

**CITY OF BELL AGREEMENT NON-EXCLUSIVE FRANCHISE  
FOR TOWING AND STORAGE SERVICES  
TO BE PROVIDED ON ROTATIONAL BASIS**

**THIS NON-EXCLUSIVE FRANCHISE TOWING AND STORAGE AGREEMENT** is made an entered into Nov. 1, 2010 (“Effective Date”), by and between the City of Bell (“the City”), a municipal corporation and United Motor Club Inc., (“Operator”) (collectively “Parties”).

**RECITALS**

**A.** The City requires vehicle tow and storage services in the exercise of its police powers necessary or appropriate to the general welfare of City’s citizens. Specifically, the City requires, from time to time, towing and storage and impound services in connection with vehicles which have been determined to be a public nuisance, or which are in violation of State laws and statutes, including but not limited to California Vehicle Code, as well as the laws and ordinances relating to parking, traffic and law enforcement.

**B.** On June 21, 1999, the City entered into an exclusive towing and storage agreement with Bell Tow Inc. (“Bell Tow”). This agreement was renewed in June 2006 for a period of six (6) years; thereby terminating on June 30, 2012. On September 15, 2010, Bell Tow informed the City that it will be terminating its agreement effective November 1, 2010. Under the agreement, Bell Tow was obligated to provide a 180-day notice of termination to the City, to enable the City to go through the appropriate processes for procuring and securing tow and storage services. However, Bell Tow provided the City with only a 47-day notice of termination. Additionally, because Bell Tow is going out of business entirely, the City could not avail itself of other provisions under the agreement, including the opportunity to subcontract for towing and storage services through Bell Tow, pursuant to Section J of the agreement. Accordingly, starting on November 1, 2010, the City will be left without any towing and storage services.

**C.** In light of these extraordinary and unexpected circumstances, the City has no other choice but to enter into a new contractual relationship for the provision of towing and storage services, which are necessary for the enforcement of the applicable laws and regulations.

**D.** In order to ensure open, transparent and fair processes in entering into contractual arrangements for and providing towing and storage services, the City, through the efforts of Captain Tony Miranda, has conducted a survey, has evaluated various companies that engage in the business of towing and storage of vehicles, as described herein, and the City desires to enter into agreements for these services with three (3) separate companies that will provide vehicle towing and storage services to the City on rotation basis.

**E.** In selecting the three (3) companies to provide the towing and storage services, the City surveyed the following ten local cities: Huntington Park, Maywood, Cudahy, Vernon,

South Gate, Lynwood, Compton, Century, East Los Angeles and Bell Gardens. The City's survey revealed that: (1) Huntington Park Automotive & Tow Service Inc. provides towing and storage services to the cities of Huntington Park, Maywood, Cudahy, Vernon, Lynwood, Compton, Century, East Los Angeles; (2) Mr. C's Towing and Walt's Tow provide towing and storage services to the City of South Gate; and (3) United Motor Club Inc. provides towing and storage services to the City of Bell Gardens.

F. The City also evaluated the proximity of the various towing and storage companies to the City and has determined that the closest to the City are: (1) United Motor Club Inc. located only 2.3 miles from the City; (2) Mr. C's Towing located only 2.65 miles from the City; and (3) Huntington Park Automotive & Tow Service Inc. located only 3.09 miles from the City.

G. Captain Miranda and Lieutenant Henshaw also visited all of the potential towing and storage companies to evaluate such important factors as the ability to release impounded vehicles 24 hours a day, seven (7) days a week, the cleanliness and organization of the storage yard, the professionalism, in interaction as well as appearance of companies' staff, customer service and a systematic approach to each company's book keeping practices.

H. Based on evaluation of these factors, the City's survey, the proximity of the towing and storage companies to the City, as well as the feed back from clients, the City staff recommended and has determined that the following three (3) companies are best suited to provide towing and storage services on rotation basis to the City: United Motor Club Inc., Mr. C's Towing and Huntington Park Automotive & Tow Service Inc.

I. Based on the foregoing, the City desires to enter into agreement with United Motor Club Inc., Club, Mr. C's Towing and Huntington Park Automotive & Tow Service Inc. for the provision of vehicle towing and storage services for a limited period of time and on rotation basis, as provided set forth in this Agreement.

J. The Operator represents that it has the managerial and operating personnel and the facilities and equipment necessary to provide the required vehicle towing and storage services to the City on the terms and conditions hereinafter set forth, and in compliance with applicable California state and local regulations.

K. The Parties have negotiated the terms pursuant to which the Operators will provide vehicle towing and services, and have been reduced to such terms in writing.

**NOW, THEREFORE**, the City and the Operator, in consideration of the mutual promises set forth herein, hereby agree as follows:

## **SECTION 1. DEFINITIONS**

A. "Bell Police Department" shall mean the City of Bell Police Department and its dully authorized employees, agents, assignees or designees.

**B.** "Contract Administrator" shall mean the City's Chief Administrative Officer or his/her duly authorized designee.

**C.** "Class 'A' Tow Truck" means a tow truck which has a manufacturer's GVWR of at least 10,000 lbs.

**D.** "Class 'B' Tow Truck" means a tow truck which has a manufacturer's GVWR of at least 19,501 lbs.

**E.** "Class 'C' Tow Truck" means a tow truck which has a manufacturer's GVWR of at least 33,000 lbs. and is equipped with air brakes capable of providing and maintaining continuous air to a towed vehicle.

**F.** "Class 'D' Tow Truck" means a tow truck which has a manufacturer's GVWR of at least 50,000 lbs. and is equipped with air brakes and capable of providing and maintaining continuous air to a towed vehicle.

## **SECTION 2. SCOPE OF SERVICES**

**A.** Operator agrees to provide, in response to calls generated from the City's Rotation Tow List, as set forth in Section 5 of this Agreement, towing and storage of vehicles, and related services, as set forth herein.

**B.** The City places no maximum on the number of City-generated tows that the Operator may be required to provide in any time period. There shall be no obligation upon City to provide the Operator with a minimum number of City-generated tows during any time period.

## **SECTION 3. TERM AND GRANT OF NON-EXCLUSIVE FRANCHISE**

**A.** The City hereby grants to the Operator a non-exclusive franchise to perform Bell Police Department-generated tows and storage services. The Operator will be placed on the City's Rotational List, in accordance with Section 5 of this Agreement, which is used as necessary for Bell Police Department-generated tows, in accordance with the City of Bell Municipal Code and California laws, including but not limited to California Vehicle Code. The Operator, by agreeing to enter into this Agreement, is not acting as an agent for the City or Bell Police Department, when performing services under the Agreement.

**B.** The term of this Agreement shall be only for the limited time period necessary for the City to prepare and issue a Request for Proposals, evaluate the proposals, as well as evaluate rates and other component of the towing and storage program, provided, however, that the term of this Agreement shall not exceed one (1) year from the Effective Date of this Agreement.

#### **SECTION 4. FRANCHISE FEE**

**A.** Pursuant to California Vehicle Code Section 12110(b), the City is authorized to require a fee in connection with the award of a franchise for towing vehicles on behalf of the City in an amount not to exceed the amount necessary to reimburse the City for its actual and reasonable costs incurred in connection with the towing program. The franchise fee set for in Subsection (B) below is in the amount necessary to reimburse the City for its actual and reasonable costs incurred in connection with the towing and storage program, as set forth in this Agreement.

**B.** The Operator shall pay the City franchise fee, on monthly basis, in an amount equal to ten percent (10%) of the Operator's gross income related to towing and/or storage of released and/or unclaimed vehicles pursuant to this Agreement. The franchise fee shall be due and payable no later than seven (7) days from the end of each calendar month. There shall be a ten percent (10%) penalty per day on unpaid balance for each day the payment to the City is late.

**C.** The Operator shall provide the City will a list of all vehicles towed and/or stored during a calendar month, the rates charged and the amount of gross income generated from towing and/or storage of vehicles pursuant to this Agreement.

#### **SECTION 5. ROTATION LIST**

**A.** The City and Bell Police Department shall maintain a rotation tow and storage list that will govern dispatches to vehicles.

**B.** Only the City or Bell Police Department shall dispatch the Operator to provide services covered by this Agreement. The City or Bell Police Department shall dispatch the Operator when its name appears at the top of the rotation tow list, as provided in this Agreement. The initial dispatch call to any of the three (3) operators providing towing and storage services to the City shall be randomly selected by a blind-draw.

1. A call to the Operator shall constitute one turn on the list and the Operator shall then be moved to the bottom of the list.
2. The City shall call the next operator on the list when the Operator:
  - a. fails to answer the phone;
  - b. is unable to provide a service;
  - c. is unable to respond;
  - d. is canceled due to excessive Response Time (20 minutes, but circumstances may vary based on a variety of factors including the location of the vehicle).
3. When the City determines that the Operator, after being dispatched, is not needed and the call is canceled by the City up to and including arrival at the scene, there shall be no charges and the Operator will be placed back

on top of the tow rotation list.

C. If service has begun and is canceled by the vehicle's owner or agent, charges shall not exceed one half of the regular towing charge for the actual time expended on the call.

D. If two or more operators are required at the same incident, the incident commander shall have the discretion to assign operators to the vehicles to be towed.

## **SECTION 6. STANDARDS OF SERVICE**

A. The Operator warrants that all of its tow truck drivers are qualified, competent, properly trained and licensed to provide services pursuant to this Agreement.

B. The Operator shall provide the City with a list of all tow truck drivers employed by or under contract with Contractor, and shall provide City with an updated list within seven (7) calendar days of any change in driver status. The list shall include the following information for each driver:

1. Name;
2. Date of birth;
3. California Driver's License number and classification;
4. Medical certificate;
5. Job title or description;
6. Current home address and telephone number; and
7. Types of trucks driver is trained and licensed to operate.

C. All of the Operator's officers, agents, or employees who engage in performance of this Agreement with City on behalf of the Operator shall be neat in appearance and courteous to the public and to the City employees.

D. The Operator shall supply its tow truck drivers with shirts upon which the name of the driver has been stitched on the left pocket or a pin-on name tag to be affixed to the left hand pocket. The shirt or name tag must be worn by the driver at all times when the driver is towing vehicles or interacting with the public or City pursuant to this Agreement.

E. While providing services pursuant to this Agreement, the Operator and Operator's employees or subcontractors shall not engage in misconduct, including, but not limited to the following acts of misconduct:

1. Rude or offensive behavior;
2. Selective service or refusal to provide service;
3. Racial discrimination;
4. Sexual harassment or sexual discrimination;
5. Unsafe or unlawful driving; and
6. Exhibiting any objective symptoms of alcohol or drug use, including, but not limited to, arriving at a tow scene with alcohol on the breath.

**F.** The Operator shall take prompt and appropriate steps to resolve any third party complaints arising from or related to services provided pursuant to this Agreement. The Operator shall provide each such complainant with a Customer Complaint form (provided by City), and shall fully cooperate with City's investigation of and attempts to resolve complaints.

**G.** The following documents, printed in a minimum of 12-point type, shall be posted by the Operator at each storage facility in a conspicuous location, easily visible to the public:

1. Name and address of the Operator's insurance broker handling the insurance coverage required pursuant to this Agreement;
2. Schedule of all approved towing storage rates, as set forth in the Rate Schedule, attached hereto as Exhibit A.
3. A notice explaining the procedure by which unclaimed vehicles are sold at public auction, including the locations of such auctions and publications in which such auctions are advertised, and stating that all in attendance at such auction shall have an equal opportunity to bid.

**H.** In the event the Operator discovers that a vehicle which has been towed has a Vehicle Identification Number ("VIN") which is different than the VIN showing on the CHP Form 180, the Contractor will notify the Police Department within twenty-four (24) hours of the time of such discovery.

**I.** Failure to comply with any of the Standards of Service set forth in this Subsection may be treated as a material breach of this Agreement.

## **SECTION 7. REQUIRED EQUIPMENT**

**A.** The Operator shall maintain a minimum of three (3) tow trucks with wheel lifts or two (2) trucks with wheel lifts and one car carrier to be available for City-generated tows. Of these, at least two (2) shall be Class 'A' trucks, and at least one (1) shall be a Class 'B' truck. The trucks must be staffed appropriately and stored at locations sufficient to allow for the mandatory response time. The trucks must have a means of communicating with the Operator's dispatch center, preferably via 2-way radio. At least one (1) truck must be equipped with the means of towing ball-type trailers.

**B.** The Operator shall comply with all California Vehicle Code requirements pertaining to the operation and maintenance of its tow trucks and operation of its business.

**C.** All of Operator's tow trucks shall be identifiable with signs in compliance with California Vehicle Code Section 27907, with the additional requirement that such signs be displayed on the right and left doors of each tow truck.

**SECTION 8. STORAGE FACILITIES**

**A.** The City hereby accepts the Operator's primary storage facilities located at the following addresses:

1. \_\_\_\_\_.

**B.** The Operator, with City's prior written authorization, may from time to time designate additional sites, or delete the existing sites, provided that the primary site is within five (5) miles of the intersection of Atlantic and Gage Avenues in the City of Bell.

**C.** The Operator shall also maintain sheltered storage on at least one (1) of its storage lots capable of storing at least five (5) vehicles.

**D.** The Operator shall maintain an office at its primary storage lot, staffed twenty-four (24) hours a day, seven (7) days a week including holidays by at least one employee, or have an employee available who can arrive at the office within twenty-five (25) minutes of a City or citizen request. The Operator shall provide a phone number that is answered twenty-four (24) hours a day and shall display that number in a prominent place.

**E.** The Operator shall maintain a security system sufficient to protect the office and the vehicles stored pursuant to this Agreement.

**F.** The Operator shall be responsible for the protection of each City-impounded vehicle in its possession until such vehicle has been released to its owner, or disposed of through legal process, and shall be responsible for safeguarding all articles left in the impounded vehicle. Contractor shall comply with police regulations regarding the inventory or removal of property found in police-stored or impounded vehicles.

**G.** All of the Operator's storage facilities shall have valid land use and other regulatory permits, as may be required by law.

**H.** All of the Operator's storage facilities shall be operated and maintained in compliance with all applicable environmental laws and regulations.

**I.** The Operator shall be responsible for all vehicles and their contents stored by the Operator, including but not limited to, personal property and vehicle accessories and equipment. The Operator shall be responsible for protecting these items against loss or damage from, including but not limited to, fire, theft, acts of God or other causes.

**J.** The Operator shall take all actions and precautions necessary to protect all vehicles and their components such as their engines, trunks, and interior areas, from natural elements by closing the windows, doors, trunk lids, hoods, and, if necessary, covering the vehicle or parts thereof exposed to the weather with plastic, canvas, or other waterproof covering.

**K.** The Operator shall park all stored and/or impounded vehicles in such a manner so as to prevent any damage to them during the movement or the parking of other vehicles.

**L.** Personal property contained in vehicles stored by the Operator shall not be disposed of to defray any charges for the towing or storage of said vehicles. In the event the owner of said vehicle fails to contact the Operator within thirty (30) days after the date of notice to the vehicle owner of impound or storage in accordance with the provisions of the California Vehicle Code, the vehicle, its accessories and equipment, and personal property shall be disposed of only in accordance with all State, Los Angeles County, and Municipal regulatory requirements.

## **SECTION 9. RATES AND FEES CHARTED BY OPERATOR**

**A.** Rates and fees charged by the Operator to vehicle owners for tow and storage services originating from the City are set forth in the Rate Schedule, attached to this Agreement as Exhibit A and incorporated herein by this reference.

**B.** Even when tow and storage services are specifically requested by the City, the Operator acknowledges and agrees that the Operator shall charge vehicle owners only for the tow and storage services incurred pursuant to the provisions of this Agreement. At no time shall the Operator hold the City liable for any tow or storage services incurred pursuant to and during the term of this Agreement, even when such services are requested by the City.

**C.** The rates set forth in the Rate Schedule shall apply to the Operator's services for tow and storage for the duration of this Agreement.

**D.** The Operator shall not make any demand upon the owner of the vehicle for a sum in excess of the rates set forth in the Rate Schedule.

### **E. Posting of Rate Schedules:**

1. The Operator shall post and maintain a sign or signs which have been approved by the Contract Administrator in a conspicuous place or places on the Operator's premises where owner re-claims his/her vehicle and in a location designated by the Contract Administrator which gives notice of:

- a. The Rate Schedule for tow and storage services under this Agreement;
- b. The method of payment(s) which are acceptable by the Operator which include credit cards and U.S. currency;
- c. A written receipt shall be supplied by the Operator for the amount of payment received;
- d. The telephone number and address of the Contract Administrator;
- e. The address where a vehicle owner may address his/her complaints regarding the Operator's tow and/or storage services.

## **SECTION 10. RESPONSE TO CALLS**

**A.** The Operator shall respond to calls 24 hours a day, seven (7) days a week, within the maximum Response Time of 20 minutes from the call. At the time of notification, the Operator will advise dispatch when the Operator is unable either to respond or to meet the maximum Response Time.

**B.** If the Operator was not called to a scene and comes upon a collision scene where a vehicle or vehicles are blocking a roadway, an officer may request the Operator's assistance in clearing the roadway. In such a case, the Operator may be requested to move the vehicle to a safe location, as directed by the officer, and leave it. There shall be no charge for this assistance. The assistance provided shall not change the Operator place in the rotation.

**C.** If the Operator questions or disputes the rotation tow list or its use, the Operator shall not contact the City or the Bell Police Department. All questions and disputes shall be referred in writing to the Contract Administrator during the City's regular business hours, Monday through Friday, excluding holidays.

**D.** It shall be the responsibility of the Operator to remove or clean from the scene of the collision any liquid, glass, or debris from the scene excluding flammable substances.

## **SECTION 11. BUSINESS RECORDS**

**A.** The Operator shall maintain all tow records of services, including a description of vehicles towed, time, location of calls, and total itemized costs of towing and storage. These records shall be submitted to the City on monthly basis, together with the franchise fee, set forth in Section 4 of this Agreement.

**B.** Lien sale records of vehicles towed or stored under the this Agreement shall be available to the City for review.

**C.** Records shall be maintained and available for inspection for a period of four (4) years from the date of the service provided.

## **SECTION 12. FINANCIAL INTEREST**

**A.** The Operator shall not be directly involved in the towing related business of any other operator or applicant. Any person has a financial interest when that person owns an interest in or is an officer, partner, or member of any business or association, or venture, whether for profit or not, which is an operator. Directly involved means anything in common between operators or applicants with regard to any of the following: (1) business licenses; (2) insurance; (3) tow truck or equipment ownership; and (4) employees.

**B.** Storage facilities owned by the Operator, and shared with another

operator, shall only be approved if the owner/operator charges for the space on a flat monthly rate rather than on a vehicle-by-vehicle basis.

### SECTION 13. INSPECTIONS

A. The City may inspect all tow trucks. The City may conduct such inspections without notice to the Operator during business hours to ensure compliance with this Agreement and all applicable laws and regulations.

B. The City may inspect the storage facility at any time during normal business hours without notice to the Operator. The purpose of such inspections is to ensure that the Operator is providing a reasonably safe and clean facility in which vehicles are stored and where contact with the public occurs.

### SECTION 14. INSURANCE

A. During the term of this Agreement, the Operator shall, at its sole costs and expense, carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with The Operator's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

1. Comprehensive General Liability Insurance with coverage limits of not less than **Three Million Dollars (\$3,000,000.00)** including products and completed operations hazard, contractual insurance, broad form property damage, independent contractor's liability, personal injury.
2. Automobile Liability Insurance for all vehicles used in connection with the performance of this Agreement and/or owned by the Operator with minimum limits of liability of **Three Million Dollars (\$3,000,000.00)** combined single limit coverage per claimant and per incident.
3. "On-Hook" and "Garage Keeper's" liability insurance with minimum limits of **One Million Dollars (\$1,000,000.00)**.
4. Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by The Operator. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **One Million Dollars (\$1,000,000.00)** per accident.

B. The Operator shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

**C.** The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.

**D.** The Operator agrees that if it does not keep the aforesaid insurance in full force and effect City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at the Operator's expense, the premium thereon.

**F.** At all times during the term of this Agreement, the Operator shall maintain on file with City's Director of Administrative Services a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the City as an additional insured. The Operator shall, prior to commencement of work under this Agreement, file with City's Director of Administrative Services such certificate(s).

**G.** The Operator shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

**H.** The comprehensive general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days' prior written notice to City. The Operator agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

**I.** The insurance provided by the Operator shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and its officers, employees, agents or volunteers, shall be in excess of the Operator's insurance and shall not contribute with it.

**J.** All insurance coverage provided pursuant to this Agreement shall not prohibit The Operator from waiving the right of subrogation prior to a loss. The Operator hereby waives all rights of subrogation against the City.

**K.** Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, the Operator shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or the Operator shall procure a bond guaranteeing payment of losses and expenses.

L. Procurement of insurance by the Operator shall not be construed as a limitation of the Operator's liability or as full performance of the Operator's duties to indemnify, hold harmless and defend under Section 17 of this Agreement.

## **SECTION 15. COMPLIANCE WITH LAW**

A. The Operator shall at all times comply with federal, state, and local laws and ordinances.

B. Any felony conviction of an owner of the Operator's tow service involving stolen or embezzled vehicles, fraud related to the towing business, stolen property, crimes of violence, fraud of any type, or moral turpitude shall be cause for termination of the Agreement.

C. The Operator shall obtain and maintain during the term of this Agreement all necessary licenses, permits and certificate required by law, including the City's regulations, for the conduct of the Operator's activities and for the provision of services hereunder, including a business license issued by the City.

## **SECTION 16. TERMINATION**

A. The City shall have the right to terminate this Agreement for any reason on ten (10) calendar days' written notice to the Operator.

B. The Operator shall have the right to terminate this Agreement for any reason on one hundred and eighty (180) calendar days' written notice to City. The Operator agrees to cease all work under this Agreement on or before the effective date of any notice of termination.

## **SECTION 17. RELEASE, INDEMNITY AND HOLD HARMLESS**

The Operator shall assume the defense of, including settlement of, and indemnify and save harmless the City, its officers, agents, and employees, from all claims, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from the performance of the Agreement or work, regardless of responsibility for negligence (including costs and expenses, which include attorney's fees, incurred in connection therewith) and from any and all claims, loss, damage, injury, and liability, howsoever the same may be caused, resulting directly or indirectly from the nature of the work covered by the Agreement, regardless of responsibility for negligence (including costs and expenses, which include attorney's fees, incurred in connection therewith), but excluding liabilities due to the sole negligence or willful misconduct of the City.

## **SECTION 18. CONFLICT OF INTEREST**

A. The Operator shall comply with all applicable federal, state, and local laws and regulations (including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*)). During the term of this Agreement, the Operator shall not perform any work for another person or entity for whom the

Operator was not working at the Effective Date of this Agreement if both (i) such work would require the Operator to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) the City has not consented in writing to the Operator's performance of such work.

**B.** The Operator shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* the Operator hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If the Operator was an employee, agent, appointee, or official of the City in the previous twelve (12) months, the Operator warrants that it did not participate in any manner in the forming of this Agreement.

**C.** The Operator understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and the Operator will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and the Operator will be required to reimburse the City for any sums paid to the The Operator . The Operator understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

**SECTION 19. NOTICES**

**A.** Except as otherwise specifically provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party hereto, may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage affixed thereto, and addressed as indicated below, and depositing said envelope in the United States mail to:

**CITY:**

Pedro Carrillo  
Interim Chief Administrative Officer  
(Contract Administrator)  
City of Bell  
6330 Pine Avenue  
City of Bell, CA 90201

**OPERATOR:**

Seyed M. Madaen  
President  
United Motor Club Inc.  
5030 E. Firestone Blvd.  
South Gate, CA 90280  
tel: 323-566-6400

**B.** Any notice given as provided here will be deemed given the business day after the notice is mailed to either of the parties listed above.

**SECTION 20. INDEPENDENT CONTRACTOR**

The parties intend that the Operator, in performing services herein specified, shall act as an independent contractor and shall have control of its work and the manner in which it is

performed. The Operator shall be free to contract for similar services to be performed for other employers while under this Agreement with the City. The Operator is not considered to be an agent or employee of the City and is not entitled to participate in any pension plan, medical, or dental plans, or any other benefit provided by the City for its employees.

## **SECTION 21. GENERAL PROVISIONS**

**A.** The Operator shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than The Operator .

**B.** In the performance of this Agreement, the Operator shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. The Operator will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

**C.** The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

**D.** The waiver by City or the Operator of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or the Operator unless in writing.

**E.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be Los Angeles County, California or in the United States District Court for Central District of California.

F. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

G. This Agreement shall be governed and construed in accordance with the laws of the State of California.

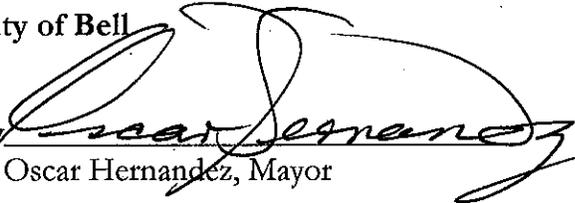
H. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between the City and The Operator with respect to the transactions contemplated herein. No other prior oral or written agreement(s) are binding upon the Parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and the Operator.

**TO EFFECTUATE THIS AGREEMENT**, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

**"CITY"**

City of Bell

By

  
Oscar Hernandez, Mayor

Date: 11-9-10

**"OPERATOR"**

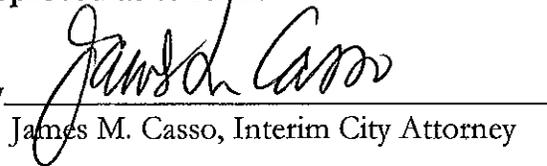
By



Date: 11/20/2010

Approved as to form:

By

  
James M. Casso, Interim City Attorney

1541170.1

**EXHIBIT A**  
**RATE SCHEDULE**

The following rate structure shall apply for all towing and storage services requested by the City:

- A. Class A and B Tow Trucks – Light Duty: \$ 95.00 per hour
- B. Class C and D Tow Trucks – Heavy Duty: \$ 200.00 per hour
- C. Storage: \$ 25.00 per day
  - \* The storage fee shall apply only after the first 24 hours of storage.
- D. Gate Fee: \$ 47.50 flat rate
  - \* The Gate Fee shall only apply for anyone desiring release of a vehicle at any time other than normal business hours.
- E. There is no additional charge for the use of a dolly in the towing service.