APPLICATION PROCESS – PROSPECTIVE TOW COMPANY

Goals in the Selection Process

The City of Detroit is responsible for maintaining clean, safe and functional streets for its citizen's use. Citizens are entitled to a well-managed vehicle towing system that affords them a high level of customer service, convenience, courtesy, and professionalism. These are common goals shared by the Detroit Police Department ("the Department") and the Board of Police Commissioners ("the Board"). To that end, the selection process formulated by the City will result in awarding tow permits (including permits for the storage and disposal of abandoned and illegally parked vehicles) only to those tow companies who share in these goals.

Application Packet

Each prospective tower applicant must furnish the Department with completed information contained in the tower application packet which must include:

- Completed Application
- Background clearances on all employees (at the tower's cost)
- A list of any and all civil cases (pending and closed) where the prospective tower is named as a defendant
- Insurance Information (attach Certificate of Liability Insurance)
- List of licenses held
- List of trucks owned or leased (attach registrations)
- List of special on-site equipment
- Property tax clearances to the primary and secondary location
- Vendor's income tax clearance
- Zoning clearances for all storage location
- A detailed listing of all tow companies where the owner / proprietor or family member of the owner / proprietor, has at least a 10% stake in the tow company(s).
- Proof of certification as a Detroit-based business
- Proof that private storage lot, yard or garage is located within the boundaries of the City of Detroit[1]

[1] Detroit Ordinance, § 55-15-1(4)

Additional Applicant Requirements

Applicants for permits must provide the following information with regard to **all** parents, subsidiaries, divisions, affiliates, partners and major stockholders or members (over 10%):

Name _____
Address _____
President/CEO_____
Relationship to Applicant _____
Percentage of Stock or other form of Ownership in Applicant
_____

Background Check Certification

At the time of application, and continuing thereafter on a yearly basis, the applicant must provide certification from an independent background check organization approved by the Department that the applicant and its employees are free of the following felony convictions for the past seven (7) years, including but not limited to:

- Any offense that pertains to alteration or removal of a vehicle's identification numbers, theft and/or damage to vehicles, unlawful possession of burglary tools, petty theft, grand theft, or robbery, arson, extortion, forgery and/or burglary;

- Any offense, the elements of which include inflicting bodily injury or death to a person or persons;

- Reckless driving or driving under the influence of any drug or intoxicating liquor, regardless of whether the incident resulted in bodily injury or death, hit and run, any conviction for drug use (possession or sale) and evading a police officer;

- Any offense for which an individual must register as a sex offender.

Selected tow companies will provide the City with annual background checks, proof of valid driver licenses and driving records for its employees.

SELECTION CRITERIA

Applicants must agree to be bound by all the terms and conditions of the Police Authorized Tower Permit with the City of Detroit.

The Department, at its discretion, shall identify a reasonable number of tow companies per district or precinct. Each year, the Department will review the performance of each authorized tow company.

Selected tow companies must attend a mandatory Tower Orientation Session, which will include an overview of the requirements mandated by the Department, as well as the customer service/citizen complaint process.

The large number of vehicles within the City generates an intense demand for regulation of traffic flow that can only be met by a tow program that is efficient and capable of handling tow operations through the use of highly trained and properly equipped personnel and offices. At a minimum, the tow company must have sufficient equipment to perform required tow services (e.g. tow trucks, properly zoned property for storage, and insurance for each).

Insurance Requirements

At all times a permit holder must maintain, at minimum and at its expense, the following insurance:

	TYPE	AMOUNT NOT LESS THAN
(a)	Workers' Compensation	Michigan Statutory minimum
(b)	Employer's Liability	$500,000.00 minimum each disease $500,000.00 minimum each person $500,000.00 minimum each accident
(c)	Commercial General Liability Insurance	$1,000,000.00 each occurrence $2,000,000.00 aggregate Coverage is to include blanket contractual liability.
(d)	Garage Keeper's Legal Liability Insurance	$50,000.00
(E)	Automobile Liability	$1,000,000.00 combined single Insurance (covering limit for bodily injury all owned, hired and property damage to non-owned vehicles with personal and protection insurance including residual liability insurance under Michigan No Fault Insurance Law)

To the extent that state and/or federal law imposes requirements in excess of those stated above, the tow company must comply with the requirements of the law. The City reserves the right to change the insurance requirements 30 days after written notice to the tow company. Each year, the tow company must provide current certificates of insurance to the City, naming the City as an additional insured. The City must be provided with a 30-day notice of any cancellations or nonrenewal of insurance coverage.

Indemnification

As a condition of holding its permit, a tow company must agree to be solely responsible for and indemnify, defend and hold harmless the City of Detroit from and against all losses, liability, claims, causes of action, damages or costs, including any related expenses and attorney fees, for or on account of injuries to or death of any person and/or any property damage alleged to have been sustained in connection with the tow company's performance or failure to perform.

And further as a condition of holding its permit, a police authorized tower acknowledges that it understands and expressly assumes all the risks and dangers of the activities authorized by a police authorized tower permit and by its application for such a permit it agrees that it releases, waives, discharges, and covenants not to sue the City of Detroit, the Detroit Police Department and their officers, agents, servants, and employees from all liability, claims, demands, actions, or causes of action whatsoever arising out of any damages, loss, or injury to the police authorized tower or to its property while participating in any of the activities authorized pursuant to a police authorized tower permit, whether such damage, loss, or injury results from the negligence of those released or from any other cause. A holder of a police authorized tower permit, by its application for such a permit, agrees to defend and indemnify and hold harmless the City and the Department from any loss, liability, damage, or costs, including court costs and attorneys' fees, that they may incur due to the activities of the tower as a police authorized tower, whether caused by the negligence of the persons or entities released or otherwise.

Operation and Use of Facilities

Towing Equipment

Selected tow companies may either own or lease their towing equipment, so long as the equipment is adequate and is properly insured.

Storage Facility

Selected tow companies must provide convenient, well-managed, and courteously operated storage facilities for vehicles towed pursuant to Detroit Traffic Codes, and other vehicles ordered towed by the Department.

The City shall have the right to enter the tow company's facilities at any time. The tow company shall maintain an office at each facility with sufficient space for all necessary business capabilities, i.e. computers with software capabilities to collect vehicle information and other data, telephones, facsimile machines for servicing the customer and the Department. Data on each vehicle shall be stored electronically and is subject to inspection and audit. Each yard/storage facility shall contain a digital camera recording system (with DVR backup). The tow company shall supply the necessary toilet facilities at each location. The tow company shall be responsible for securing the facilities, all vehicles located therein and for the safety and security of all towed vehicles, including without limitation, limiting access to authorized persons. The tow company shall operate and maintain the facilities in accordance with all applicable zoning requirements, local, state, and federal laws.

Methods of Payment

All selected tow companies shall accept cash (and issue sequential cash receipts), and may accept any other tender at their own risk. Tow companies may provide on-site cash machines for the citizens' convenience. Any fees incurred by or loss from such transactions shall be processed in accordance with normal business practices and shall in no event be the responsibility of the City.

Posting of Required Information

The Department will provide signage to each tow company (at the tow company's expense) which must be conspicuously displayed and easily visible at each storage lot, yard or garage which expressly states the following:

- The name and address of the tower's insurance broker handling the insurance coverage required by the permit.
- Schedule of all approved towing, storage and additional charges as specified by the City[2]. Tow companies are expressly prohibited from charging any fee or cost in excess of that specifically authorized by the City.
- A notice explaining the conditions and/or procedures under which a tow hearing may be requested from the City and the Detroit Police Department.

[2] The entire schedule of charges should appear on the customer's copy of receipt.

- Procedures for filing a claim for damages incurred to the vehicle or contents thereof as a result of the tow or while in storage.

- A list of the documents required by the tow company in order for a citizen to retrieve a towed vehicle.

- A statement that the registered owner shall not be charged for the initial viewing of a recovered vehicle.

- A notice explaining the Department's policy to pay police authorized tower(s) for each tow of a vehicle to a City auto pound(s), precinct or district for the processing of evidence for the victims of any crimes.

- A Department contact name and phone number.

Tow Release Procedures

The Department shall provide the public with a Department telephone number to facilitate the retrieval of information on towed vehicles.

As a condition of holding a permit the City shall be held harmless by the permit holder from all claims arising out of the improper release of a vehicle. Responsibility for the release of a vehicle to a person without proper evidence of title devolves fully on the tower.

In the event that the towed vehicle has been identified as having a Police Hold (meaning that the Police have communicated in writing that the vehicle is to be placed on hold until released in writing), the tower shall not release the vehicle without written authorization from the Department.

If the tower tows a vehicle without an impound card, or releases, sells, auctions, or crushes a vehicle that is subject to a police hold, notwithstanding any criminal or civil penalties which may be levied by any court, there shall also be assessed a $1000 credit to the City per occurrence. In addition, the tower shall pay the blue book value of the vehicle to the owner if the vehicle is no longer available. In the event the vehicle sustains damage while in the possession of the tower, the tower will be responsible. Receipt of any remedy required by these rules does not preclude the registered owner from taking legal action.

Any tow company with an unclaimed vehicle on its premises for seven (7) calendar days must notify the Department, TCRU and the Towing Monitor in

writing. It shall be the tow company's responsibility to provide the Department with written notice every seven (7) days the vehicle remains unclaimed.

Customer Service

Towing Response Time

The City greatly values prompt courteous service to the public. The Department shall create a Citizen Complaint Form to facilitate feedback on the performance of police authorized towers. The Department and the Towing Monitor (should one be selected) will serve as the repository for the Citizen Complaint Forms. The Department shall implement a process whereby citizens can register written complaints.

The tow company must act in accordance with the highest industry standards and practices as approved by the City of Detroit. Therefore, the tow company must not cause the public unreasonable delay either on the phone or in person. Tow companies shall respond with the appropriate equipment to the designated point of tow within twenty (20) minutes of the dispatch.

All selected tow companies shall accommodate special tow programs such as abandoned vehicle sweeps and City-sponsored events. The City will notify the tow company in advance to insure that a sufficient number of tow trucks are available. The City shall state the number of tow operators required, the location and the time that they are to start.

In all contacts with the public, selected tow companies must promptly return vehicles when presented with sufficient proof of payment and ownership pursuant to applicable law and any guidelines provided by the City and designated department personnel.

Hours of Service

All tow companies must respond to all tow service calls with sufficient operational equipment to meet all towing services required at all times, 24-hours per day, seven days per week, including holidays. In the event a tow company does not respond to a tow service call, that tow company will be skipped, and the next tow company in the rotation will be called for the service call. The hours of service must allow citizens to retrieve their vehicles from 7 a.m. – 7 p.m., seven (7) days a week.

INTERNAL CONTROLS

Tower Rotation

Unless the workload or new technology warrants change, the criteria for tower rotation are as follows:

- A maximum of six (6) authorized tow companies will be assigned to each District and a maximum of three (3) to each Precinct.

  Each Authorized Tower will tow on a rotational basis within the respective District or Precinct in which they are geographically located. Authorized Towers which are cross owned on a basis which is greater than 10%, or under common ownership to an extent greater than 10% or which are owned by members of the same family (spouse, sibling, parent or child), will occupy only one position on the rotation roster and will receive towing assignments in succession. For purposes of this provision "cross ownership" refers to the ownership of one corporate entity by another. "Common ownership" refers to the ownership of two or more corporate entities by a single person or corporation.

- Towing assignments which cannot be fulfilled by the permit holder originally called must be referred back to the Department for reassignment and may not be reassigned by the permit holder.

- Districts or Precincts lacking adequate authorized tow companies to cover their respective areas shall have towers assigned by Fiscal Management Bureau on the basis of their geographical distance to the **actual** District or Precinct.

- Authorized tow companies assigned to tow in the area of 36th District Court or for events are required to have a tow truck on stand-by in the downtown area for immediate towing. These tow companies shall tow on a weekly rotational basis.

- **Abandoned vehicle tow** requests shall be rotated among the tow companies capable of towing and storing abandoned vehicles within the respective District or Precinct. This rotation shall be separate from all other authorized tows. The rotation shall be on a vehicle by vehicle basis among those tow companies who are capable in order to insure that all abandoned tows are rotated fairly and equitably.

- **Heavy duty towing** shall be rotated among the tow companies having that capability. "Capability" shall mean those authorized tow

companies that: 1) possess heavy duty trucks and equipment on site; 2) employ drivers in possession of the required CDL license endorsement; and 3) possess the space to store semi-trucks. The heavy duty towers shall be separated from the regular authorized tower rotation.

Detroit Police officers (or any other public official who exercises any functions or responsibilities in the review and/or approval of police authorized tow companies under any towing permit with the City) shall be strictly prohibited from directly calling in tow companies for tow(s). Detroit Police officers assigned to abandoned vehicles ("ABAN" officers) are also strictly prohibited from calling any tower directly for a tow. If a tower fails to respond within twenty (20) minutes after receiving a call, the next tower in line for rotation will be contacted. No vehicle shall be towed without authorization from the Detroit Police Department Dispatch Center. To ensure safety for the residents and the towers, no vehicles shall be towed that are in the presence of the owner, driver, or current occupier, without a Detroit Police Officer present.

Record Keeping

All selected tow companies shall maintain, in accordance with generally accepted accounting principles, complete and accurate books of account and records relating to all items of income received and expenses incurred in regard to police authorized towing. Such books of account shall be maintained at the site approved by the City. Authorized tow companies will be required to provide the City with a copy of their annual financial statement.

Annual Audit

All tow companies shall be required to provide the Department and the Towing Monitor with an annual financial and operational audit. The City and/or the Department reserve the right to audit the books and records of each tow company in order to ensure compliance with the Police Authorized Towing Permit and these Rules. This review may include, but may not be limited to, all monies collected by the tow company under the Police Authorized Towing Permit, auction procedures, and compliance with the Law Enforcement Information Network (L.E.I.N.) sale process.

Monitoring Process

The Department, with input from the Board will monitor this process and may appoint a Towing Monitor. If a Towing Monitor is appointed, such individual will select a team of civilian and sworn personnel who will serve as an investigation unit and liaison between all tow companies and the City of Detroit. This team will also be responsible for monitoring tow company performance by conducting site

visits and will report any apparent deficiencies or violations of these rules to the Board.

Abandoned Vehicle Auctions

Tow companies will be required to cooperate with the Department and comply with the Department's Manual with regard to public abandoned vehicle auto auctions.

LEGAL CONSIDERATIONS

Conflicts of Interest

Selected tow companies must certify that no officer, agent, or employee of the City (including but not limited to police officers) or any other public official has any personal or financial interest, directly or indirectly in the selected tow company. Selected tow companies must also agree not to hire or retain the services of any member of the Department, agent, or Board member, while such person is a public employee or official or for a period of at least one year thereafter, and will not hire any person with an interest that could possibly conflict in any manner with the performance of an authorized tower's responsibilities pursuant to a towing permit.

As a condition of its selection for a towing permit each police authorized tower acknowledges that holding such a permit is not a guarantee that any particular number of tows will be assigned to it and agrees that neither it nor any person under its control or who acts as an agent for it will initiate any action against the City based on a claim that it has failed to receive any particular number or share of tows.

Nontransferability and Termination

Any permit to provide towing services to the City cannot be transferred, sold or assigned to any other person or entity. Selected tow companies must notify the Department within ninety (90) days if the company sells, or in any manner transfers, the entire company, a substantial portion of its assets, or 10% or more of the outstanding stock, or if there is a change in any of the partners, owners, or officers of the tow company.

The City reserves the right to terminate any towing permit with a tow company in the event of a breach of the towing permit or any provision of the towing permit or of these Rules provided, however, that the permit holder shall be afforded an opportunity for a hearing before the Board of Commissioners or the Board's designee prior to the effective date of any such termination.

The City may immediately terminate any towing permit with a tow company for fraud or criminal conduct by the tow company or its employees, provided however, that as soon as practicable the permit holder shall be afforded an opportunity for a hearing before the Board of Commissioners or the Board's designee following which hearing the Board shall either affirm or rescind the termination.

Unless terminated earlier, a permit granted pursuant to these rules shall be valid for a period of five (5) years from the date of issuance. At any time within the last year an application for renewal may be made by the permit holder. An application for renewal shall include all the information and requirements of the original application.

Jerome L. Warfield, Sr.

Rev. Jerome Warfield, Chair

Adela Rivera, Vice Chair (*abstained*)

Toney Stewart

Toney Stewart, Commissioner

Rev. Michael Reeves, Commissioner

Dave Bing

Mayor

Ralph T. Godbee, Jr.

Chief of Police

Dated: DEC 15 2010