) must be skilled, knowledgeable and able to meet the administrative and professional duties of the job function.
- h) The Supplier will make every effort to ensure that Employees discharging duties under the terms of the Agreement are of good character, free of a criminal record, and properly licensed and trained for the purpose; and at all times conduct themselves professionally and exhibit a reasonable level of deportment. Further to this, and at the sole discretion of the City or Police Department, any Employee of the Supplier or sub-contractor of the Supplier may be required to successfully pass a security check and / or Police background or criminal record check in order to perform duties of the Supplier within the scope of the Agreement.

4.5 Operating Procedures

- a) The Supplier shall, within four (4) weeks of Agreement execution, submit a copy of the operating procedures pertaining to both the Abandoned Vehicle site and the Bylaw Impounded Vehicle site to the Contract Administrator for his or her review and approval.
- b) Upon the approval of the Contract Administrator, the Supplier shall post the operating procedures in the offices at the Abandoned Vehicle site and the Bylaw Impounded Vehicle site for the benefit of its Employees.
- c) Should the Supplier wish to amend these operating procedures during the term of the Agreement, prior approval from the Contract Administrator is required.
- d) The City reserves the right to require the Supplier to amend the operating procedures from time-to-time during the term of the Agreement.

4.6 Posting of Rates

- a) The Supplier agrees that it will post, in the appropriate vehicle storage facilities, in a clearly visible manner to the public the rates and fees chargeable to the owners of vehicles, machines or chattels, under the terms of the Agreement.
- b) The Supplier agrees that the Drivers will carry the current schedule rates to share with the public upon request.

5 SERVICE REQUIREMENTS

5.1 Service Requirement for Accident Tows

- a) The Supplier shall provide all required towing from the scene of a motor vehicle accident where the owner or operator of a Vehicle does not specify a towing contractor or is unable or unwilling to do so and where a Police Member calls the tow.
- b) The City shall not pay the Supplier for such tows.
- c) The Supplier will provide minor clean-up of collision debris to the gutter area and provide and remove absorbent materials from the scene of a motor vehicle accident. There shall be no charge to the City for such clean-up.
- d) Where City's property is damaged as a result of a motor vehicle accident, the Supplier shall submit a written report describing the damaged property to the City's Risk Management office within forty-eight (48) hours of the incident. The report shall include:
 - i. Day and time damage to the property occurred
 - ii. Location and description of damaged property; and
 - iii. Where known, the color, make, model, year, and license number of vehicle which caused the damage

5.2 Service Requirement for Bylaw Impounded Vehicles

- a) Upon receiving a request from City Staff to remove a Bylaw Impounded Vehicle, the Supplier will promptly dispatch a suitable Towing Vehicle to remove the Bylaw Impounded Vehicle to the Bylaw Impounded Vehicle Storage Site or other place if so directed by City Staff.
- b) Once the tow has commenced, the Supplier shall take the Bylaw Impounded Vehicle directly to the Bylaw Impounded Vehicle Storage Site unless otherwise directed by City Staff.
- c) Where the Supplier delivers a Bylaw Impounded Vehicle to the Bylaw Impounded Vehicle Storage Site, a Police Impound Storage Site or other place as may be directed on a scheduled regular basis, it shall forthwith provide the Police Department or the City's Parking Enforcement Branch with the following particulars in a summary table in Excel format listing all Bylaw Impounded Vehicles towed within the previous 24 hours by 9:00am the following business day:
 - i. Color, make, model, year of Vehicle, GVW and license number or if unlicensed, the vehicle identification number in lieu of a license number
 - ii. Name or number of the Police Member or Parking Enforcement Officer who authorized the removal
 - iii. Tow status (towed to impound, drop charges and other information as required by the City)
 - iv. Damage caused to the Vehicle during recovery or loading
 - v. Method of loading (e.g. dollies, flatbed, etc. required)
 - vi. Day, time and location of pick-up, delivery point and reason for tow
 - vii. Charges for towing, fuel surcharge and storage; and
 - viii. Day, time and location of release
- d) The Supplier shall collect from the owner or person in charge of the Bylaw Impounded Vehicle a towing fee in accordance with the Impoundment By-law rates plus GST and, on behalf of the City, a storage fee in accordance with the instructions and rate schedule provided by City Staff from time to time.

- e) During the term of the Agreement, the Supplier shall not charge the owner or person in charge of a Bylaw Impounded Vehicle more than the rates authorized in the Impoundment By-law plus GST for the tow.
- f) Non-bylaw vehicles stored at 425 Industrial will be charged at the daily storage rate.
- g) Where the Supplier dispatches a Towing Vehicle in response to a call to remove a Bylaw Impounded Vehicle and upon arrival the Bylaw Impounded Vehicle has left the location prior to the arrival of the Towing Vehicle, no fee shall be charged to the City.
- h) In instances where the Supplier dispatches a Towing Vehicle and the Bylaw Impounded Vehicle is claimed before the Bylaw Impounded Vehicle has actually been towed away, the Supplier may charge the operator of the Bylaw Impounded Vehicle a "drop charge" of not more than fifty percent (50%) of the Impoundment By-law rates.
- i) Drop charges shall be wholly retained by the Supplier, but all such charges levied shall be recorded and reported to the Contract Administrator by the fifteenth (15th) of the following month.
- j) The City reserves the right to charge an administrative penalty of \$100 for failing to impound a vehicle that was impounded for all bylaws (other than bylaw 2849 section 17.2K). This penalty would only be applied if the occurrence was proven by way of admission, credible witnesses (PEOs, City of Vancouver staff and members of the public), photos or ticket records (amended - penalty for rush removed).
- k) The Supplier shall permit City Staff to inspect any or all Bylaw Impounded Vehicles stored at any of the storage places.
- l) **Bylaw Impounded Vehicle Storage Site:** The City will license to the Supplier a Bylaw Impounded Vehicle Storage Site for the storage of Bylaw Impounded Vehicles. At the commencement of the term of the Agreement, the City will license to the Supplier the Bylaw Impounded Vehicle Storage Site located at 425 and 455 Industrial by way of a license agreement. The license agreement terms shall be substantially in the form that is attached as Schedule L - Bylaw Impounded Vehicle Site License Agreement to this Agreement. The Supplier must execute the license agreement at the same time as the execution of the Agreement.
 - i. The location of the current Bylaw Impounded Vehicle Storage Site may change during the term of the Agreement as a result of development in the area and the Supplier will be required to move from the current Bylaw Impounded Vehicle Storage Site to a new Bylaw Impounded Vehicle Storage Site once it has been identified. Upon such relocation, the Supplier will enter into a replacement license agreement for the new site on substantially the same terms as those set forth in Schedule L - Bylaw Impounded Vehicle Storage Site License Agreement to this Agreement, with such other terms and conditions as are to the reasonable satisfaction of the Director of Legal Services. The Supplier shall be reimbursed for its reasonable expenses for such relocation, which reimbursement shall be limited to the actual expenditures incurred by the Supplier in physically relocating its trade fixtures to the new site, up to a maximum of \$10,000.
 - ii. During the term of the Agreement, the Supplier shall pay to the City a monthly license fee to use the Bylaw Impounded Vehicle Storage Site for the provision of the services. At the commencement of the term of the Agreement the monthly license fee will be no less than forty thousand dollars (\$40,000) at the current Bylaw Impounded Vehicle Storage Site at 425 Industrial Avenue and no less than twenty thousand five hundred dollars (\$20,500) at the current Bylaw Impounded Vehicle Storage Site at 455 Industrial Avenue.

- iii. Any time during the Term that ICBC increases or decreases the towing rate for Category 1, distance a. (up to six (6.0) kilometres) in its *Towing Rate Payment Schedule* by a percentage, the Supplier and the City will increase or decrease the licence fees described in this section by that same percentage.
- iv. The Supplier shall not use the current or any new Bylaw Impounded Vehicle Storage Site for the storage of any other vehicles and equipment unless, and only on such terms, as the Chief Constable or City Engineer or their Designated Representatives in writing permit from time to time.
- v. The Supplier will not use 425 Industrial Avenue to for staff parking.
- vi. The City will allow the supplier to utilise the first row, west side of the lot on 425 Industrial Avenue to park tow vehicles at no charge unless there is an expectation that a special event will fill the lot to its maximum capacity, in which case no parking will be allowed for the day of the event.
- vii. The license fee set out herein will not change as a result of a change in location of the Bylaw Impounded Vehicle Storage Site.
- viii. The Supplier shall be responsible, at its sole cost:
 - To staff and operate the site twenty-four (24) hours a day and seven (7) days a week; currently, the site has a minimum of one (1) staff during graveyard hours and a minimum of three (3) staff during peak period hours (Monday to Friday, from 3:00 p.m. to 6:00 p.m.).
 - To supply on-site radio, telephone and fax equipment; a computer system capable of communication with the City's computerized parking enforcement dispatch system API data feedback; Interact access; and other such equipment and services required in the provision of the services.
 - Gate access control system at 425 Industrial Avenue - the City will pay for hardware, installation and maintenance costs. Supplier will pay for windshield decals, annual/monthly web subscription access fees and wireless network charges.
 - To pay all monthly charges for water, sewer, electricity and internet connection.
 - To collect towing fees from the owners and persons in charge of the Bylaw Impounded Vehicles and to pay and discharge all taxes (including federal and provincial) related to the towing fees so collected and provide the Contract Administrator written proof thereof on the last day of each month.
 - On behalf of the City, to collect from the owners of the Impounded Vehicles storage charges in accordance with the City's directives and at the rate set out by the City, both of which may change from time to time.
 - To provide landscaping and general maintenance to the site.
- ix. The current Bylaw Impounded Vehicle Storage Site will accommodate storage of approximately one hundred and forty (140) Vehicles.

5.3 Service Requirements for Abandoned Vehicles

- a) The Supplier shall be responsible for the operation of the Abandoned Vehicle Storage Site and for performing all administrative procedures from the time the Abandoned Vehicle is towed, as outlined below:

- i. Record vehicle identification numbers (VIN) and a vehicle condition report (including photos). The City reserves the right to charge an administrative penalty of \$50 for each occurrence for failing to record the correct V.I.N. when performing mail outs and lien removals. Failure to record the correct V.I.N delays the scrap/auction process by 30+ days for each occurrence.
 - ii. Perform within seven (7) days of the impounding of such vehicle in our possession:
 - Registered owner searches;
 - CPIC search through the Vancouver Police Department; and
 - Double registered mail notifications to the last known registered owner of the Abandoned Vehicle outlining the Abandoned Vehicle recovery procedure
 - iii. Perform within 30 days of the impounding of such vehicle in its possession:
 - A lien search under the Personal Property Security Act (British Columbia); and
 - Double registered mail notifications to any lien holders or charge holders, outlining the Abandoned Vehicle recovery procedure
 - iv. Lien discharge procedure, when required
 - v. Keep an accurate daily record of Abandoned Vehicles towed, Scrap Vehicle disposals, and removals to auctioneers or to locations as otherwise directed, as well as owner claims.
 - vi. Allow for public access for the claiming of Abandoned Vehicles from Monday to Friday, 8:00 a.m. to 4:00 p.m., excluding statutory holidays.
 - vii. Hold all personal property taken from Abandoned Vehicles for a minimum of sixty (60) calendar days after the date the Abandoned Vehicle was towed and the notice was issued to the last registered owner; any contents in the Abandoned Vehicle will be disposed of once the Abandoned Vehicle is deemed scrap.
 - viii. Provide a process for handling public enquiries; at minimum the Supplier is expected to provide telephone number, email address and website information for the public.
 - ix. Be responsible for the collection of all charges and fees payable.
- b) The Supplier shall provide City Staff in Excel format a summary table listing all Abandoned Vehicles towed within the previous 24 hours by 9:00 a.m. the following business day; summary table to include the following data;
- i. Colour, make, model, year of Vehicle, GVW and license number or if unlicensed, the vehicle identification number in lieu of a license number
 - ii. Name or number of the Police Member or Parking Enforcement Officer who authorized the removal
 - iii. Damage caused to the Vehicle during recovery or loading
 - iv. Method of loading (e.g. dollies, flatbed, etc. required)
 - v. Day, time and location of pick-up, delivery point and reason for tow
 - vi. Charges for towing, fuel surcharge and storage
 - vii. Day, time and location of release
- c) Abandoned Vehicles shall be towed to and temporarily stored at the Abandoned Vehicle Storage Site.

- d) Upon receiving a request from a Parking Enforcement Officer to remove an Abandoned Vehicle, the Supplier will dispatch a suitable Towing Vehicle within forty-eight (48) hours from the time the Supplier receives the request to remove the Abandoned Vehicle.
- e) Should the Supplier fail to perform the tow in the time set out above, the City may, at its discretion, order another automobile towing company to tow the Abandoned Vehicle and store it that towing company's storage place.
- f) The Supplier shall then re-tow the said Abandoned Vehicle to the City's Abandoned Vehicle Storage Site within twenty-four (24) hours, and shall reimburse the first towing company, or the City, as the case may be, for all towing and storage charges. The City shall not reimburse the Supplier for the said re-tow. Because the original tow occurred as a result of the Supplier's failure to perform on a timely basis, the Supplier shall not charge any claimant to the Abandoned Vehicle for costs of re-towing the Abandoned Vehicle from the first towing company's storage place.
- g) Where the Supplier dispatches a Towing Vehicle in response to a call to remove an Abandoned Vehicle under the terms of the Agreement, and upon arrival the Abandoned Vehicle has left the location prior to the arrival of the Towing Vehicle no fee shall be charged to the City.
- h) In instances where the Supplier dispatches a Towing Vehicle, and the Abandoned Vehicle is claimed by the owner or authorized operator of the Abandoned Vehicle before the Abandoned Vehicle has actually been towed away, the Supplier may charge the operator of the Abandoned Vehicle a "drop charge" of not more than fifty percent (50%) of the applicable current charges. Drop charges for Abandoned Vehicles shall be retained by the Supplier as full payment. No further payment shall be made to the Supplier by the City for the call-out.
- i) For each tow of an Abandoned Vehicle, the Supplier shall charge the City the Normal Service rate plus GST as set out in Schedule B - Prices for Services of this agreement.
- j) All Abandoned Vehicles are subject to claim prior to disposal by the owner. The Supplier shall collect from the owner or person in charge one hundred percent (100%) of the Impounding Bylaw Rate, plus the City's storage and administration fees, and GST when claiming the Abandoned Vehicle. The Supplier shall be responsible for the collection of all such charges and fees on behalf of the City.
- k) If the Supplier fails to collect these charges and fees from the owner, the Supplier shall reimburse the City for such sums, and the City shall be entitled to set off such amounts from the charges and fees that the City is liable to pay to the Supplier under the Agreement.
- l) During the term of the Agreement, the Supplier shall not charge the owner or person in charge of an Abandoned Vehicle more than the Impounding Bylaw Rate plus GST for the tow.
- m) The Supplier agrees that the Impounding Bylaw Rates, plus the City's storage and administration fees as applicable, shall be conspicuously posted for the public and to the satisfaction of City Staff, at all storage place offices utilized in the performance of the service.
- n) Any Vehicle towed as an Abandoned Vehicle and which is subsequently determined to have been stolen or is otherwise required for Police investigation, shall be re-towed to the Police garage or any other place in the City as directed by a Police Member. The Supplier shall charge the City either the Priority Service rate or the Normal Service rate for the tow dependent upon the service level requested by the City.
- o) All Abandoned Vehicles shall be appraised by an appraiser or other official provided by the City, at the City's expense. Any Abandoned Vehicle appraised at five hundred dollars (\$500) or

less or otherwise deemed by the City to be unsuitable for auction, shall be determined to be a Scrap Vehicle for the purposes of the Agreement and shall be disposed of by the Supplier in accordance with Division 3 of the Transportation Act (British Columbia) and related regulations or sections under the Motor Vehicle Act (British Columbia), as the case may be.

Scrap Vehicle Disposal Procedure: Scrap Vehicles shall be towed intact at the City's expense to a suitable place for the purpose of selling and disposing of the Scrap Vehicle. The Supplier shall charge the City the rate for Normal Service for such tow. The City will retain One Hundred percent (100%) of scrap vehicle revenue generated from vehicles towed from 425 Industrial Avenue and 1150 E. Kent North Ave from the Scrap recycler.

All Scrap Vehicles are to be SCRAPPED ONLY. No consideration will be given to re-licensing any of these Scrap Vehicles.

- p) Any Abandoned Vehicle appraised in excess of five hundred dollars (\$500) and suitable for auction, at the direction of the City shall be towed at the expense of the City to an auctioneer, or other locations within the City, or outside the City, designated by the City's Abandoned Vehicle Program Supervisor. The Supplier shall charge the City the rate for Normal Service for such tow.
- q) The Supplier shall permit City Staff to inspect any or all of the Abandoned Vehicles stored at the Abandoned Vehicle Storage Site or any other storage places.
- r) **Abandoned Vehicle Storage Site:** The City will license to the Supplier an Abandoned Vehicle Storage Site for the storage of Abandoned Vehicles. At the commencement of the term of the Agreement, the City will license to the Supplier the Abandoned Vehicle Storage Site located at 1150 East Kent Avenue South by way of a license agreement. The license agreement terms shall be the same as those set forth in Schedule M - Abandoned Vehicle Storage Site License Agreement to this Agreement. The Supplier must execute the license agreement at the same time as the execution of the Agreement.
 - i. The Supplier shall pay to the City a one-time fee of one dollar (\$1.00) for the Abandoned Vehicle Storage Site at the time of Agreement execution.
 - ii. The location of the current Abandoned Vehicle Storage Site may change during the term of the Agreement as a result of development in the area and the Supplier will be required to move from the current Abandoned Vehicle Storage Site to a new Abandoned Vehicle Storage Site once it has been identified. Upon such relocation, the Supplier will enter into a replacement license agreement for the new site on substantially the same terms as those set forth in Schedule M - Abandoned Vehicle Storage Site License Agreement of this Agreement, with such other terms and conditions as are to the reasonable satisfaction of the Director of Legal Services. The Supplier shall be reimbursed for its reasonable expenses for such relocation, which reimbursement shall be limited to the actual expenditures incurred by the Supplier in physically relocating its trade fixtures to the new site, up to a maximum of \$10,000.
 - iii. The Supplier shall be responsible, at its sole cost:
 - To staff and operate the site eight (8) hours a day (8:00 a.m. - 4:00 p.m.) Monday to Friday inclusive, but excluding statutory holidays; currently the site has a minimum of one (1) staff during operating hours
 - To pay all monthly charges for water, sewer, electricity and internet network
 - To supply on-site, and at its sole cost, fax, and computer equipment; and other such equipment and services required in the provision of the services

- On behalf of the City, to collect from the owners reclaiming Abandoned Vehicles, towing fees, administration fees, and storage charges, in accordance with the City's directives and at the rates set out by the City, both of which may change from time-to-time.
 - To provide landscaping and general maintenance to the site
 - To perform registered owner searches, specifically:
 - a CPIC search through the City of Vancouver Police Department;
 - a lien search under the Personal Property Security Act (British Columbia);
 - double registered mail notifications to the last known registered owner of the Abandoned Vehicle any lien holders or charge holders; and
- iv. The City may provide alternative or additional storage places, in which cases the agreed to prices shall be applicable to these alternative or additional storage places
- v. Heavy duty towing vehicles (up to 3) stored at no cost at 1150 E Kent North in exchange for minor clean up (i.e. removing items from trailers / vehicles, light yard clean up as required) and up to 5 vehicle moves within the lot per month. To mitigate the number of in-lot tows, vehicles arriving in lot need to be parked according to lot plan based on vehicle type, age and condition, accessible based on planned removal from lot.
- vi. The Supplier shall not use the Abandoned Vehicle Storage Site for the storage of any other vehicles and equipment unless, and only on such terms, as the Chief Constable or City Engineer or their Designated Representatives in writing permit from time to time

5.4 Service Requirement for Police and City Owned Vehicles

- a) Upon receiving a request from City Staff to pick-up and tow or provide emergency roadside service to a Police or City Owned Vehicle situated within the City or from outside the limits of the City, the Supplier will promptly dispatch a suitable Towing Vehicle to remove the Police or City Owned Vehicle to the appropriate City storage lot or other place as directed by City Staff or provide the emergency roadside service as may be requested.
- b) Once the tow has commenced, the Vehicle shall be taken directly to the destination requested by City Staff, unless otherwise directed by the Vancouver Police Department in the event of an emergency situation
- c) Where the Supplier delivers a Police Vehicle or City Owned Vehicle to the City Garage or other place as may be directed from time to time, it shall provide the Police Department or the City Engineering Department with the following particulars in Excel format:
- i. Color, make, model, year, City or Police Vehicle number, GVW and license number
 - ii. Name or number of the Police Member or Engineering Staff Member who authorized the removal
 - iii. Tow Status: (towed to impound and other information as required by City or Police)
 - iv. Damage caused to the City or Police Vehicle during recovery or loading
 - v. Day, time and location of pick-up, delivery point and reason for tow
 - vi. Charges for towing, fuel surcharge and storage
 - vii. Shop/vehicle unit and license plate number; and
 - viii. Police signature including PIN number
- d) The Supplier shall charge the City for City and Police Vehicle tows and other related services as set out in Schedule B- Price for Services of this Agreement.

5.5 Service Requirement for Vehicles Required for Police Investigations

- a) Upon receiving a request from a Police Member to remove a Vehicle required for a police investigation, the Supplier will promptly dispatch a suitable Towing Vehicle to remove the Vehicle to the Police Impound Storage Site or other place if so directed by a Police Member.
- b) Once the tow has commenced, the Vehicle shall be taken directly to the Police Impound Storage Site unless otherwise directed by City Staff. For secured compound drop off, dispatcher must inform VPD dispatcher to have standby person available to unlock the secured compound.
- c) Where the Supplier delivers a Vehicle to the Police Impound Storage Site or other place as may be directed from time-to-time, it shall provide the Police Department with the following particulars in Excel format:
 - i. Color, make, model, year of Vehicle, GVW and license number or if unlicensed, the vehicle identification number in lieu of a license number
 - ii. Name or number of the Police Member who authorized the removal
 - iii. Method of loading (e.g. dollies, flatbed, etc. required)
 - iv. Tow status (e.g. towed to impound and other information as required by the City)
 - v. Damage caused to the Vehicle during recovery or loading
 - vi. Day, time and location of pick-up, delivery point and reason for tow
 - vii. Charges for towing, fuel surcharge and storage; and
 - viii. Day, time and location of release
- e) The Supplier shall charge the City for tows of Vehicles required for Police investigations and other related services as set out in Schedule B- Price for Services of this Agreement.

5.6 Service Requirement for Non-City Owned Vehicles Requiring Re-location

- a) Upon receiving a request from City Staff to relocate a Vehicle, the Supplier will promptly dispatch a suitable Towing Vehicle to remove the Vehicle to the place directed by City Staff.
- b) Once the tow has commenced, the Vehicle shall be taken directly to the location directed by the Engineering Staff Member or Police Member or Parking Enforcement Officer.
- c) Where the Supplier relocates a Vehicle, it shall provide the City's Engineering Department or Police Department with the following particulars in Excel format:
 - i. Color, make, model, year of Vehicle, GVW and license number or if unlicensed, the vehicle identification number in lieu of a license number;
 - ii. Name or number of the Police Member or Engineering Staff Member or Parking Enforcement Officer who authorized the relocation;
 - iii. Method of loading (e.g. dollies, flatbed, etc. required)
 - iv. Towing status (e.g. towed to impound and other information as required by the City)
 - v. Damage caused to the Vehicle during recovery or loading;
 - vi. Day, time and location of pick-up, delivery point and reason for tow;
 - vii. Charges for towing, fuel surcharge and storage; and
 - viii. Day, time and location of release
- d) The Supplier shall charge the City for tows of Vehicles requiring relocation as set out in Schedule B- Price for Services of this Agreement.

6 INVOICES

- a) Payment Due to the Proponent

The Supplier will be required to provide invoices as per Article 8 - Payment; Audits; Assurances of Part D - Form of Agreement. The Supplier will work with the City to ensure invoicing is done in a sustainable manner minimizing the use of paper and maximizing the use of electronic methods such as handheld devices from initial impound pick-up to final dispersal of funds to pay for the tow.

b) Payment Due to the City

Payment due to the City shall be paid monthly in advance and is due and payable on the first day of each month. Payment shall be directed to the attention of:

Manager - Parking Enforcement
City of Vancouver
#120 - 814 Richards Street
Vancouver, BC
V6B 3A7

7 REPORTING

7.1 General Reporting

The Supplier will be required to deliver near real-time and post activity status reports and detailed management reports which will be submitted to the City in the following format:

- Form of the report must be an Excel file (*.xlsx)
- The file name of the report to include the date period it covers (i.e. Fuel Consumption Report Jan 1 2017 to Dec 31 2017.xlsx)
- The report file must include a summary tab of the grouped datasets requested and a detail tab with the raw data

The Suppliers shall provide the City with status reports and detailed management reports regarding the performance and quality of the services at such intervals and based on information as the City may reasonably request. Each such report shall be made up to the end of the period in respect of which it is made, shall be in a form acceptable to the City and shall contain all information as may be required by the City from time to time. These reports will be used to improve performance and quality and improve efficiency and or reduce costs.

7.2 Fuel Consumption Reporting

The Supplier will be required to deliver a report detailing the type(s) and quantity(ies) of fuel used to operate vehicles, equipment and machinery as part of the delivery of the services described in the Agreement, and to provide this data to the City on the 31st of January each calendar year.

Data provided should include the following (see sample format):

- Type of fuel consumed (e.g., diesel, gasoline, natural gas, propane, and biofuel blends); and
- Total distance travelled
- Litres of fuel consumed in relation to the service delivered under the Agreement
- Although actual fuel volumes are preferred, the City recognizes it may be difficult to assign fuel use to any particular contract. In these cases, apportioning fuel use for equivalent services based on contract dollar value, total service hours, or some other logical method is acceptable. If fuel consumption is prorated and/or estimated, the method of proration and/or estimation must be noted.

- The Supplier may also be required to provide a breakdown of fuel used per piece of equipment as shown in the detailed report format.

The City can provide direction, if necessary, on how to calculate this information.

Sample Report Format:

Grouping		Gasoline (liters)	Diesel (liters)	Other fuels (list) (liters)
Vehicle Type (i.e. Tow, service truck, Flatbed tow truck)	Number of Vehicles			
	Total number of service hours			
	Total Distance travelled (km) (per vehicle type & fuel type)			
	Total Fuel Consumed (litres) (per vehicle type & fuel type)			
	Prorated based on*			

*Please note method of apportionment if volume data is not directly collected.

8 FLEET SUSTAINABILITY

In support of the City of Vancouver's Climate Strategy goals to reduce GHG emissions [<https://vancouver.ca/green-vancouver/climate-change-adaptation-strategy.aspx>] the Supplier agrees to work towards reducing its fleet emissions through a fleet replacement. The Supplier will target and replace its older fleet with more energy efficient vehicles including zero emissions, bio-diesel, fully electric or other alternatively fueled vehicles as technological advancements and industry allows. The Supplier will also work towards using more sustainable fuels (R100) for its current fleet. The Supplier will monitor carbon footprint through integrated telematics [at the Supplier's cost] and provide annual reports documenting the results of the Supplier's fleet replacement strategy.

- ☐ The Supplier will report annually on its GHG emissions. For measurement purposes 2018 will be baseline year with Busters GHGs being approximately 1,652 tonnes of CO₂e based on the following calculation:
 - Diesel: 613,040 Litres * 2.630 kg CO₂e/L = 1,612 tonnes of CO₂e
 - Gas: 17,000 Litres * 2.379 kg CO₂e/L = 40 tonnes of CO₂e
 - Total: 1,652 tonnes of CO₂e
- ☐ The Supplier commits to reducing its GHG emissions by 30% by 2030
- ☐ The Supplier commits to increasing its %KM travelled by zero emissions vehicles from 0% in 2019 to 10% by 2030.

- ☐ The Supplier commits to updating 100% of the fleet to SCR + DEF compliant vehicles (excluding 2 vehicles of GVW > 16,000 KG) over the next 4 years (end 2023).
- ☐ The Supplier and the City commit to “assessing opportunities to provide the Supplier with limited access to the Manitoba and National Works Yards as supply sites for low carbon fuel”
- ☐ Electric and Hybrid Vehicles
 - The Supplier will consider electric and hybrid vehicles and other technologies as they become available and at a price point that is in line with current truck capital expenditure level.

9 SOFTWARE

1. Fleet Telematics

This will be done via a 3rd party component included in the trucks and plugged into the OBDII system. For trucks that do not have an OBDII system, an analog component will capture most of the information. Once this is generated, fleet reports will be available as requested.

- ☐ Discovery and analysis: 3 months from contract signing.
- ☐ Beta: concurrent with discovery for testing and supplier vetting
- ☐ Full integration: 6 months from contract signing

2. API Modifications to receive information from towing vehicles and allow the Supplier to send information to the City;

- ☐ Receive call cancellation via API
- ☐ Receive GPS coordinates via API
- ☐ Transmit call status/progress to the COV via API
- ☐ Addition of vehicle model (TBC by COV)

To maximize deliverables, we are suggesting doing all modifications to the API at the same time with simultaneous deployment. Delivery is directly linked to GTechna's availability; approximately 6 months to beta (full integration dependent on City code modification) from contract signing

3. Addition of GPS [visual]; adding GIS capability to existing or new software to receive bylaw GPS coordinates from the City when tickets are electronically transferred. Coordinates have been covered in 2 above. As for visual component, a 3rd party service will be used to capture and display the information. This component will be in the Suppliers' dispatch office as well as in the trucks via mobile equipment in each truck.

- ☐ Discovery and analysis: 3 months from contract signing
- ☐ Beta: concurrent with discovery and analysis for testing and supplier vetting
- ☐ Full integration: 3 to 6 months from contract signing

4. Reporting and City On-line Access for Reports

a) Prepared reports to be available to users on demand: deployable once reports have been identified; user skill set is minimal

- ☐ Discovery and analysis: 1 month from contract signing (dependent on COV providing list of

- required reports)
- ☐ Full integration: 3 months from contract signing (dependent on COV providing list of required reports as stated above)
- b) Ad-hoc reports to be created by users on demand: will require users to possess a full understanding of the database schema as well as a skill set in creating SQL reports; access to the database will be via secure communication - review of requirements necessary as this is a new request
- ☐ Discovery and analysis: 3 months from contract signing
- ☐ Full integration: 3 months from contract signing depending on discovery and analysis could go to 6 months

Reports will include, but are not limited to, workflow of towing activity including time stamps for each vehicle beginning when a tow is requested i.e.: dispatch time, truck response time, truck arrival time at tow, tow action or call off time on tow (GOA) , arrival time at yard, customer pick up time, number and types of tows, financial reporting on revenue and costs associated with towing services, etc.; to be completed within 3 months of contract signing.

5. 2-way communication with the Fleet/City/Supplier

This will be done via a 3rd party component which will be added to the fleet and will be able to receive/transmit information in real time.

- ☐ Discovery and analysis: 3 months from contract signing
- ☐ Beta: Q1 2020
- ☐ Full integration: Q2 2020

10 ICBC RATES

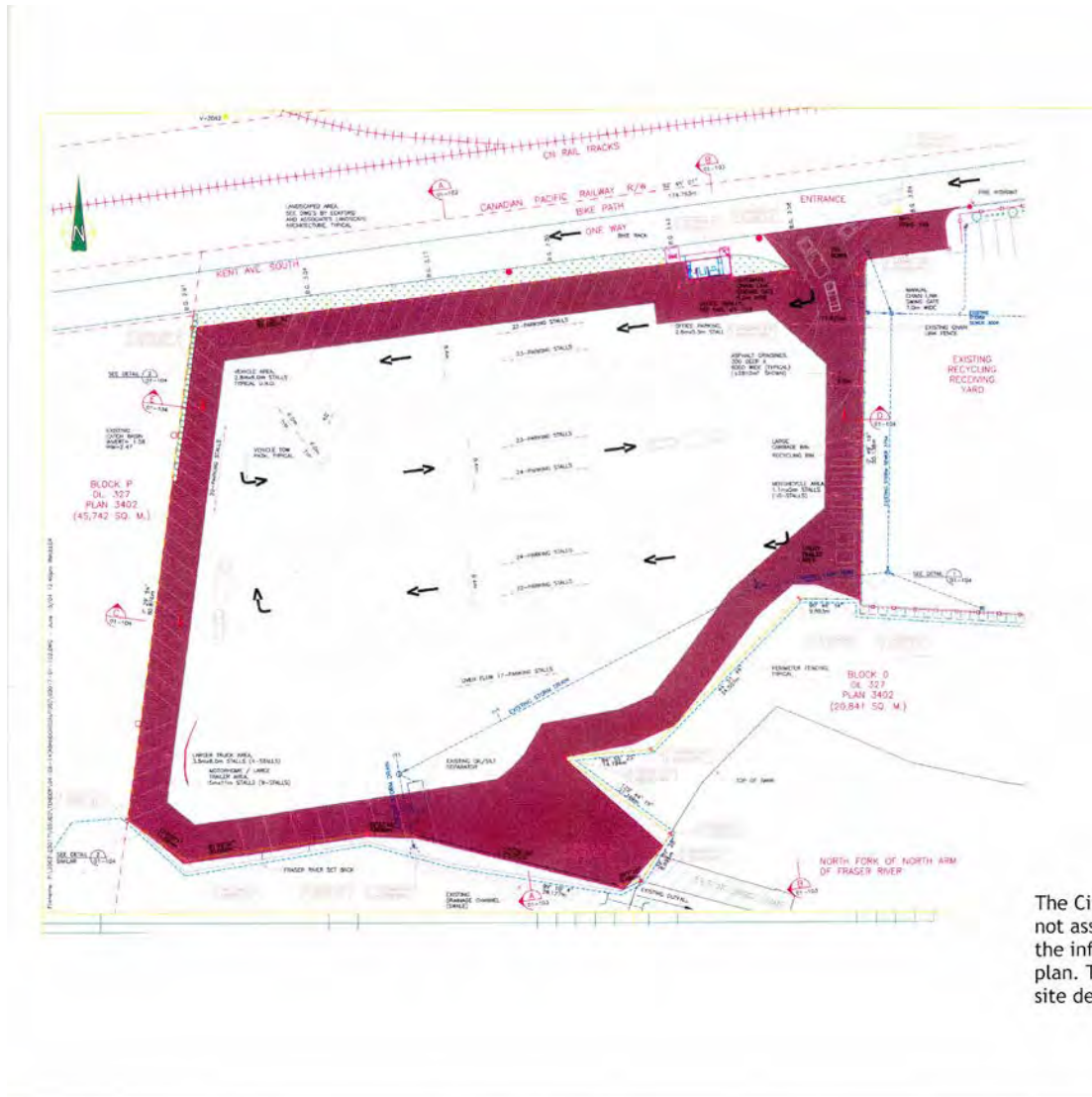
- a) During the term of the Agreement, except where specifically stated, such as Schedule B- Price for Services of this Agreement, the rates charged by the Supplier shall be the ICBC Base Rates on January 1, 2016.
- b) The ICBC Rates shall be increased or decreased during the term of this Agreement in the following manner:
 - i. Upon the City receiving notice from the Supplier that the ICBC Rates have either increased or decreased (and the City confirming this increase or decrease with ICBC), the City shall within one-hundred (120) days thereof, put forward an amendment to the Impounding Bylaw authorizing the new increased or decreased ICBC Rates at its sole discretion; and
 - ii. When the Impounding Bylaw has been amended by Vancouver City Council, the Supplier will then charge the new increased or decreased rates as the ICBC Rates until such rates are changed in accordance with the above.
- c) Discontinuance of ICBC Rates
 - i. If ICBC ceases to publish a *Towing Rate Payment Schedule*, the parties to the Agreement must agree on a replacement ICBC Rate. If the parties fail to agree on a substituted ICBC Rate, the substituted ICBC Rate shall be determined by referring the matter to a single arbitrator under the provisions of the Commercial Arbitration Act (British Columbia) and the decision of that single arbitrator shall be final and binding upon the parties hereto. The

cost of any such arbitration shall be borne equally by the parties hereto. The arbitration shall take place in the City of Vancouver, Province of British Columbia.

SCHEDULE 1
ABANDONED VEHICLE STORAGE SITE PLAN (CURRENT)



SCHEDULE 1 Continued
ABANDONED VEHICLE STORAGE SITE PLAN (CURRENT)



SCHEDULE 2
BYLAW IMPOUNDED VEHICLE STORAGE SITE PLAN (CURRENT)



SCHEDULE 3 ICBC TOWING RATES AND PAYMENT SCHEDULE


Towing and Storage Rate Payment Schedule

Effective on all ICBC authorized claims with towing/storage services on or after January 1, 2016.
ICBC pays all applicable GST.

Towing Categories

Applicable Tow, Distance and Category Hourly Rates are based on the GVWR of the towed vehicle. Tow company is responsible for using an appropriate tow vehicle.	Category I (Light Duty)		Category II (Medium Duty)		Category III (Heavy Duty)		Category IV (Heavy Duty)	
	Towed vehicle up to 2,999 Kgs GVWR Towing & Recovery Plus (T&R+)		Towed vehicle 3,000 Kgs to 5,300 Kgs GVWR Towing & Recovery Plus (T&R+)		Towed vehicle 5,301 Kgs to 9,072 Kgs GVWR Towing & Recovery Plus (T&R+)		Towed vehicle 9,073 Kgs GVWR and over Towing & Recovery Plus (T&R+)	
	Base	T&R+	Base	T&R+	Base	T&R+	Base	T&R+
Claim Required (1st Tow) Rates Up to 6.0 kms	\$67.57	\$77.46	\$78.85	\$81.80	\$125.00	\$129.67	\$166.26	\$172.47
Claim Required (2nd & Additional Tow) Rates Up to 6.0 kms	\$48.06	\$56.16	\$78.85	\$81.80	\$88.91	\$92.23	\$150.96	\$156.60
a) 6.1 to 16.0 km (Add per km)	\$2.59	\$2.64	\$3.00	\$3.05	\$3.65	\$3.72	\$7.69	\$7.83
b) 16.1 to 32.0 km (Add per km)	\$2.19	\$2.23	\$2.74	\$2.79	\$3.09	\$3.15	\$6.59	\$6.71
c) 32.1 km and over (Add per km)	\$1.90	\$1.93	\$2.24	\$2.28	\$2.49	\$2.53	\$4.73	\$4.82
Category Hourly Rate for Additional Services (Items I, II, III, IV, V, VI, VII, IX, XI, XII)	\$67.57	\$70.09	\$78.85	\$81.80	\$125.00	\$129.67	\$166.26	\$172.47

For details on procedure, policy and supplier requirements refer to Chapter 10, *Towing*, and Chapter 13, *Supplier Requirements*, of the ICBC *Material Damage Procedures Manual*.

**Towing Rate Definitions for Heavy Duty Tow Equipment
(Towed vehicle 9,073 Kgs GVWR and over)**

The Category IV Hydraulic 1st, 2nd & Additional Tow Rates apply to heavy duty tow trucks with tandem drive rear axles, a hydraulic extendable boom and a hydraulic under-lift or wheel-lift.

The Category IV Hydraulic 2nd & Additional Tow Rate applies to all tows completed by:

- a heavy duty multi rear axle sliding deck trailer and tractor
- a heavy duty tandem drive rear axle roll-back carrier tow truck (flat deck)
- distance charges for Category III & IV towed vehicles taken directly from the accident/recovery location to a repair facility are based on the distance from the initial tow truck dispatch location to the accident/recovery location or the distance to the repair facility whichever is greater.

Heavy Duty Rotator & Tri-Drive in service rates start when a tow company dispatches the tow truck, includes the travel time to the scene, and ends after the tow truck completes providing assistance at the scene and if applicable, returns to their normal service area/yard. The appropriate in service rate applies in ¼ hour increments with a 1 hour minimum. Provide GPS tracking statement if possible to assist in reconciling invoices.

- a heavy duty rotator in service rate of \$335.00 applies to a heavy duty tow truck with minimum tandem drive rear axles, a rotating hydraulic extendable boom with a lifting capacity of a minimum of 35 tons and a hydraulic under-lift or wheel lift.
- a heavy duty tri-drive in service rate of \$275.00 applies to a heavy duty tow truck with tri-drive rear axles, hydraulic extendable boom with a lifting capacity of 50+ tons and a hydraulic under-lift or wheel lift.

Claim Required Additional Services

Note: When initially or subsequently dispatched to a difficult accident/recovery situation; submitting scene photos is encouraged to assist in reconciling additional service charges.

Note: Category II, IV, Rotator and Tri-Drive invoices that include Additional Service charges, require a minimum of four scene photographs to assist in reconciling the accident/recovery services provided. In urgent recovery situations or in low visibility conditions, it may not be possible to provide photos.

I Recovery

- Recovery charges are paid at the applicable Category Hourly Rate in ¼ hour increments, with a ½ hour minimum.

Note: Occasionally, circumstances require a tow truck with a higher capacity than the GVWR category hourly rate of the towed vehicle in order to complete a recovery. Under such circumstances, scene photos and a detailed written description of the services are required for invoice reconciliation.

II Recovery with Service Truck

- The applicable Category I 2nd & Additional Tow Rate applies from when the tow company dispatches the service vehicle(s), including the travel time to the scene, and ends after the additional truck driver completes providing assistance at the scene and returns to their place of departure prior to callout with a ½ hour minimum.

III Additional Tow Truck(s) required

- The appropriate Category Hourly Rate applies in ¼ hour increments, with a 1 hour minimum.

IV Loading and Securing Vehicles

- Loading and securing charges apply if loading and securing the vehicle for transport takes more than 10 minutes due to the extent of damage; i.e. vehicle broken into pieces, major add on attachments are separated from vehicle or a burnt vehicle that requires tarping to prevent spreading of debris.
- Loading and securing charges are paid at the applicable Category Hourly Rate, in ¼ hour increments with a ½ hour minimum.

V Motorcycles (applicable only to Light and Medium Duty)

- Applicable Category II Tow Rates apply to all motorcycle tows with an engine displacement of 400cc and over.
- Applicable Category I 1st Tow Rate applies to all motorcycle tows with an engine displacement under 400cc.

VI Standby Time

- Standby charges are paid at the applicable Category Hourly Rate in ¼ hour increments, with a ½ hour minimum.

VII Vehicles with No Wheels or Tires (applicable only to Light and Medium Duty)

- First tow for vehicles with two or more wheels and tires missing on different axles are paid at the applicable Category I 1st Tow Rate based on the GVWR of the vehicle being towed. Category I 2nd & additional tows are paid at the applicable 2nd & Additional Tow Rate.
- A one-half hour loading and securing charge at the applicable category hourly rate also applies to each tow due to the extra care and time required to load and unload these vehicles.
- This additional service charge may also apply to tows for vehicles with two or more flats on different axles for lowered vehicles or on burnt vehicles. Proper documentation must be provided and/or photos.

VIII Additional Service Rates Pertaining To Vehicles in Category I and Category II (applicable only to Light and Medium Duty)

- Mileage for use of dollies when the distance traveled exceeds 32.0 km while on a:
 - o Paved highway - \$0.43 per km for every km in excess of the 32nd km.
 - o Gravel or dirt road - \$0.63 per km for every km in excess of the 32nd km.
- When required, four-wheel drive tow trucks are invoiced at the applicable Category II Hourly Rate plus an additional 25% of the applicable Category II Hourly Rate. Distance charges are not applicable during the time the four-wheel drive hourly rate is applied.

IX Unusually Difficult Road Conditions

- Unusually Difficult Road Conditions charges are paid at the applicable Category Hourly Rate in ¼ hour increments, with a ½ hour minimum. Distance charges are not applicable during the time the unusually difficult road condition rate is applied.

X Extra Person/Flag Person

- ¼ of the applicable Category I Hourly Rate/hour.
- ¼ hour increments, with a ½ hour minimum.

XI Special services pertaining to vehicles having a GVWR of over 3,000 kgs

- Charges for any one or a combination of services such as removal of driveshafts, release airbrakes, removal of axles, loading, etc. are paid at the applicable category hourly rate in ¼ hour increments, with a ½ hour minimum.

XII Fuel Surcharge

- This applies to all fees outlined in this schedule other than item:
 - X Extra Person / Flag Person,
 - XV Flares and Consumable Products,
 - XVI Storage Rates,
 - XVII Recovery Scene Coordinator, and all sublets.
 - XVIII MD Triage Photos

XIII Clean Up

- 1st Tow Rates include minor clean-up (up to 5 minutes to remove any damaged vehicle part(s), not including fluids).
- Additional clean-up time, including any fluid spills, is to be charged in ¼ hour increments at the applicable Category Hourly Rates.

XIV Traffic Control Vehicle

- Applicable Category II Hourly Rate applies to a tow company owned and/or leased traffic control vehicle, including one certified flag person who is a company employee.

XV Flares and Consumable Products

- Products required at accident recoveries are paid at product cost subject to mark up policy.

XVI Storage Rates (subject to Towing Service Time Schedule for a Non-Priority Tow)

Zone Areas: (see City Zone Reference Table)*	Zone 1	Zone 2	Zone 3	Zone 4
Base Storage Rate	\$19.75 / day	\$18.71 / day	\$15.59 / day	\$11.43 / day
T & R+ Storage Rate	\$23.28 / day	\$22.22 / day	\$20.11 / day	\$15.87 / day

*City Zone Reference Table is available under Claims Portal/Work Tools or on the Business Partner's Page under "Towing".

- The daily storage rate applies for vehicles up to 20 feet in length (6.1 metres).
- Vehicles longer than 20 feet in length (6.1 metres) and up to 35 feet (10.7 metres) will be charged at double the daily rate.
- Vehicles over 35 feet in length (10.7 metres) will be charged at triple the daily rate.
- Motorcycles will be charged at ½ the daily rate.
- When required, indoor storage to protect a vehicle (from weather due to claim related damage or uniqueness of the vehicle model) must be pre-approved by ICBC, and is charged at double the daily storage rate.
- Storage Facility Access (SFA) for estimating purposes is charged at one applicable daily storage rate.

XVII Recovery Scene Coordinator

A recovery scene coordinator is paid at the applicable Category II additional services hourly rate for complex recovery definitions that meet the WorkSafeBC requirements. This includes:

- Travel time to and if applicable from the scene.
- Scene assessment and completion of safety plan.
- Time on scene during recovery.

XVIII MD Triage Photos Request

The applicable Category I Additional Services Hourly Rate applies to all vehicle categories and is paid in ¼ hour increments, with a ½ hour minimum for providing digital triage photos for vehicles in Category I & II and a 1 hour minimum for vehicles in Cat III & IV. Indicate applicable charge on the CL14C tow invoice with the notation "Fee for Digital Photos" or enter the applicable amount on the CL14H Heavy Duty Towing & Storage Invoice. Heavy Equipment Photo Requirements are posted in the Towing section of the MD Business Partners Page and are to be completed within 24 hours. Note: ICBC's system only accepts 25 MB of data per e-mail.

SERVICES AGREEMENT

SCHEDULE 4
FIRE VEHICLES INVENTORY

UNIT#	MAKE MODEL	YEAR	TYPE	LENGTH	WIDTH	HEIGHT	WHEEL BASE	Manufactures GVWR	GAWR FRONT	GAWR REAR	NET GVW	GVW FRONT	GVW REAR	AXLE TYPE
A9128	Freightliner	1996	Hose Tender	344 inch	100 inch	121 inch	210 inch	35000 lbs.	12000 lbs.	23,000	25,114	9,120	15,995	
B9189	Smeal	2000	105ft Tower	48ft.	12ft.	245"		31,470 Kgs	8,240 Kgs	23,230 Kgs				
A9117	Freightliner	2000	High Ab	36' 3"	8'7"	11' 9"	192 "	58,000 lbs (26,308 kg)	18,000 lbs (8164 kg)	20,000 lbs (9072 kg)				Tandem
B9149	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9141	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9193	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9166	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9126	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9109	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9197	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9114	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9155	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9110	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9188	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9199	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9177	Smeal	2007	Engine	32' 11"	8' 4"	10' 4"	193"	47000 lbs. (21319 kgs.)	20000 lbs (9072 kgs.)	27000 lbs (12247 kgs)	18585 kgs	8475 kgs	10110 kgs	Single
B9175	Smeal	2007	Ladder	46' 2"	8' 4"	12' 3"	275"#2axle	81,500 lbs. (36,968 kgs.)	21,499 lbs (9752 kgs)	60,000 lbs (27215 kgs)	35340 kgs	9610 kgs	25980 kgs	Tandem
B9178	Smeal	2007	Ladder	46' 2"	8' 4"	12' 3"	275"#2axle	81,500 lbs. (36,968 kgs.)	21,499 lbs (9752 kgs)	60,000 lbs (27215 kgs)	35340 kgs	9610 kgs	25980 kgs	Tandem
B9152	SVI	2007	Air/Light								16,230 kgs	6380 kgs	9580 kgs	Single
B9207	SVI	2007	Haz-Mat					34811 lbs (15790 kgs)	15432 lbs (7000 kgs)	19379 lbs (8790 kgs)				Single
B9205	SVI	2007	Haz-Mat					34811 lbs (15790 kgs)	15432 lbs (7000 kgs)	19379 lbs (8790 kgs)				Single
A9255	Ford LCF	2009	Cube Van	599.1 cm	243.8 cm	11' 7"	137 in	16000 lb (7257 kg)	6000 lb (2721 kg)	11000 lb (4989 kg)		4722 lb (2142 kg)	6402 lb (2904 kg)	
B9250	Ford LCF	2009	Cube Van	599.1 cm	243.8 cm	11' 7"	137 in	16000 lb (7257 kg)	6000 lb (2721 kg)	11000 lb (4989 kg)		4806 lb (2180 kg)	6411 lb (2908 kg)	
A9118	SVI	2015	Heavy Rescue	1,255 cm	247 cm	342 cm	707 cm 2 axle	71,000 lbs (32,205 kgs)	23,000 lbs (10,433 kgs)	47,900 lbs (21,772 kgs)	54,600 lbs (24,766 kgs)	22,040 lbs (10,018 kgs)	32,560 lbs (14,769 kgs)	Tandem
C9171	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9167	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9159	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
B9120	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
B9122	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9182	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9198	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9187	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9179	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9151	Smeal	2016	Ladder	1,295 cm	247 cm	366 cm	690 cm 2 axle	81,000 lbs (36,741 kgs)	23,000 lbs (10,432 kgs)	58,000 lbs (26,308 kgs)	77,818 lbs (35298 kgs)	21,845 lbs (9,909 kgs)	55,973 lbs (25,389 kgs)	Tandem
C9161	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9162	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9156	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9157	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9146	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9138	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9119	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9142	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9169	Smeal	2016	Engine	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,752 kgs)	31,000 lbs (14,062 kgs)	46 050 lbs (20,888 kgs)	19,530 lbs (8,859 kgs)	26,519 lbs (12,029 kgs)	Single
C9148	Smeal	2016	Rescue	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,753 kgs)	31,000 lbs (14,062 kgs)	47,980 lbs (21,308 kgs)	18,800 lbs (8,526 kgs)	28,180 lbs (12,782 kgs)	Single
C9158	Smeal	2016	Rescue	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,753 kgs)	31,000 lbs (14,062 kgs)	47,980 lbs (21,308 kgs)	18,800 lbs (8,526 kgs)	28,180 lbs (12,782 kgs)	Single
C9160	Smeal	2016	Rescue	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,753 kgs)	31,000 lbs (14,062 kgs)	47,980 lbs (21,308 kgs)	18,800 lbs (8,526 kgs)	28,180 lbs (12,782 kgs)	Single
B9108	Smeal	2016	Rescue	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,753 kgs)	31,000 lbs (14,062 kgs)	47,980 lbs (21,308 kgs)	18,800 lbs (8,526 kgs)	28,180 lbs (12,782 kgs)	Single
B9104	Smeal	2016	Rescue	1,021 cm	259 cm	325 cm		52,500 lbs (23,814 kgs)	21,500 lbs (9,753 kgs)	31,000 lbs (14,062 kgs)	47,980 lbs (21,308 kgs)	18,800 lbs (8,526 kgs)	28,180 lbs (12,782 kgs)	Single

**SCHEDULE B -
PRICES FOR SERVICES**

Description	Rate
License Fees: a) Bylaw Impounded Vehicle Storage Site 425 Industrial Avenue b) Bylaw Impound Vehicle Storage Site 455 Industrial Avenue) c) Abandoned Vehicle Storage Site (1150 East Kent Street)	s.21(1) per month s.21(1) per month s.21(1) for Agreement term
Tows Charged Direct to the Public: a) Bylaw Impounded Vehicles b) Abandoned Vehicles Claimed by Owner c) Drop charge (Bylaw Impounded Vehicles and Abandoned Vehicles)	2016 ICBC Rates 2016 ICBC Rates 50% of 2016 ICBC Rate
Storage Fees Charged Direct to the Public and Collected on Behalf of the City: a) Bylaw Impounded Vehicle Storage b) Abandoned Vehicle Storage	s.21(1) per day for 1 st seven (7) days; then s.21(1) per day after the seventh day
Tows Charged Direct to the City: a) City Vehicles b) Police Vehicles c) Fire Vehicles	Normal Service: 2016 ICBC Rate less a discount of 25 %

d) Abandoned Vehicles e) Scrap Vehicles f) Police seized Vehicles for crime investigations g) City directed Vehicle relocation	Priority Service: 2016 ICBC Rates less a discount of 0 %
Services Charged Direct to the City: General service calls not requiring towing services (e.g. dead battery, flat tire, etc.).	Priority Service: s.21(1) per call Normal Service: s.21(1) per call
Extra service to prepare for proper towing of a vehicle, for example moving a vehicle away from the curb for the use of a dolly"	s.21(1) per tow
Hourly rate when a vehicle is removed or recovered in unusual circumstances that involves extraordinary time (e.g. severe weather, road conditions) or equipment and where the additional fee has been approved by the Chief Constable or City Engineer.	2016 ICBC hourly recovery rate by category per hour
Standby Time	2016 ICBC Rates
Payment made to the City for every occurrence where a Tow Vehicle does not attend a Bylaw request for Impounded Vehicle tows.	s.21(1) per occurrence
Cleaning-out scrap/auctioned vehicles at 425 Industrial Avenue	s.21(1) per hour charged at ½ hour increments with a minimum 1 hour.
Cleaning-out scrap/auctioned vehicles at 1150 E Kent North	No Charge
Leaf Cleaning	s.21(1) per hour (pro-rated), plus any additional tows over 25 (during a 6 to 8 hour shift) will be s.21(1) per vehicle. The fuel surcharge is s.21(1)
Hourly Rate	s.21(1) plus s.21(1) for every tow

	over twenty-five (25) in a work day of six (6) to eight (8) hours.
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Notwithstanding any other provision hereof, if the Supplier is, at any time during the term of effectiveness of this Agreement, party to a contract with another customer pursuant to which the Supplier charges effective prices lower than the prices charged to the City for reasonably comparable services, the above-listed prices shall be adjusted, retroactively to the date of effectiveness of such other contract, so that the prices charged hereunder are at least as low as the effective prices charged pursuant to such other contract.

SCHEDULE C -
ITEMS TO BE PROVIDED BY THE CITY

Intentionally Deleted.

**SCHEDULE D -
SPECIFIC DELIVERABLES**

Intentionally deleted.

SCHEDULE E -
TIME SCHEDULE FOR SERVICES

Intentionally deleted.

**SCHEDULE F -
PREFERRED SUPPLIERS**

Intentionally deleted.

**SCHEDULE G -
PROJECT BUDGET**

Intentionally deleted.

**SCHEDULE H -
CITY POLICIES**

1. The City's Supplier Code of Conduct referred to in Appendix 6 of the RFP.

SCHEDULE I -
KEY PROJECT PERSONNEL

SCHEDULE J -
SITES

Intentionally deleted.

SCHEDULE K -
INTENTIONALLY DELETED

**SCHEDULE L -
BYLAW IMPOUNDED VEHICLE STORAGE SITE LICENCE AGREEMENT**

THIS AGREEMENT made as of the 1st day of February, 2020,

BETWEEN:

CITY OF VANCOUVER, a municipal corporation continued under the *Vancouver Charter* (British Columbia) and having an office at 453 West 12th Avenue, Vancouver, British Columbia, V5Y 1V4

SCHEDULE A

(the "City ")

AND:

All Tech. Transport Ltd. Busters Towing, a corporation organized under the laws of British Columbia and having an office at 455 Industrial Avenue, Vancouver, British Columbia, V6A 2P8

("Licencee")

Lands:

Having a civic address of:

425 Industrial Avenue, Vancouver, British Columbia

455 Industrial Avenue, Vancouver, British Columbia

Known and described as:

425 Industrial P.I.D. 026 289 121
Lot 2 Plan BCP 17674
District Lot 2037
NWD Group 1

Portion of 455 Industrial P.I.D. 055 497 141
Lot A Plan VAP 7729
District Lot 2037
NWD Group 1
(Statutory Right of Way PL 18236)
Exc: Part in PL LM P33893 of Lot H

Term: Seven (7) years from February, 1, 2020 to February 1, 2027 subject to earlier termination, renewal, or extension as herein provided.

WHEREAS:

- A. The City is the owner of all and singular of those lands and premises situate in the City of Vancouver, in the Province of British Columbia having a civil addresses of 425 Industrial Avenue and 455 Industrial Avenue, legally known and described as:

425 Industrial P.I.D. 026 289 121
Lot 2 Plan BCP 17674
District Lot 2037
NWD Group 1

Portion of 455 Industrial P.I.D. 055 497 141
Lot A Plan VAP 7729
District Lot 2037
NWD Group 1
(Statutory Right of Way PL 18236)
Exc: Part in PL LM P33893 of Lot H

(the "Lands")

- B. Licencee has requested that the City licence the Lands to Licencee for the purposes of storing vehicles impounded under the City of Vancouver Impounding By-Law No. 3519 and under the City of Vancouver Street and Traffic By-Law No. 2849, as each may be amended, replaced, or consolidated from time to time, the Motor Vehicle Act (British Columbia), as may be amended from time to time, or seized under other laws or regulations stipulated by the Chief Constable of the City of Vancouver or the City Engineer (the "Purpose");

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the licence fees, covenants, and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by each of the parties, the City licences the Lands unto Licencee and Licencee does hereby take a licence of the Lands on the terms and conditions set out in this Agreement:

1. Term

In consideration of the licence fees, covenants, and conditions herein on the part of Licencee to be performed and observed, the City hereby grants to Licencee a non-exclusive Licence to use the Lands for the Purpose for a term of seven (7) years (the "Term"), subject to earlier termination, renewal, or extension as herein provided, PROVIDED THAT the Term and this Licence shall automatically be extended along with any extension or renewal of the agreement for towing services entered into between the City and Licencee (the "Towing agreement") concurrently with this Agreement.

2. Licence Fee

Yielding and paying therefor a monthly licence fee for 425 Industrial Avenue in the amount of Forty Thousand (\$40,000.00) (the "Licence Fee") and a monthly licence fee for 455 Industrial Avenue in the amount of Twenty Thousand Five Hundred (\$20,500.00) (the "Licence Fee"). The Licence Fees shall be paid on the first day of each and every month during the Term and any subsequent Renewal Term or extension, without deduction, abatement, or set off for any reason. The City and the Licencee acknowledge and agree that the Licence Fees will increase by zero (0) percent every year during the Term.

3. Utility Services

Prior to conducting any work on the Lands required to carry out the Purpose (the "Work"), Licencee shall contact any applicable utility companies or municipal officials to identify any underground utility locations located on or adjacent to the Lands. Licencee will then take any appropriate safety measures to ensure that the Work does not damage or affect any utilities located on or adjacent to the Lands. Licencee shall pay for or cause to be paid when due all charges, rates and levies on account of any utilities including, without limitation, any gas, electricity, light, heat, power, water, garbage collection, telephone, internet and other utilities and services used in or supplied to the Lands and improvements thereon throughout the Term and to indemnify and to keep indemnified the City from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such charges.

4. Use of Lands

Licencee shall use the Lands only for the Purpose and for no other purpose whatsoever and Licencee shall not suffer the Lands to be used for any other purpose without the prior written consent of the City.

5. Regulations and By-laws

Licencee shall, at its own expense, comply with and abide by all laws, by-laws, and lawful orders that touch and concern the Lands, the Purpose, or the performance of the Work, even if such by-laws, by their terms, apply to the City.

6. Inspection by City

The City shall for itself and its employees, agents, and contractors, at all times during the Term have free and adequate access to the Lands for the purposes of inspection and carrying out its obligations hereunder.

7. Access

Licencee hereby acknowledges that this licence is not exclusive and the City shall have the right to stipulate permitted areas of access to the Lands and areas where access shall not be permitted.

8. Lands Licenced "As Is"

Licencee acknowledges that the City has made no representations or warranties as to the state of repair of the Lands, the safety of the Lands, the location of any utilities or City works thereon, the stability or state of the soil thereon, or the suitability of the Lands for any business, activity, or purpose whatsoever, including the Purpose. The Licencee shall perform a site inspection and hereby agrees to take the Lands "as is".

9. Repair, Maintenance and Snow Removal

Licencee covenants that it shall, at Licencee's cost:

- a) keep that portion of the Lands necessary for carrying out the Purpose or directly affected by the Work (the "**Working Area**") and any improvements in good condition as would a reasonable and prudent owner, and repair any damage caused to the Lands by Licencee or its officials, officers, agents, employees, servants, contractors, or subcontractors to the satisfaction of the City. The City shall have access to the Lands for the purpose of inspection during normal business hours and Licencee shall repair according to notice. If Licencee fails to promptly commence repairs and diligently prosecute same to completion after receipt of notice from the City requiring repairs, then the City may carry out or cause to carry out the repairs, the costs of which shall be payable by Licencee as an additional fee and the City and its servants, agents, Contractors, subcontractors shall not be liable to Licencee for any inconvenience, annoyance, disruption, loss of income, or liability suffered or incurred by Licencee by reason of the City effecting such repairs;
- b) not permit or suffer waste, damage, or injury to the Lands or any part thereof and shall not use or occupy or permit to be used or occupied the Lands or any part thereof for any unlawful purpose;
- c) maintain the Working Area in a sanitary, neat, tidy, and safe condition and free from nuisance at all times and shall keep all drains and ditches free from obstruction and in good running order;
- d) preserve and maintain and renew any landscaping on the Lands to its own standards and, subject to this Agreement, Licencee shall have full, free and uninterrupted access over the Lands and free use of water for all landscaping and watering purposes;
- e) not release, dump, spill or place, or allow to be released, dumped, spilled or released on the Lands any waste or hazardous waste (as defined in the *Environmental Management Act* (British Columbia), as amended), or any toxic substance (as defined in the *Canadian Environmental Protection Act, 1999* (Canada), as amended) or any matter which the British Columbia Ministry of Environment considers a risk to the environment or to human health;
- f) if the Licencee breaches Section 9(e), the Licencee shall immediately give the City written notice, immediately remove the waste, hazardous waste, or toxic substance from the Lands in a manner that conforms with all laws and

regulations, and, if requested by the City, obtain from an independent consultant designated or approved by the City verification of the complete and proper removal of the waste, hazardous waste, or toxic substance from the Lands; and

- g) keep adjacent sidewalks clear of snow and ice to comply with the requirements of the City of Vancouver Street and Traffic By-Law No. 2849 and indemnify and save harmless the City from all costs, loss damages, compensation, and expenses suffered by the City and sustained or caused by Licencee's failure to remove snow and ice from adjacent sidewalks; PROVIDED THAT if Licencee does not remove snow and ice as required, the City may clear the sidewalks and the cost of such removal shall be paid by the Licencee as an additional fee.

10. Insurance

At all times during the Term and any subsequent Renewal Term or extension, Licencee shall, at its own expense, maintain with one or more companies duly authorized to carry on business in British Columbia, comprehensive general liability insurance with a limit of not less than FIVE MILLION DOLLARS (\$5,000,000.00) for loss, damage, injury or death arising out of any one occurrence, or such higher limit of coverage as the City's Director of Risk Management may reasonably require from time to time and the policy shall not provide for a limit of deductibility greater than TWO THOUSAND DOLLARS (\$2,000.00) or such other minimum limit as the City's Director of Risk Management may sanction from time to time.

The policy shall name the City and its servants and agents as additional insureds thereunder and shall indemnify and protect the City, its servants and agents against all claims for any loss, damage, injury or death to any person or persons and for damage to any public or private property occurring within or about the Lands or arising by virtue of Licencee's occupation and/or use of the Lands. The policy shall contain such other terms and conditions satisfactory to the City's Director of Risk Management. Licencee shall provide the City with satisfactory proof of such coverage prior to commencement of the Term. Although not required to do so, if Licencee fails to adduce satisfactory proof of such insurance coverage being in full force and effect at all times, the City may secure such insurance and the Licencee shall pay the cost of same as an additional fee.

11. Indemnity

Licencee shall release, indemnify, and save harmless the City and its officials, officers, agents, and employees from all costs, losses, damages, builder's liens, compensation, and expenses of any nature whatsoever relating to or arising from Licencee's occupation and/or use of the Lands and from all actions, claims, demands, suits, and judgments against the City or its officials, officers, agents, and employees on account of injury or death occurring in or about the Lands and damage to or loss of property occurring in or about the Lands or relating to or arising from Licencee's occupation and/or use of the Lands (including claims under the *Occupier's Liability Act*).

12. City Reserves Utilities Right of Way

The City hereby reserves on its own behalf and on behalf of its licencees the full, free and uninterrupted statutory right of way, exercisable by night and day and at the will and pleasure of the City and its licencees, to enter, labour, go, return, pass, and re-pass upon and along any portion of land demised herein for the purpose of laying, constructing, altering, enlarging, repairing, replacing and removing pipes, water mains, sewers, poles, wires, anchors, conduits, changers, manholes and other apparatus for the conducting, disposal or distribution of water, sewage, gas, heat, electricity, cablevision and like signals and telephone services or any of them as may be deemed necessary or expedient by the City or its licencees, hereinafter called the "said works" or for any other purpose or public utility in connection with which this statutory right of way may be required or can be utilized, and to dig up the soil or cover with soil the said works or any part thereof as may be deemed necessary by the City or its successors or assigns as aforesaid.

13. Bankruptcy

If the term hereby granted is at any time seized or taken in execution by any creditor of Licencee, or if Licencee makes a general assignment for the benefit of a creditor, or if Licencee institutes proceedings to have Licencee adjudicated as bankrupt or insolvent, or if Licencee becomes the subject of bankruptcy or insolvency proceedings, or if a judgement, decree or order to be entered by a court of competent jurisdiction adjudging Licencee bankrupt or insolvent, or if Licencee is unable to meet all debts as they fall due for a period of not less than three (3) months, or if Licencee or its directors shall pass any resolution authorizing the dissolution or winding-up of Licencee, or if a receiver, interim receiver, manager, receiver-manager, trustee or liquidator of all or any part of Licencee's property shall be appointed or applied for by Licencee or by one or more of Licencee's creditors, then the City shall be so notified and the then current Licence Fees plus an additional three (3) months' current Licence Fees shall immediately become due and owing and at the option of the City the term hereby granted is subject to termination forthwith. If Licencee becomes defunct or amalgamates with any other body without obtaining the prior written consent of the City or if a committee is appointed under the Patients' Property Act to lawfully deal with Licencee's estate then, at the option of the City, the term hereby granted shall forthwith terminate. If Licencee surrenders up its certificate of incorporation or otherwise ceases to exist, the term hereby granted terminates as of such surrender or dissolution. If Licencee is a natural person, at any time after Licencee's death, the City may terminate the term hereby granted upon sixty (60) calendar days' notice to any estate executor or administrator.

14. Termination

- a) The City and the Licencee acknowledge and agree that if the Towing Agreement expires or is terminated, then this Agreement will automatically expire or terminate at the same time and date that the Towing Agreement expires or terminates.
- b) If the Towing Agreement is still in effect and the City wishes in its sole discretion to have the Licencee carry out the Purpose on lands and premises situate in the

City of Vancouver other than the Lands, then the City may in its sole discretion terminate this Agreement for convenience and without liability by providing the Licencee with sixty (60) days' written notice. If the City terminates this Agreement pursuant to this Section 14(b):

- a. then the City will enter into a licence agreement no later than the expiry of the sixty day notice period to licence lands and premises situate in the City of Vancouver to the Licencee to carry out the Purpose going forward (the "New Lands") on the same terms and conditions as are contained in this Agreement, including but not limited to the amount of the Licence Fee;
- b. then the Licencee will enter into a licence agreement no later than the expiry of the sixty day notice period to licence the New Lands on the same terms and conditions as are contained in this Agreement, including but not limited to the amount of the Licence Fee; and
- c. then the City will reimburse the Licencee for all of the costs the Licencee incurs to relocate its trade fixtures and operations to the New Lands, up to a maximum of \$10,000.

15. Prime Contractor

The Licencee will be and act as the prime contractor, as that term is defined in the Workers Compensation Act (British Columbia) (the "Act"), for the entirety of the Lands and the Licencee assumes and is wholly responsible for the health and safety of all persons at the Lands on the basis described in the Act.

16. Performance of Covenants

Licencee will faithfully and promptly pay the Licence Fees and perform and observe its covenants stated in this Agreement.

17. No Registration of Licence

This Agreement shall not be registered in any Land Title Office.

18. For Sale Signs

The City may post "for sale" and "for licence" signs on the Lands during the Term and may enter upon and show the Lands to prospective purchasers and lessees during the Term.

19. Structures

The Licencee shall not, without the prior written consent of the City, which may be unreasonably or arbitrarily withheld, build or place on the Lands any embankment, fill, buildings or structures save for those built or placed by the City or otherwise approved to by the City in writing.

20. Boundaries

Notwithstanding anything to the contrary contained in this Agreement, the City may unilaterally change the boundaries of the Lands and reduce the area of the Lands.

21. Breach of Covenants

If Licencee defaults in the payment of Licence Fees or other sums owing to the City hereunder and such default continues for thirty (30) calendar days after notice thereof to Licencee or if Licencee defaults in performing or observing any of the provisions in this licence other than those requiring payment of money to the City and such default continues for a period of thirty (30) calendar days after notice thereof to Licencee, except for a default which to be cured with all due diligence would require a longer period, then after such longer period, or if the Licencee fails to proceed promptly after the service of such notice and will all due diligence to cure same, then the City shall have the right to terminate this Agreement.

22. Covenants Survive Termination

The covenants herein on the part of the City and Licencee which, as of termination of this Agreement granted whether by effluxion of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as there is any liability or indebtedness by either party to the other or so long as any such covenant remains unfulfilled, undischarged or otherwise outstanding, whether in whole or in part, notwithstanding anything herein to the contrary. Without restricting the generality of the foregoing, the Licencee's obligations under Sections 9 and 11 of this Agreement will survive the termination or expiry of this Agreement.

23. Vacant Possession and Restoration

Upon termination of the term hereby granted, whether by effluxion of time or otherwise, Licencee shall deliver up vacant possession of the Lands and shall leave the Lands and the portable office building in a sanitary, neat, tidy, safe, and empty condition free from all motor vehicles and accessories and any environmental contamination, and all nuisance, debris, rubbish and stock-in trade and shall ensure that the premises are to the standard of maintenance and repair required of Licencee pursuant to Section 10 hereof.

24. Trade Fixtures

Upon termination of the term hereby granted, whether by effluxion of time or otherwise, Licencee may remove its trade fixtures provided any damage hereby caused shall be repaired by Licencee. If Licencee neglects or refuses to remove its trade fixtures as of termination of the term, the City may remove and store same at Licencee's expense and repair any damage so caused at Licencee's expense and the City shall have a lien against the trade fixtures for the full amount of such expenses; or upon notice to Licencee, the City may elect that the trade fixtures forthwith shall

be the absolute property of the City but until such election Licencee's trade fixtures shall be wholly at the risk of the Licencee.

25. **Overholding**

PROVIDED ALWAYS and it is hereby agreed by and between the parties hereto, that if Licencee shall hold over after the expiration of the term hereby granted, and the City shall accept Licence Fees, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month, and shall be determined by one (1) month's notice in writing.

26. **Builder's Liens**

Licencee shall not permit any builders or similar liens, charge or encumbrance to be registered on title to the Lands. If any such liens, charge or encumbrance are registered on title to the Lands, Licencee shall immediately pay into court or otherwise the amount required to discharge same.

27. **No Assignment or Sublicensing**

The rights granted to Licencee hereby are personal to Licencee and Licencee may not assign, sublicense, part with, mortgage, encumber or otherwise transfer these rights or any part thereof without the prior written consent of the City, which consent may be unreasonably or arbitrarily withheld.

28. **Time is of the Essence**

Time shall be of the essence of this Agreement, save as herein and otherwise provided.

29. **City's Remedies Are Cumulative**

The remedies provided to the City herein are cumulative and are in addition to any remedies to the City available at law or in equity including injunctive relief. No remedy shall be exclusive and the City may have recourse to any or all remedies simultaneously or at various times.

30. **Delivery of Notices**

Any notice required to be given hereunder may be delivered as follows:

(a) to the City:

CITY OF VANCOUVER
c/o The Director of Real Estate Services
320 - 507 West Broadway, Vancouver, B.C. V5Z 4A8

Mailing address: 453 West 12th Avenue, Vancouver, BC V5Z 4A8

(b) to Licencee:

ALL TECH. TRANSPORT LTD. dba BUSTERS TOWING
c/o Kyle Schrump, Operations Manager
455 Industrial Avenue
Vancouver, BC V6A 2P8

or to such other addresses as the parties may from time to time advise the other in writing, and any such notice shall be deemed to have been received five (5) working days after the mailing thereof, or if delivered, then when delivered.

31. Headings

The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Agreement or any provisions thereof.

32. Relationship

It is the express intention of the City and Licencee that the granting of this Licence will not create between the City and Licencee a landlord and tenant relationship. It is specifically agreed that this Agreement does not grant an interest in land to Licencee.

33. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

34. Non-Derogation

Nothing contained or implied in this agreement will derogate from the obligations of Licencee under any other agreement with the City or prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* as amended from time to time and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be as fully and effectively exercised in relation to the Lands as if this agreement had not been executed and delivered by Licencee and the City.

35. Independent Legal Advice

Licencee acknowledges that Licencee is entitled to seek independent legal advice before executing this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

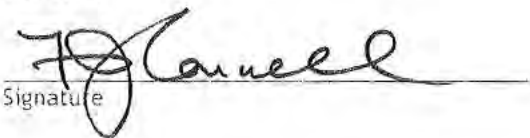
per:


Signature

ALEXANDER RALPH, CPO
Alexander Ralph, Chief Procurement Officer


Signature

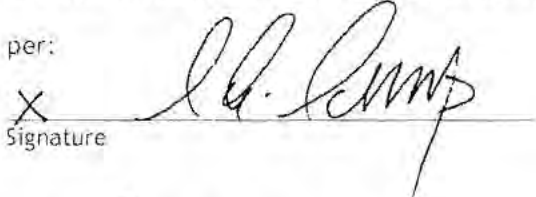
Cheryl Neims, GM Engineering
Cheryl Neims, General Manager of Engineering


Signature


Francie Connell *DF*
Francie Connell, Director of Legal Services

ALL TECH. TRANSPORT LTD. dba BUSTERS TOWING

per:

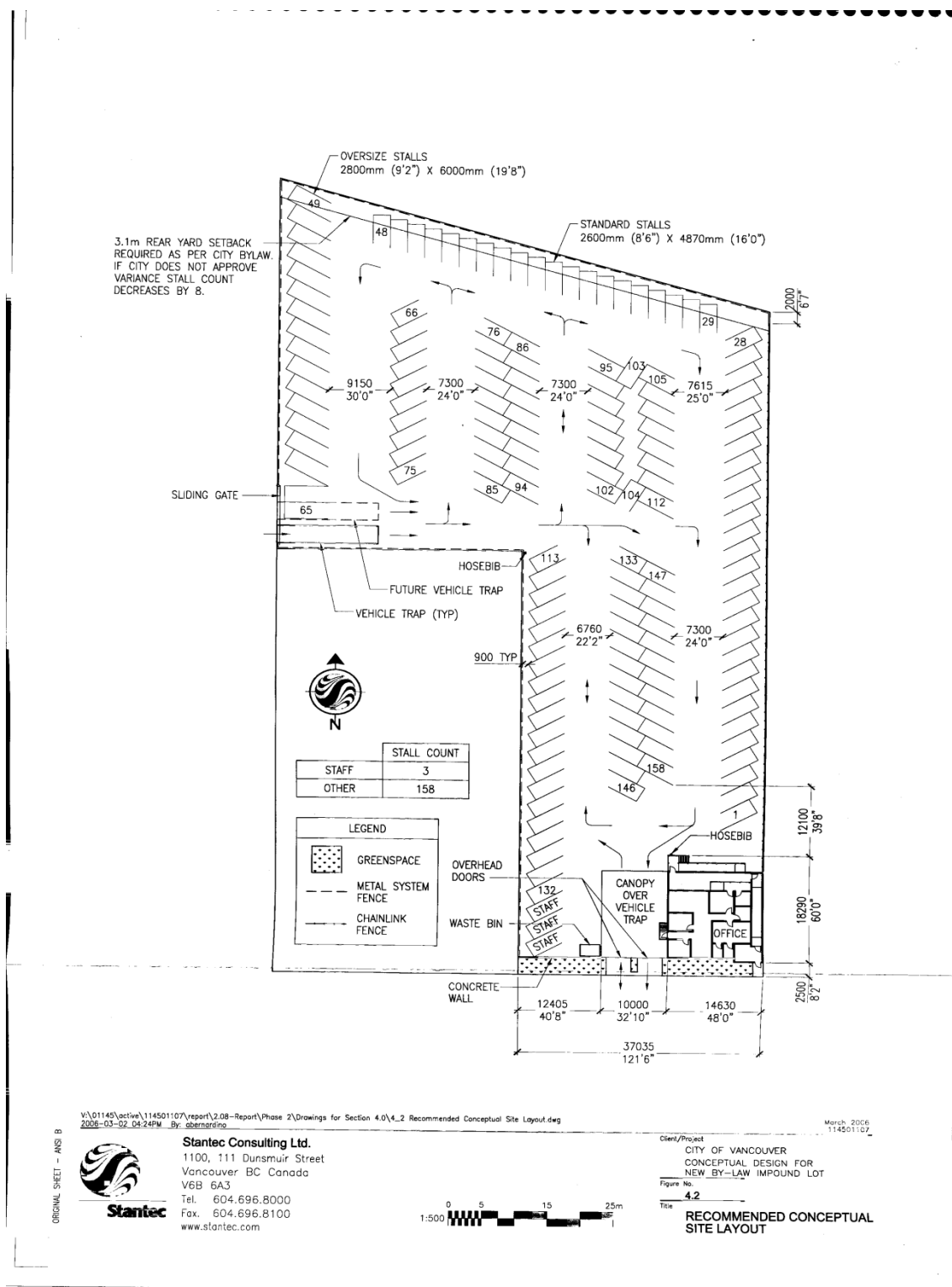
X 
Signature

SPENCER E. SCHRUMP DIRECTOR.
Print Name and Title


Signature

Mary Schrum, Director
Print Name and Title

SITE PLANS FOR BYLAW IMPOUNDED VEHICLE STORAGE SITE
(ATTACHED)





**SCHEDULE M -
ABANDONED VEHICLE STORAGE SITE LICENCE AGREEMENT**

THIS AGREEMENT made as of the 1st day of February, 2020,

BETWEEN:

CITY OF VANCOUVER, a municipal corporation continued under the *Vancouver Charter* (British Columbia) and having an office at 453 West 12th Avenue, Vancouver, British Columbia, V5Y 1V4

(the "City ")

AND:

All Tech. Transport Ltd. Busters Towing, a corporation organized under the laws of British Columbia and having an office at 455 Industrial Avenue, Vancouver, British Columbia, V6A 2P8

("Licencee")

Lands:

Having a civic address of:

1150 East Kent Street, Vancouver, British Columbia

Known and described as:

Those portions of Lots of Lot B Except the North 33 Feet
District Lot 322, Plan 5270
that are shown outlined in bold black on the plan attached hereto

Term: Seven (7) years from February, 1, 2020 to February 1, 2027 subject to earlier termination, renewal, or extension as herein provided.

WHEREAS:

A. The City is the owner of all and singular of those lands and premises situate in the City of Vancouver, in the Province of British Columbia having a civil address of 1150 East Kent Street, legally known and described as:

Those portions of Lots of Lot B Except the North 33 Feet
District Lot 322, Plan 5270
that are shown outlined in bold black on the plan attached hereto

(the "Lands")

- B. Licencee has requested that the City licence the Lands to Licencee for the purposes of storing Abandoned Vehicles towed under the Motor Vehicle Act or Division 3 of Part 5 of the Transportation Act (the "Purpose");

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the licence fees, covenants, and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by each of the parties, the City licences the Lands unto Licencee and Licencee does hereby take a licence of the Lands on the terms and conditions set out in this Agreement:

1. Term

In consideration of the licence fees, covenants, and conditions herein on the part of Licencee to be performed and observed, the City hereby grants to Licencee a non-exclusive Licence to use the Lands for the Purpose for a term of seven (7) years (the "Term"), subject to earlier termination, renewal, or extension as herein provided, PROVIDED THAT the Term and this Licence shall automatically be extended along with any extension or renewal of the agreement for towing services entered into between the City and Licencee (the "Towing Agreement") concurrently with this Licence Agreement.

2. Fees

- a) The Licencee will pay the City a licence fee of One Dollar (\$1.00) (the "Licence Fee") for the Agreement Term and any subsequent Renewal Term or extension, without deduction, abatement, or set off for any reason.

3. Utility Services

Prior to conducting any work on the Lands required to carry out the Purpose (the "Work"), Licencee shall contact any applicable utility companies or municipal officials to identify any underground utility locations located on or adjacent to the Lands. Licencee will then take any appropriate safety measures to ensure that the Work does not damage or affect any utilities located on or adjacent to the Lands. Licencee shall pay for or cause to be paid when due all charges, rates and levies on account of any utilities including, without limitation, any gas, electricity, light, heat, power, water, garbage collection, telephone, internet and other utilities and services used in or supplied to the Lands and improvements thereon throughout the Term and to indemnify and to keep indemnified the City from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such charges.

4. Use of Lands

Licencee shall use the Lands only for the Purpose and for no other purpose whatsoever and Licencee shall not suffer the Lands to be used for any other purpose without the prior written consent of the City.

5. Regulations and By-laws

Licencee shall, at its own expense, comply with and abide by all laws, by-laws, and lawful orders that touch and concern the Lands, the Purpose, or the performance of the Work, even if such by-laws, by their terms, apply to the City.

6. Inspection by City

The City shall for itself and its employees, agents and contractors, at all times during the Term have free and adequate access to the Lands for the purposes of inspection and carrying out its obligations hereunder.

7. Access

Licencee hereby acknowledges that this licence is not exclusive and the City shall have the right to stipulate permitted areas of access to the Lands and areas where access shall not be permitted.

8. Lands Licenced "As Is"

Licencee acknowledges that the City has made no representations or warranties as to the state of repair of the Lands, the safety of the Lands, the location of any utilities or City works thereon, the stability or state of the soil thereon, or the suitability of the Lands for any business, activity or purpose whatsoever, including the Purpose. The Licencee shall perform a site inspection and hereby agrees to take the Lands "as is".

9. Repair, Maintenance and Snow Removal

Licencee covenants that it shall, at Licencee's cost:

- a) keep that portion of the Lands necessary for carrying out the Purpose or directly affected by the Work (the "Working Area") and any improvements in good condition as would a reasonable and prudent owner, and repair any damage caused to the Lands by Licencee or its officials, officers, agents, employees, servants, contractors or subcontractors to the satisfaction of the City. The City shall have access to the Lands for the purpose of inspection during normal business hours and Licencee shall repair according to notice. If Licencee fails to promptly commence repairs and diligently prosecute same to completion after receipt of notice from the City requiring repairs, then the City may carry out or cause to carry out the repairs, the costs of which shall be payable by Licencee as an additional fee and the City and its servants, agents, Contractors, subcontractors shall not be liable to Licencee for any inconvenience, annoyance, disruption, loss of income or liability suffered or incurred by Licencee by reason of the City effecting such repairs;
- b) not permit or suffer waste, damage or injury to the Lands or any part thereof and shall not use or occupy or permit to be used or occupied the Lands or any part thereof for any unlawful purpose;

- c) maintain the Working Area in a sanitary, neat, tidy and safe condition and free from nuisance at all times and shall keep all drains and ditches free from obstruction and in good running order;
- d) preserve and maintain and renew any landscaping on the Lands to its own standards and, subject to this Agreement, Licencee shall have full, free and uninterrupted access over the Lands and free use of water for all landscaping and watering purposes;
- e) not release, dump, spill or place, or allow to be released, dumped, spilled or released on the Lands any waste or hazardous waste (as defined in the *Environmental Management Act* (British Columbia), as amended), or any toxic substance (as defined in the *Canadian Environmental Protection Act, 1999* (Canada), as amended) or any matter which the British Columbia Ministry of Environment considers a risk to the environment or to human health; and
- f) keep adjacent sidewalks clear of snow and ice to comply with the requirements of the City of Vancouver Street and Traffic By-Law No. 2849 and indemnify and save harmless the City from all costs, loss damages, compensation, and expenses suffered by the City and sustained or caused by Licencee's failure to remove snow and ice from adjacent sidewalks; PROVIDED THAT if Licencee does not remove snow and ice as required, the City may clear the sidewalks and the cost of such removal shall be paid by the Licencee as an additional fee.

10. Insurance

At all times during the Term and any subsequent Renewal Term or extension, Licencee shall, at its own expense, maintain with one or more companies duly authorized to carry on business in British Columbia, comprehensive general liability insurance with a limit of not less than FIVE MILLION DOLLARS (\$5,000,000.00) for loss, damage, injury or death arising out of any one occurrence, or such higher limit of coverage as the City's Director of Risk Management may reasonably require from time to time and the policy shall not provide for a limit of deductibility greater than TWO THOUSAND DOLLARS (\$2,000.00) or such other minimum limit as the City's Director of Risk Management may sanction from time to time.

The policy shall name the City and its servants and agents as additional insureds thereunder and shall indemnify and protect the City, its servants and agents against all claims for any loss, damage, injury or death to any person or persons and for damage to any public or private property occurring within or about the Lands or arising by virtue of Licencee's occupation and/or use of the Lands. The policy shall contain such other terms and conditions satisfactory to the City's Director of Risk Management. Licencee shall provide the City with satisfactory proof of such coverage prior to commencement of the Term. Although not required to do so, if Licencee fails to adduce satisfactory proof of such insurance coverage being in full force and effect at all times, the City may secure such insurance and the Licencee shall pay the cost of same as an additional fee.

11. Indemnity

Licencee shall release, indemnify, and save harmless the City and its officials, officers, agents, and employees from all costs, losses, damages, builder's liens, compensation, and expenses of any nature whatsoever relating to or arising from Licencee's occupation and/or use of the Lands and from all actions, claims, demands, suits, and judgments against the City or its officials, officers, agents, and employees on account of injury or death occurring in or about the Lands and damage to or loss of property occurring in or about the Lands or relating to or arising from Licencee's occupation and/or use of the Lands (including claims under the *Occupier's Liability Act*).

12. **City Reserves Utilities Right of Way**

The City hereby reserves on its own behalf and on behalf of its licencees the full, free and uninterrupted statutory right of way, exercisable by night and day and at the will and pleasure of the City and its licencees, to enter, labour, go, return, pass, and re-pass upon and along any portion of land demised herein for the purpose of laying, constructing, altering, enlarging, repairing, replacing and removing pipes, water mains, sewers, poles, wires, anchors, conduits, changers, manholes and other apparatus for the conducting, disposal or distribution of water, sewage, gas, heat, electricity, cablevision and like signals and telephone services or any of them as may be deemed necessary or expedient by the City or its licencees, hereinafter called the "said works" or for any other purpose or public utility in connection with this statutory right of way may be required or can be utilized, and to dig up the soil or cover with soil the said works or any part thereof as may be deemed necessary by the City or its successors or assigns as aforesaid.

13. **Bankruptcy**

If the term hereby granted is at any time seized or taken in execution by any creditor of Licencee, or if Licencee makes a general assignment for the benefit of a creditor, or if Licencee institutes proceedings to have Licencee adjudicated as bankrupt or insolvent, or if Licencee becomes the subject of bankruptcy or insolvency proceedings, or if a judgement, decree or order to be entered by a court of competent jurisdiction adjudging Licencee bankrupt or insolvent, or if Licencee is unable to meet all debts as they fall due for a period of not less than three (3) months, or if Licencee or its directors shall pass any resolution authorizing the dissolution or winding-up of Licencee, or if a receiver, interim receiver, manager, receiver-manager, trustee or liquidator of all or any part of Licencee's property shall be appointed or applied for by Licencee or by one or more of Licencee's creditors, then the City shall be so notified and the term hereby granted is subject to termination forthwith. If Licencee becomes defunct or amalgamates with any other body without obtaining the prior written consent of the City or if a committee is appointed under the Patients' Property Act to lawfully deal with Licencee's estate then, at the option of the City, the term hereby granted shall forthwith terminate. If Licencee surrenders up its certificate of incorporation or otherwise ceases to exist, the term hereby granted terminates as of such surrender or dissolution. If Licencee is a natural person, at any time after Licencee's death, the City may terminate the term hereby granted upon sixty (60) calendar days' notice to any estate executor or administrator.

14. **Termination**

- c) The City and the Licencee acknowledge and agree that if the Towing Agreement expires or is terminated, then this Agreement will automatically expire or terminate at the same time and date that the Towing Agreement expires or terminates.
- d) If the Towing Agreement is still in effect and the City wishes in its sole discretion to have the Licencee carry out the Purpose on lands and premises situate in the City of Vancouver other than the Lands, then the City may in its sole discretion terminate this Agreement for convenience and without liability by providing the Licencee with sixty (60) days' written notice. If the City terminates this Agreement pursuant to this Section 14(b), then the City will enter into a licence agreement no later than the expiry of the sixty day notice period to licence lands and premises situate in the City of Vancouver to the Licencee to carry out the Purpose going forward on the same terms and conditions as are contained in this Agreement. If the City terminates this Agreement pursuant to this Section 14(b), then the Licencee will enter into a licence agreement no later than the expiry of the sixty day notice period to licence lands and premises situate in the City of Vancouver from the City to carry out the Purpose going forward on the same terms and conditions as are contained in this Agreement.

15. **Prime Contractor**

The Licencee will be and act as the prime contractor, as that term is defined in the *Workers Compensation Act* (British Columbia) (the "**Act**"), for the entirety of the Lands and the Licencee assumes and is wholly responsible for the health and safety of all persons at the Lands on the basis described in the Act.

16. **Performance of Covenants**

Licencee will faithfully and promptly pay the Licence Fees and perform and observe its covenants stated in this Agreement.

17. **No Registration of Licence**

This Agreement shall not be registered in any Land Title Office.

18. **For Sale Signs**

The City may post "for sale" and "for licence" signs on the Lands during the Term and may enter upon and show the Lands to prospective purchasers and lessees during the Term.

19. **Structures**

The Licencee shall not, without the prior written consent of the City, which may be unreasonably or arbitrarily withheld, build or place on the Lands any embankment, fill, buildings or structures save for those built or placed by the City or otherwise approved to by the City in writing.

20. **Boundaries**

Notwithstanding anything to the contrary contained in this Agreement, the City may unilaterally change the boundaries of the Lands and reduce the area of the Lands.

21. **Breach of Covenants**

If Licencee defaults in performing or observing any of the provisions in this licence other than those requiring payment of money to the City and such default continues for a period of thirty (30) calendar days after notice thereof to Licencee, except for a default which to be cured with all due diligence would require a longer period, then after such longer period, or if the Licencee fails to proceed promptly after the service of such notice and will all due diligence to cure same, then the City shall have the right to terminate this licence Agreement.

22. **Covenants Survive Termination**

The covenants herein on the part of the City and Licencee which, as of termination of this Agreement granted whether by effluxion of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as there is any liability or indebtedness by either party to the other or so long as any such covenant remains unfulfilled, undischarged or otherwise outstanding, whether in whole or in part, notwithstanding anything herein to the contrary.

23. **Vacant Possession and Restoration**

Upon termination of the term hereby granted, whether by effluxion of time or otherwise, Licencee shall deliver up vacant possession of the Lands and shall leave the Lands and the portable office building in a sanitary, neat, tidy, safe and empty condition free from all motor vehicles and accessories and any environmental contamination, and all nuisance, debris, rubbish and stock-in trade and shall ensure that the premises are to the standard of maintenance and repair required of Licencee pursuant to Section 10 hereof.

24. **Trade Fixtures**

Upon termination of the term hereby granted, whether by effluxion of time or otherwise, Licencee may remove its trade fixtures provided any damage hereby caused shall be repaired by Licencee. If Licencee neglects or refuses to remove its trade fixtures as of termination of the term, the City may remove and store same at Licencee's expense and repair any damage so caused at Licencee's expense and the City shall have a lien against the trade fixtures for the full amount of such expenses; or upon notice to Licencee, the City may elect that the trade fixtures forthwith shall be the absolute property of the City but until such election Licencee's trade fixtures shall be wholly at the risk of the Licencee.

25. **Overholding**

PROVIDED ALWAYS and it is hereby agreed by and between the parties hereto, that if Licencee shall hold over after the expiration of the term hereby granted, and the City

shall accept Licence Fees, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month, and shall be determined by one (1) month's notice in writing.

26. **Builder's Liens**

Licencee shall not permit any builders or similar liens, charge or encumbrance to be registered on title to the Lands. If any such liens, charge or encumbrance are registered on title to the Lands, Licencee shall immediately pay into court or otherwise the amount required to discharge same.

27. **No Assignment or Sublicensing**

The rights granted to Licencee hereby are personal to Licencee and Licencee may not assign, sublicense, part with, mortgage, encumber or otherwise transfer these rights or any part thereof without the prior written consent of the City, which consent may be unreasonably or arbitrarily withheld.

28. **Time is of the Essence**

Time shall be of the essence of this Agreement, save as herein and otherwise provided.

29. **City's Remedies Are Cumulative**

The remedies provided to the City herein are cumulative and are in addition to any remedies to the City available at law or in equity including injunctive relief. No remedy shall be exclusive and the City may have recourse to any or all remedies simultaneously or at various times.

30. **Delivery of Notices**

Any notice required to be given hereunder may be delivered as follows:

a) to the City:

CITY OF VANCOUVER
c/o The Manager of Parking Operations & Enforcement
120 - 814 Richards Street
Vancouver, BC V6B 3A7

b) to Licencee:

ALL TECH. TRANSPORT LTD. dba BUSTERS TOWING
c/o Kyle Schrump, Operations Manager
455 Industrial Avenue
Vancouver, BC V6A 2P8

or to such other addresses as the parties may from time to time advise the other in writing, and any such notice shall be deemed to have been received five (5) working days after the mailing thereof, or if delivered, then when delivered.

31. **Headings**

The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Agreement or any provisions thereof.

32. **Relationship**

It is the express intention of the City and Licencee that the granting of this Licence will not create between the City and Licencee a landlord and tenant relationship. It is specifically agreed that this Agreement does not grant an interest in land to Licencee.

33. **Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

34. **Non-Derogation**

Nothing contained or implied in this agreement will derogate from the obligations of Licencee under any other agreement with the City or prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* as amended from time to time and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be as fully and effectively exercised in relation to the Lands as if this agreement had not been executed and delivered by Licencee and the City.

35. **Independent Legal Advice**

Licencee acknowledges that Licencee is entitled to seek independent legal advice before executing this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

per:

Signature

Alexander Ralph, CPO.
Alexander Ralph, Chief Procurement Officer

Signature

Cheryl Nelms, GM Engineering
Cheryl Nelms, General Manager of Engineering

DF

Signature

Francie Connell
Francie Connell, Director of Legal Services

ALL TECH. TRANSPORT LTD. dba BUSTERS TOWING

Signature

SPENCER E. SCHRUMP DIRECTOR.
Print Name and Title

Signature

Mary Schrump, Director
Print Name and Title

SITE PLANS FOR ABANDONED VEHICLE STORAGE SITE
(ATTACHED)

