

CITY OF ALAMEDA
SPECIFICATIONS AND PROVISIONS
EMERGENCY and ABANDONED VEHICLE TOW CONTRACT 2017
EXHIBIT 1

Proposals will be received until the hour of 2:00 PM on the 11th day of April 2017. Proposals will be opened at 2:01 PM in the office of the City Clerk on the 11th day of April, 2017.

1. **FOR PROPOSALS TO THE CITY OF ALAMEDA:** For the towing and storage of vehicles from public and private property as directed by authorized representatives of the Alameda Police Department for a five (5) year period commencing May 16, 2017 through, and including, May 16, 2022, strictly in accordance with the instructions, terms, conditions and specifications as herein described.
2. **PROPOSALS FORM:** All proposals must be made upon blank forms to be obtained, upon application, from the City Clerk at her office at City Hall, 2263 Santa Clara Avenue Room 380, Alameda, CA 94501. Proposals and all riders attached thereto or in support thereof, must be signed by the bidder, if the proposal is made by an individual, his/her name and business address must be shown. If made by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by a corporation, the proposal must show the name of the state under the laws of which the corporation was chartered and the name, titles, and business addresses of the president, secretary and treasurer.
3. **PRESENTATION AND MARKING:** Proposals must be presented to the City Clerk at City Hall under sealed cover and must be plainly marked on the outside: "Proposal to Furnish Emergency and Abandoned Vehicle Towing Services", to be opened April 11, 2017 at 2:01 PM."
4. **BIDDER'S GUARANTY:** All proposals must be accompanied by a cashier's check or a certified check, drawn on a responsible bank, or by a Bid Bond furnished by a surety company authorized to transact business in the State of California and made payable to the City of Alameda for an amount of not less than Three Thousand Dollars (\$3,000.00), and no bid shall be considered unless such check is enclosed therewith.
5. **RETURN OF BIDDER'S GUARANTY:** Within ten (10) days after the opening of proposals, the City Clerk shall return the proposal guaranties accompanying such of the proposals that are not to be considered in making the award. All other proposal guaranties will be held until an award is made and a subsequent contract shall have

been finally executed, after which they will be returned to the respective bidders, whose proposals they accompanied.

6. **REJECTION OF PROPOSALS CONTAINING ALTERATIONS. ERASURES OR IRREGULARITIES:** Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind. Any statement or qualification in proposal form or attached to, or included therewith, serving to qualify proposal, or containing conflicting statements, or otherwise rendering the proposal ambiguous or uncertain, will disqualify the bid. The right is reserved to reject any or all proposals.
7. **AWARD OF CONTRACT:** The award of the contract, if it is awarded, will be made within thirty-five (35) days after the opening of the proposals. Proposal may be withdrawn by the bidder if the award of contract is not made within thirty-five (35) days after opening of bids.
8. **DISCRETION IN AWARDING CONTRACT:** The City of Alameda reserves the right to accept or reject bids for any service or combination of services and to award a contract to separate bidders for any service, or combination of services.
9. **PENALTY FOR COLLUSION:** If at any time it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any bid, colluded with any other party or parties, then the contract so awarded shall be null and void and the bidder and his/her bondsmen shall be liable to the City for all loss or damage which the City may suffer thereby, and the City Council may advertise for a new contract for said services and materials. The foregoing shall not be construed as prohibiting the formation of a legal entity by persons, firms or corporations for the purpose of submitting a bid for the service herein specified.
10. **EXECUTION OF CONTRACT:** The contract, in form and contents satisfactory to the City, shall be executed by the successful bidder and returned to the City with the necessary faithful performance bond within ten (10) working days after the bidder has received notice that the contract has been awarded and is ready for signature. No proposal shall be considered binding upon the City until the execution of the contract.

The cashier's check or certified check enclosed with the proposal of the bidder to whom the contract shall be awarded shall be retained as agreed as liquidated damages to the City of Alameda in the event that such bidder shall fail to enter into a contract and furnish the bond as herein required, time being of the essence hereof.
11. **CONTRACT FAITHFUL PERFORMANCE BOND:** Unless herein otherwise specifically provided, the successful bidder shall furnish to the City, at the time the contract is delivered, an approved faithful performance bond executed by a Surety Company

authorized to do business in the State of California, County of Alameda, City of Alameda and in form satisfactory to the City Attorney, in an amount of not less than Five Thousand Dollars (\$5,000.00), which bond shall guarantee faithful performance of said contract by the successful bidder.

12. **PAYMENT:** Payment will be made by the City within forty-five (45) days after aborted tow service Claims, as appropriate and their acceptance by the City or as otherwise noted herein, in the same manner that claims of like character are paid by the City, with warrants drawn on the Treasury of the City of Alameda.
13. **GENERAL INFORMATION:** All invitations to bid are offered subject to all terms, conditions and specifications herein contained.

All bids shall be evaluated by the City and the recommended award, if it be made, shall be made upon the basis of the lowest and best bid submitted. Included in the evaluation will be the following factors: a) Local facilities as required for performance including City Planning Department approval for compliance with zoning requirements; b) Number of and quality of all personnel employed; c) Adequacy and location of storage facilities, including evaluation of storage facilities located within the City of Alameda; d) Inspection of all equipment that the bidder proposes to use in the performance of this contract; e) The City's past experience, if any, with the bidders and the general reputation of the bidder.

The City will inspect bidder's facilities and equipment, prior to the recommendation of the award and reserves the right to inspect facilities and equipment at any time during the period of the contract. After the written proposals have been examined and during the evaluation process, the City may seek additional information from the bidders to clarify responses to aid in the final selection process.

14. **CONDITIONS INSTRUCTIONS AND ADDITIONAL REQUIREMENTS:** Proposals submitted by agents or by an attorney-in-fact of agent shall be accompanied by a true copy of his/her Power of Attorney, or other evidence of his/her authority to act on behalf of the principal. If the proposal is submitted by a corporation the certificate of corporation submitting the proposal must be executed. If the proposal is signed by the Secretary of the Corporation, the certificate must be executed by some other officer of the corporation, under the corporate seal. In lieu of the certificates of corporation submitting proposal, the information required may be attached to the proposal, copies to include the records of the corporation as will show the official character and authority of the officer signing, duly certified by the Secretary or Assistant Secretary under the corporate seal, to be true copies.

All proposals submitted shall be deemed to have been made with the full acknowledgement of all terms, conditions and requirements herein contained. Bidders

may submit more than one proposal. Each proposal shall be submitted separately with separate guaranties.

It shall be the responsibility of each individual or entity submitting proposals to see that his/her proposal is delivered within the time and at the place prescribed in these provisions and specifications. Proposals received prior to the time of opening will be securely kept, unopened. No proposal or modification received after the time set for opening shall be considered.

Proposals may be withdrawn by written or telegraphic request, which must be received, from those submitting proposals prior to the time fixed for opening. Proposals may be modified in the same manner and in compliance with the same terms and conditions of this invitation. Negligence on the part of the individual or entity submitting proposals in preparations of the proposal confers no right for the withdrawal of the proposal after it has been opened.

15. **INTERPRETATION OF SPECIFICATIONS AND ADDENDA THERETO:** Should it appear that the description of services to be furnished, or any matter relative thereto, is not sufficiently detailed or explained in these specification, the bidder may apply to the City Police Department, Bureau of Services Captain for further explanation. Upon such application by any bidder, or in the event that it appears expedient to the City Police Department, Bureau of Services Captain to correct any ambiguity in these specifications, the City Police Department, Bureau of Services Captain may issue addenda thereto not later than seventy-two (72) hours prior to the time set for the opening of bids. Such addenda shall be mailed to those prospective bidders holding these specifications in the manner set forth in Section16 hereof.
16. **NOTICE TO BIDDERS:** Any notice or addenda required to be mailed to the bidder or prospective bidders by the City of Alameda must be mailed by certified mail to said bidder or bidders at the business address of said bidder filed with the City of Alameda at the time that these specifications were delivered to said prospective bidder or in lieu thereof at his/her last known business address. Any such notice of addenda may be personally served. Evidence of such mailing shall be deemed the equivalent of personal service of such notice of addenda.
17. **GENERAL PROVISIONS:**
 - Scope of Work:**
 - A. Successful bidder shall provide twenty-four (24) hour tow services, on call as directed by the City of Alameda Police Department.

- B. Successful bidder shall provide indoor and outdoor secure storage for towed vehicles as explained later in this specification.
- C. Successful bidder and his/her operators shall cooperate with and assist Police Department representatives in removing hazards and vehicles as directed by the police officer at the scene. The successful bidder will assist in obtaining vehicle identification numbers, motor numbers or other identifying information as requested.

Quantity of Work:

The City makes no guarantee whatsoever, expressed or implied, as to the number of tows, which the Police Department shall request during the contract period. With the exception of aborted tows and services performed on City owned vehicles, the City of Alameda shall not be liable for any charge or charges for towing or any other allied service unless expressly agreed to in written form by the Chief of Police and/or his representative. It being expressly understood and agreed that the successful bidder/bidders shall make all charges to the owner or owners of the vehicles to which the service is rendered.

Alternate Towing Companies:

It is also expressly stated and agreed that this tow contract shall not abrogate in any way the right of the vehicle owner, or owners, or driver of any vehicle to specify a towing service of any automobile association or motor club of which the vehicle owner or driver is, or is not, a member.

Assignability:

Any assignment of this contract without the prior written consent of the City shall be void.

Subcontractors:

The successful bidder shall perform all functions of this contract award without the use of sub-contractors.

Inspections:

The City reserves the right to periodically inspect the successful bidder's storage facilities, have vehicles towed and stored by the successful bidder at no charge for the purpose of observing the conduct of the successful bidder's employees towards the public, and to evaluate procedures to guard against theft or damage to towed vehicles exercised by the successful bidder.

Charges for Services:

The rate structure will be established by competitive bid. The bidders must complete Exhibit 2 for all cost elements. Exhibit 2 will become the rate structure for the contract. Except as herein provided, the successful bidder shall not make any other charge unless specifically authorized by the vehicle owner or his/her authorized representative.

In addition, no charge will be made by the successful bidder if the vehicle to be towed is removed, prior to the arrival of the towing truck.

If, however, the tow truck has arrived, the owner of the vehicle to be towed will be subject to a service charge as described under the definition for an aborted tow in lieu of the towing charge when the vehicle is not towed to the storage area.

Police Tows:

A police tow is to be defined as any tow ordered by the City of Alameda Police Department. Tows, however, may include City-owned vehicles as specifically requested.

If in the normal performance of services under this contract any vehicle becomes abandoned, the Alameda Police Department shall furnish a low cost vehicle appraiser pursuant to the provisions of the California Vehicle Code and all other legal requirements in order to expedite the removal or disposal of any such described vehicle by the Contractor.

Aborted Tows:

An aborted tow is defined as a police tow where a tow truck is dispatched, but no tow is made.

In the event that a police tow is dispatched, but no tow is made (an Aborted Tow), the successful bidder will be allowed to collect a service charge in lieu of the towing charge from the vehicle owner or owners. If the successful bidder is unable to collect the aborted tow service charge from the vehicle owner or owners, the successful bidder may submit billing to the City of Alameda, together with assignment of collection for the charges. Such billing and assignment to the City must be made within a maximum period of One Hundred Eighty (180) days from the date of the aborted tow service, but in any case, the successful bidder is required to make every effort to collect from the vehicle owner and the billing and assignment to the City will follow only after a minimum of One Hundred Twenty (120) day collection period effort by the successful bidder computed from the date of the aborted tow service.

In addition, billing and assignment of collection to the City will be allowed only after it is shown that the tow truck responded to the original call within the minimum response time as shown in this specification. Where the initial response time is longer than the minimum response time, no billing or assignment to the City will be allowed.

Response Time:

Successful bidder shall dispatch equipment and personnel to arrive at the location prescribed by the Police Department within an average of twenty (20) minutes from receipt of order from the Police Department. Average response time will be measured over time. The successful bidder may be evaluated periodically and advised of the results.

Storage:

All vehicles, which are Police Tows may be stored in an outdoor or indoor facility meeting the following conditions:

- A. Outdoor storage must be fenced and adequately protected from unauthorized entry. The fencing shall provide security and be of a type to provide adequate screening so as to not present an unsightly appearance. The City will consider bidders that have outdoor storage within a five (5) mile driving radius from the Alameda Police Department.
- B. Indoor storage for a minimum of five (5) vehicles must be provided for Police Department evidentiary purposes. This is a Police Storage Area and is not to be considered a public access area.

24-Hour Operation and Public Accessibility:

Successful bidder shall be required to have facilities available to the public for removal of towed vehicles on a seven (7) day, normal work hours (8am to 6pm) basis and the successful bidder shall post all the following information conspicuously at all office locations open to the public:

- A. Schedule of fees authorized by this contract.
- B. Notice that copies of the contract and specifications are available at the office of the tow contractor for public inspection by any interested party.
- C. Check cashing and credit card policy of the contractor.

Protection of Vehicle Contents:

- A. Successful bidder will, when assuming custody of a vehicle towed or stored by Police Order, inventory the contents of the vehicle including property in the unlocked storage compartments. This inventory will be made by the successful bidder's operator and shall be on forms approved by the Chief of Police. Notation will be made of any locked compartment. By signature on this inventory, the successful bidder acknowledges acceptance of legal responsibility through the

action of his/her employees, or him/herself for the safe and proper tow and storage of the vehicle and for the security of the inventoried personal property.

Release of Towed Vehicles:

The successful bidder shall have one telephone number that the public or Police Department may call for information on vehicles towed pursuant to this contract. Successful bidder's personnel answering such telephones shall be courteous and provide complete information regarding the location of the vehicle and method of obtaining its release, including directions to the location to effect the release, documentation required, charges to be paid and terms of payment. Sufficient telephone lines, equipment and personnel shall be employed to provide public service without unreasonable delay.

The successful bidder will follow the guidelines for releasing stored vehicles as stated below:

- A. Claimants shall be required to provide evidence satisfactory to the tow firm representative that they are entitled to receive the vehicle. They must have a copy of the release from the Alameda Police Department.

Responsibility for release of the vehicle to a person without such evidence devolves fully on the successful bidder. When necessary, the Police Department will provide the successful bidder with reasonable assistance in verifying vehicle registration information, except those vehicles towed as abandoned during the normal course of performance under this contract.

- B. When the successful bidder's representative is satisfied that the requester is entitled to the vehicle, the fees provided in this contract award shall be collected and the requester promptly provided possession of the vehicle. If the vehicle is stored at a location other than the one where the fees are paid, transportation to the vehicle will be provided by the successful bidder without any charge and in a reasonable length of time. If transported in a tow truck, successful bidder shall take reasonable precautions to avoid any inconvenience and/or soiling of the customers garment.
- C. PRIVATE PROPERTY ABATEMENT: In the event the towed vehicle has been abated from private property under the sections 8-22.1 through 8-22.17 of the Alameda Municipal Code it shall not thereafter be reconstructed or made operable as provided for in section 8-22.13 of the Alameda Municipal Code and 22661 (f) of the California Vehicle Code.

Repair or Alteration of Vehicles:

Successful bidder shall not make any repairs or alterations to any vehicle without the express authorization of the registered or legal owner, and the owner's insurance carrier. Contractor may make only emergency alterations in order to tow the vehicle; however, no charge may be made to the owner of the vehicle.

Two-Way Radio Communications Equipment:

Each tow truck shall be equipped with equipment capable of communications between the successful bidder's dispatching office and the tow truck.

Error or Omissions:

- A. When any vehicle has been ordered towed by the Police Department and it appears that the tow was in error through a mistake of fact, the successful bidder shall release the vehicle to the owner at no cost to the owner. In the event of a clerical error or oversight on the part of the Police Department wherein a vehicle is stored for a period longer than it should have been, the successful bidder shall release the vehicle to the owner at no storage cost for such excess storage period.
- B. In the above cases, if the tow or excess storage charges resulted from an error of the Alameda Police through a mistake of fact or a clerical error, the successful bidder may charge the City at the rate of 50% of the towing and 50% of the storage charges per day of storage beyond the owner's responsibility. Provided, however, that if the circumstances were beyond the control of the Police Department, neither the City nor the owner shall be liable for such charges.

The Chief of Police and/or his designee shall make the determination as to errors or mistakes of fact and shall notify the successful bidder in writing.

Administration of Contract:

The administration of this contract, after award, is assigned to the Police Department.

Any appeals of decisions made by the Chief of Police may be made to the City Manager of the City of Alameda within ten (10) days of the determination by the Chief of Police. Any appeals of decisions made after this ten (10) day period shall be deemed null and void. Any decision by the City Manager for the City of Alameda shall be final and without further appeal.

- 18. INSURANCE REQUIREMENTS: On or before the commencement of the terms of this agreement, the successful bidder shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the following paragraphs. Such certificates, which do not limit the successful bidders indemnification, shall also contain substantially the following

statement: "Should any of the above insurance covered by this certification be cancelled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days advance written notice to the City of Alameda by certified mail, 'Attention: Risk Manager'." It is agreed that the successful bidder shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to the City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

A. COVERAGE:

Contractor shall maintain the following insurance coverage:

1) Workers' Compensation:

Statutory coverage as required by the State of California.

2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence
	\$2,000,000 aggregate— all other
Property Damage:	\$1,000,000 each occurrence
	\$2,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$2,000,000 will be considered equivalent to the required minimum limits shown above.

3) Automotive:

Comprehensive automobile liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence

OR

Combined Single Limit:	\$2,000,000 each occurrence
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4) Garage Keeper's Legal Liability: \$1,000,000 each occurrence

- B. **SUBROGATION WAIVER:** The successful bidder agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance that the successful bidder shall look solely to its insurance for recovery. The successful bidder hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either the successful bidder or City with respect to the services of the successful bidder herein, a waiver of any right to subrogation which any such insurer of said successful bidder may acquire against City by virtue of the payment of any loss under such insurance.
- C. **FAILURE TO SECURE:** If the successful bidder at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the successful bidder's name or as an agent of the successful bidder and shall be compensated by the successful bidder for the cost of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.
- D. **ADDITIONAL INSURED:** City, its City Council, boards and commissions, officers and employees shall be named as an additional insured under all insurance coverage. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.
- E. **SUFFICIENCY OF INSURANCE:** The insurance limits required by the City are not represented as being sufficient to protect the successful bidder. The successful bidder is advised to consult the successful bidder's insurance broker to determine adequate coverage for the successful bidder.

All insurance shall be maintained at all times during the Agreement at the expense of the successful bidder.

19. **HOLD HARMLESS:** The successful bidder shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers and employees from and against any and all loss, damages, liability, claims, suits, cost and expenses whatsoever, including reasonable attorneys' fees, regardless of the merits or outcomes of any such claim or suit arising from or in any manner connected to the successful bidder's negligent performance of services or work conducted or performed pursuant to this Agreement.

The successful bidder shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers and employees from and against any and all loss, damages, liability, claims, suits, cost and expenses whatsoever, including reasonable attorney's fees, accruing or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, equipment or supplies arising from or in any manner connected to the successful bidder's negligent performance of services or work conducted or performed pursuant to this Agreement.

20. **BIDDER:** Shall be a corporation, partnership or individual of sound financial responsibility and must offer proof of the same to the City's satisfaction by submitting with any proposals either of the following:
- A. A current business financial statement for the entity submitting a proposal that has been prepared on a responsible bank's standard financial statement form and that has been accepted by that bank for the purpose of establishing a line of credit for entity submitting a proposal.
 - B. A notarized statement attesting to the financial ability of the organization submitting a bid to fulfill the terms of the specifications. This may be submitted either on the basis of existing operations within the City of Alameda or a statement showing, under penalty of perjury the financial capability required to operate a business which would meet the specifications, and the ability to maintain such financing including available assets and credit references. This notarized statement must support a business statement for an existing corporation, partnership or individual that is now qualified to operate as a tow contractor. Such notarized statement must be complete and signed by an acceptable financial institution.
 - C. In either case, the bidder must submit a separate listing of any and all personal property and equipment either personally owned and/or presently leased for the purpose of use to execute this contract award. If such property is leased, proof of lease of said equipment must be provided together with the true financial statement as indicated in paragraph 20A or 20B.
21. **FORCE MAJEURE:** Neither party shall be liable for default or delay caused by any occurrence beyond its reasonable control, including but not limited to fires, strikes, accidents, or acts of God.
22. **CERTIFICATION:** We hereby certify that the preceding comprises all the Specifications and Provisions adopted by the City Council of the City of Alameda on March 6, 2012 and are alike in reproduction to any and all that will be issued to interested parties responding to the City's invitation to bid for these services.