LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

A Tradition of Service

August 07, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Dear Supervisors:

APPROVAL OF STANDARDIZED MEMORANDUM OF UNDERSTANDING FOR VEHICLE TOWING AND STORAGE SERVICES FOR THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT (ALL DISTRICTS) (3 VOTES)

SUBJECT

The Los Angeles County Sheriff's Department (Department) is seeking your Board's approval and acceptance of a revised Memorandum of Understanding (MOU) for the Department's Vehicle Towing and Storage Program (Program).

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the accompanying standardized and revised MOU (Attachment A) for towing and storage of privately owned vehicles impounded for violation(s) of the California Vehicle Code or local ordinances. The term of each respective MOU shall be three years from the date of execution. There is no net cost to Los Angeles County (County).

2. Authorize the Sheriff or his designee to execute and amend the Program's MOUs as required to meet the needs of the Department.

3. Approve the Department's Program and standardize the process by which the MOUs are awarded and approved. Towing services are required by all patrol stations to adequately meet the Department's operational demand to deal with privately owned vehicles.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this action is to approve a revised MOU for the Program and to standardize the process by which the MOUs are awarded and approved.

The current MOU, adopted in 1999, is outdated as the liability insurance requirements are inadequate. The revised MOU raises the liability insurance for the individual towing companies to an amount consistent with current vehicle and replacement pricing in the event of loss at a contracted towing establishment. Your Board's approval of the standardized and revised MOU will ratify the Department's Program.

The revised MOU raises the Comprehensive General Liability Insurance required coverage from $1 million to $2 million per occurrence.

The revised MOU raises the Garage Keepers Liability Insurance required maximum coverage from $25,000 to $500,000 per incident.

Implementation of Strategic Plan Goals

The services provided under this MOU support the County's Strategic Plan, Goal 1, Operational Effectiveness. This MOU will allow the Department to provide a more standardized oversight into the individual towing companies providing support to the County.

FISCAL IMPACT/FINANCING

There is no net cost to the County for towing and storage services for vehicles that violate the California Vehicle Code or local ordinances. Costs for towing and storage of impounded vehicles are paid by the vehicle owner. Since the Program is already in existence, any overhead costs to execute MOUs, perform background checks, and issue approved agreements are incorporated into our normal cost of business. This Program is not related to our method of towing County-owned vehicles and patrol cars, which is covered under a separate contract approved by your Board.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On July 26, 1996, your Board directed the Department to design a competitive bid process for towing and storage of privately owned vehicles found in violation of the California Vehicle Code. The Department does not maintain official garages for the storage of motor vehicles and must utilize private towing companies to comply with the California Vehicle Code.

On September 24, 1998, the Department completed a comprehensive report with recommendations related to towing and storage services, which included evaluations of the Los Angeles Police Department and the California Highway Patrol towing and storage programs.

On December 14, 1999, your Board adopted the current version of the MOU between the Department and independent towing companies. The current MOU has been in effect since 1999. The revised MOU before the Board will replace the existing MOU.

The Department's selection process includes a review of each application submitted by the towing company, inspection of the applicants' towing and storage facilities, records, licenses, and a background investigation of owners and their employees to ensure that each contract meets all the following criteria for provision of service.

- Ongoing checks and balances to ensure quality control; and
- Established rates and charges for towing services and storage fees that are consistent with the industry and current with the Consumer Price Index.

The Board of Supervisors' authorization for the Department to execute and amend MOUs with towing companies will facilitate the management and oversight of this Program.

The selection process for vehicle towing and storage services is in compliance with County policy and procedures, and is consistent with the recommendations made by the Board of Supervisors and the Chief Executive Office.

County Counsel has reviewed and approved the revised MOU as to form. The MOU will be the standard agreement with each towing company that is selected to provide towing and storage services to the Department.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impact on current Department operations and services.

CONCLUSION

Upon approval by your Board, please return three adopted copies of this Board letter to the Department's Major Crimes Bureau.

Sincerely,



LEROY D. BACA
Sheriff

LDB:JLR:CLB:clb

Enclosures

MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN THE COUNTY OF LOS ANGELES

AND

_____

FOR

_____

VEHICLE TOWING AND STORAGE SERVICES

_____

Contracted for _____ Station _____

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MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE COUNTY OF LOS ANGELES

FOR

VEHICLE TOWING AND STORAGE SERVICES

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into on this _____ day of _____, and year of _____

by and between the **COUNTY OF LOS ANGELES, SHERIFF'S DEPARTMENT** (hereinafter "COUNTY")

and _____ (A Vehicle Towing and Storing Company) a California corporation, proprietorship, or partnership (hereafter "CONTRACTOR"), to provide COUNTY with the services described hereunder with regard to COUNTY's Vehicle Towing and Storage Program.

WHEREAS, COUNTY has a need for the towing and storage of impounded vehicles that do not meet the California Vehicle Code; and

WHEREAS, COUNTY has a need for the towing and storage of impounded vehicles to maintain compliance with the California Vehicle Code; and

WHEREAS, COUNTY does not maintain garages for the storage of impounded vehicles and/or parts of vehicles, and must utilize private CONTRACTORS; and

WHEREAS, CONTRACTOR possesses the competence, expertise, and meets the criteria to provide vehicle towing and storage; and

WHEREAS, COUNTY believes that it is in its best interest to enter into this MOU with CONTRACTOR to provide the services described hereunder.

NOW, THEREFORE, CONTRACTOR and COUNTY hereby agree as follows:

1. APPLICABLE DOCUMENTS

1.1 Interpretation

Exhibits A, B, and C are attached to and form a part of this MOU are hereby incorporated herein by reference. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, sub-task, deliverable, goods, service, or other work, or otherwise between the body of this MOU and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this MOU, and then to the Exhibits according to the following priority:

(a) Exhibit A - Statement of Work
(b) Attachments A-1, A-2, A-3, A-4, A-5
(c) Exhibit B - Tow and Storage Service Rates
(d) Exhibit C - CONTRACTOR Acknowledgment and Confidentiality Agreement
(e) Exhibit D- Court Services
(f) Exhibit E- Contract Formula

1.2 Entire MOU

The body of this MOU, and the Exhibits thereto, shall constitute the complete and exclusive statement of understanding between the parties which supersedes all previous agreements and/or MOUs, written or oral, and all communications between the parties relating and the subject matter of this MOU.

2. DEFINITIONS

2.1 MOU Fees

As used herein, the term "MOU Fees" shall mean the total monetary amount payable by insurance company(ies) or a vehicle owner hereunder, as set forth in Subparagraph 4.1, Towing and Storage Fees.

2.2 Project Director

As used herein, the term "Project Director" shall be the Captain of Major Crimes Bureau, and have the meaning specified in Subparagraph 8.1, (Project Director).

2.3 Project Manager

As used herein, the term "Project Manager" shall be the station Commander, and have the meaning specified in Subparagraph 9.1, (Contractor's Project Manager).

2.4 CONTRACTOR's Staff

As used herein, the term "CONTRACTOR's Staff" shall mean the staff provided by CONTRACTOR and its Subcontractors.

2.5 COUNTY

As used herein, the term "COUNTY" shall mean the County of Los Angeles, California.

2.6 COUNTY Jail Facility; COUNTY Jail Facilities

As used herein, the term "COUNTY Jail Facility" shall mean anyone, and the term "COUNTY Jail Facilities" shall mean any two or more, of the custody facilities of Sheriff's Department.

2.7 Contract Manager

As used herein, the term "Contract Manager" shall be the Investigator assigned by the Project Director, and shall have the meaning specified in Subparagraph 8.2, (Contract Manager).

2.8 Day(s)

As used herein, the term "day(s)" shall mean calendar day(s) and not business or working day(s).

2.9 Effective Date

As used herein, the term "Effective Date" shall mean Board approval date.

2.10 Fiscal Year

As used herein, the term "fiscal year" shall mean the twelve (12) month period beginning July 1 and ending June 30.

2.11 Sheriff

As used herein, the term "Sheriff" shall mean COUNTY's Sheriff or his authorized designee.

2.12 Sheriff's Department

As used herein, the term "Sheriff's Department" shall mean COUNTY's Sheriff's Department.

2.13 Subcontractor

As used herein, the term "Subcontractor" shall mean any person, entity, or organization, to which CONTRACTOR proposes to delegate or has delegated any of its obligations hereunder in accordance with Paragraph 24 (Subcontracting).

3. TERM

3.1 The term of this MOU shall commence on the Effective Date and shall expire three (3) years thereafter, unless sooner terminated or extended, in whole or in part, as provided in this MOU.

Sheriff, in his sole discretion, has the option of extending the term of this MOU for six (6) months by giving written notice to CONTRACTOR prior to the expiration of the third year.

In the event of the expiration or prior termination of this MOU, CONTRACTOR shall fully cooperate with COUNTY to provide for the transition to whatever service replacement method COUNTY determines to be in its best interest.

3.2 The term of this MOU shall not be extended beyond the optional six (6) month extension. Continuation of this service will require a new contract/MOU, rating and evaluation of company, equipment inspection, background check and clearance by County.

4. TOWING AND STORAGE FEES

4.1 Towing and Storage Fees

The MOU Fees for this MOU, including all applicable taxes, authorized by COUNTY hereunder shall not exceed the current rates established in Exhibit B, Tow and Storage Services Rates, in this MOU.

All work completed by CONTRACTOR must be approved in writing by the Sheriff's Department. If the Sheriff's Department does not approve work in writing, no payment shall be due to CONTRACTOR for that work.

Notwithstanding such limitation of funds, CONTRACTOR shall satisfactorily perform and complete all work specified in this MOU.

The Project Director will review towing rates every April to determine if a rate increase/decrease is justified based on the current consumer price index for Los Angeles-Riverside-Orange Counties. A file copy of rate changes will be sent to Fiscal Administration for record. The Project Director will notify all Towing Facilities under contract of rate changes.

4.2 COUNTY's Obligation in Future Fiscal Years

Notwithstanding any other provision of this MOU, COUNTY shall not be obligated for CONTRACTOR's performance hereunder or by any provision of this MOU during any of COUNTY's future fiscal years unless and until the COUNTY's Board of Supervisors appropriates funds for this MOU in COUNTY's Budget for each such future fiscal year. In the event that funds are not appropriated for this MOU, then this MOU shall terminate as of June 30 of the last fiscal year for which funds were appropriated. COUNTY shall notify CONTRACTOR in writing of any such non-appropriation of funds at the earliest possible date.

5. INVOICE PAYMENT

5.1 Owner Paid Fees

The owner of stored vehicles or parts shall pay accrued storage and towing charges at the time the vehicle released. The amount of such charges shall not exceed the current rates in Exhibit B, of this MOU.

If a vehicle is seized by the Sheriff's Department and it is determined by the Sheriff's Department that the owner of the vehicle should not have to pay the cost of the towing and/or storage charges, the CONTRACTOR shall within five (5) days of such a notice from the Sheriff's Department, refund to the vehicle owner all or that portion of the towing and/or storage costs determined to be improperly paid by the vehicle owner. CONTRACTOR shall invoice the Sheriff's Department for these fees.

5.2 County Paid Fees

CONTRACTOR shall submit an original and one (1) copy of each invoice for the applicable billing period for providing COUNTY authorized services and other work, which are specified in Exhibit A, Statement of Work of this MOU.

The Sheriff's Department agrees to pay all towing and/or storage charges so refunded and/or Sheriff's Department authorized charges incurred by the towing company within 30 days of an approved invoice.

COUNTY shall not be responsible for any invoice payments if any invoice is received later than sixty (60) days after the date of completion of work.

All invoices under this MOU shall be submitted to the following address:

Los Angeles County Sheriff's Department
Fiscal Operations
4700 South Ramona Boulevard, 3d Floor
Monterey Park, CA 91754-2169

5.3 COUNTY Approval of Invoices

All invoices submitted by CONTRACTOR for payment must receive the written approval of Station Captain prior to any payment thereof. Approval for payment will be given promptly for approved work, and generally, payment should be made no later than thirty (30) days following COUNTY's receipt of a complete and correct invoice and approval of the related work. In no event shall COUNTY be liable or responsible for any payment prior to such written approval.

5.4 Invoice Detail

Each invoice submitted by CONTRACTOR shall indicate:

(a) COUNTY's Agreement Number

(b) Services or other work for which payment is claimed

(c) Dates of the charges incurred

(d) The total charges for all work provided, including any applicable sales taxes

(e) Indication of any applicable withhold amount for payments claimed

(f) Indication of any applicable credits due to COUNTY

(g) Any other information reasonably required by COUNTY

5.5 COUNTY's Right To Withhold Payment

Notwithstanding any other provision of this MOU, COUNTY may upon written notice to CONTRACTOR withhold payment for any work while CONTRACTOR is in default hereunder. Sheriff, in his sole discretion, may waive COUNTY's right to withhold payment as described in this Subparagraph 5.5.

5.6 Sales/Use Taxes

The Towing and Storage Fees listed in Exhibit B of this MOU, shall be deemed to include all amounts necessary for COUNTY to reimburse CONTRACTOR for all applicable California sales/use taxes pursuant to or otherwise due as a result of this MOU. All California sales/use taxes shall be paid directly by CONTRACTOR to the State. CONTRACTORS shall be solely liable and responsible for, and shall indemnify, defend, and hold harmless COUNTY from any and all such California sales/use's taxes.

6. WORK

6.1 General

Pursuant to the provisions of this MOU, CONTRACTOR shall fully provide, complete and timely deliver of all services and other work requested as set forth in this MOU.

6.2 Unapproved Work

If CONTRACTOR provides services or other work to COUNTY other than those specified in this MOU, or if CONTRACTOR provides such items requiring COUNTY's prior approval without first having obtained such approval, the same shall be deemed to be a gratuitous effort on the part of CONTRACTOR and CONTRACTOR shall have no claim whatsoever against COUNTY therefor.

6.3 COUNTY's Right to Reject

COUNTY reserves the right to reject any tasks, subtasks, deliverables, goods, services, and/or other work if not approved by COUNTY pursuant

to Subparagraph 8.2, COUNTY Approval of Work, or other provisions of this MOU.

7. INDEMNIFICATION AND INSURANCE

7.1 Indemnification

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its districts administered by COUNTY, and their elected and appointed officers, employees, and agents (hereafter in this Paragraph 7 "COUNTY") from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, in any way arising from or related to claims and lawsuits for damages of any nature whatsoever, including, but not limited, to bodily injury, death, personal injury, or property damage arising from or related to CONTRACTOR, CONTRACTOR's agents', employees' or Subcontractors' acts or omissions in the performance of services or provision of products hereunder, including, without limitation, any workers' compensation suits, liability, or expense, arising from or connected with services performed by any person on behalf of CONTRACTOR, CONTRACTOR's agents, employees or Subcontractors pursuant to this MOU. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Subparagraph 7.1 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by COUNTY (which approval will not be unreasonably withheld) in writing.

7.2 Insurance

Without limiting CONTRACTOR's indemnification of COUNTY, CONTRACTOR shall provide and maintain at its own expense, during the term of this MOU, the following programs of insurance covering its operations hereunder. Such insurance shall be provided by insurer(s) satisfactory to COUNTY's Risk Manager, and evidence of such programs satisfactory to COUNTY shall be delivered to Sheriff's Department, Contracts Administration, 4700 Ramona Boulevard, Monterey Park, California 91754, on or before the execution of this MOU by COUNTY's Board of Supervisors. Such evidence shall specifically identify this MOU and shall contain express conditions that COUNTY is to be given written notice by registered mail at least thirty (30) days in advance of any termination of any program of insurance, and, with respect to any modification of any program of insurance, at least thirty (30) days in advance or immediately following CONTRACTOR's first receipt of notice of modification in the event CONTRACTOR receives less than thirty (30) days advance notice of such modification.

7.2.1 Liability Insurance

Such insurance shall be primary to and not contributing with any other insurance maintained by COUNTY, shall name the County of Los Angeles as an additional insured, and shall consist of:

(a) Comprehensive General Liability insurance endorsed for Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, Independent Contractors, and Personal Injury with a combined single limit of not less than Two Million Dollars ($2,000,000) per occurrence. If written with an annual aggregate limit, the above insurance policy limit shall be three (3) times the above required occurrence limit. If the above insurance is written on a Claims Made Form, such insurance shall be endorsed to provide an extended reporting period of not less than five (5) years following the expiration or termination of this MOU.

(b) Comprehensive Auto Liability insurance endorsed for all owned, non-owned, and hired vehicles with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence.

(c) Garage Keepers Liability insurance for fire and theft shall be a maximum of Five-hundred thousand Dollars ($500,000) per incident, (note: recommendation based on highest value of vehicle to be towed). Policy expiration dates and any notice of cancellation shall be furnished to the Sheriff's Department immediately upon receipt. The tow service shall furnish satisfactory evidence of the ability to respond to damage claims as required by Section 16500.5 of the California Vehicle Code.

7.2.2 Workers' Compensation Insurance

A program of workers' compensation insurance in an amount and form to meet all applicable requirements of the California Labor Code, including, without limitation, employer's liability with a One Million Dollars ($1,000,000) limit, covering all persons performing work on behalf of CONTRACTOR and all risks to such persons under this MOU.

7.3 Failure to Procure and Maintain Insurance

Failure on the part of CONTRACTOR to procure and maintain all required insurance shall constitute a material breach of this MOU upon which COUNTY may immediately terminate this MOU.

8. ADMINISTRATION OF MOU - COUNTY

8.1 Project Director

8.1.1 The Project Director shall approve or disapprove a towing facility for a contract after reviewing the completed inspected conducted by the Contract Manager. The results will be sent to the appropriate Project Manager for selection.

8.1.2 The Project Director may suspend or cancel towing contracts for a violation (s) of the contract after a review of the evidence presented by the Contract Manager.

8.1.3 Notification of any suspension or cancellation will be made to the appropriate Project Manager.

8.2 Contract Manager

For this MOU the Contract Manager shall be the following person:

Investigator: _____

Address: Major Crimes Bureau, 11515, S. Colima Road, C-111
Whittier, CA. 90604

8.2.1 COUNTY shall notify CONTRACTOR in writing of any change in the name or address of COUNTY's Contract Manager.

8.2.2 Contract Manager shall have overall responsibility for ensuring that the objectives of this MOU are met.

8.2.3 Contract Manager is not authorized to make any changes in any of the terms and conditions of this MOU and is not authorized to further obligate COUNTY in any respect whatsoever.

8.2.4 Contract Manager shall provide direction to CONTRACTOR in the areas relating to, but not limited to, COUNTY policy, information requirements, and procedural requirements.

8.2.5 Contract Manager shall have the right at all times to inspect any and all tasks, sub-tasks, deliverables, goods, services, or other work provided by or on behalf of CONTRACTOR.

8.2.6 Contract Manager shall conduct scheduled and unscheduled inspections of towing facilities.

8.2.7 Contract Manager shall sign all contracts by delegated authority as given by the Project Director.

8.2.8 Contract Manager will review the consumer price index for Los Angeles-Riverside-Orange Counties every April and present to the Project Director any proposed towing fee changes.

8.2.9 Contract Manager will coordinate with the Project Manager or their representative as required regarding towing matters.

8.2.10 Contract Manager will maintain contract towing facility files.

8.3 COUNTY Approval Of Work

All services and other work provided by CONTRACTOR for the Sheriff's Department must be provided solely as specified in Exhibit A, Statement of Work, of this MOU and must receive the written approval of Station Commander or his designee in order to qualify for payment. The Station Commander or his designee will ensure that a Vehicle Report (California Highway Patrol Form180) is properly and completely filled out and given for towing all privately owned vehicles to the CONTRACTOR prior to towing of the vehicle as specified in Exhibit A, Statement of Work, of this MOU. In no event shall COUNTY be liable or responsible for any payment prior to such written approval and shall not exceed the current rates established in Exhibit B, Tow and Storage Services Rates, in this MOU.

The Sheriff's Department will determine if a vehicle is seized improperly and without justification and will notify the CONTRACTOR in writing if the owner of the vehicle should not have to pay the cost of the towing and/or storage charges. The CONTRACTOR shall within five (5) days of such a notice from the Sheriff's Department, refund to the vehicle owner all or that portion of the towing and/or storage costs determined to be improperly paid by the vehicle owner. CONTRACTOR shall bill the Sheriff's Department for these refunded fees and the Sheriff's Department agrees to pay for all towing and/or storage charges so refunded, as specified in subparagraph 5.1, Payment, of this MOU.

8.4 COUNTY Personnel

Unless otherwise stated in this MOU, all COUNTY personnel assigned to this MOU shall be under the exclusive supervision of COUNTY. CONTRACTOR understands and agrees that all such COUNTY personnel are assigned only for the convenience of COUNTY.

9. ADMINISTRATION OF MOU - CONTRACTOR

9.1 CONTRACTOR's Project Manager

9.1.1 CONTRACTOR's Project Manager shall be the following person, who shall be a full-time employee of CONTRACTOR:

Name: _____

Address: _____

City/Zip: _____

Phone No.: _____

9.1.2 CONTRACTOR's Project Manager shall be responsible for CONTRACTOR's day-to-day activities hereunder and for reporting to COUNTY in the manner set forth in Subparagraph 9.5 (Reports By CONTRACTOR) and in Exhibit A, Statement of Work.

9.1.3 CONTRACTOR's Project Manager shall coordinate with COUNTY's Project Manager on a regular basis.

9.2 Criminal Background Check of CONTRACTOR and Staff

All CONTRACTOR's and their staff shall be subject to a criminal background check by Sheriff's Department and must clear such background check in accordance with all rules, regulations, policies and procedures of Sheriff's Department. In the event that Contractor does not consent to such background check or does not clear such background check ad determined by Sheriff's Department the contract will not be let. In the event the CONTRACTOR's staff does not consent to such background check or does not clear such background check as determined by Sheriff's Department, CONTRACTOR shall assure that such staff member does not perform any work under this MOU.

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, reasonable defense costs and legal, accounting and other expert, consulting or professional fees, arising from or related to COUNTY's performance of criminal background checks and any limitations imposed on CONTRACTOR's staff. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Subparagraph 9.2 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by COUNTY (which approval shall not be unreasonably withheld) in writing. Notwithstanding the preceding sentence, COUNTY shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide COUNTY with a full and adequate defense, as required by law or this MOU, COUNTY shall be entitled to reimbursement for all such costs and expenses.

9.3 Reports by CONTRACTOR

CONTRACTOR shall provide Station Captain or his designee with written monthly reports as specified in Exhibit A, Statement of Work, of this MOU.

CONTRACTOR shall deliver one (1) hard copy of each of such reports, to Station Captain or his designee executed by CONTRACTOR's Project Manager. CONTRACTOR shall report any change in ownership of the business including cooperate officers.

10. RECORDS AND AUDITS

10.1 CONTRACTOR shall maintain accurate and complete financial records of its activities and operations relating to this MOU in accordance with generally accepted accounting principles. CONTRACTOR shall also maintain accurate and complete employment and other records relating to its performance of this MOU. CONTRACTOR agrees that COUNTY, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this MOU. All such material, including, but not limited to, all financial records, time cards and other employment records, and proprietary data and information, shall be kept and maintained by CONTRACTOR and shall be made available to COUNTY during the term of this MOU and for a period of five (5) years thereafter unless COUNTY's

written permission is given to dispose of any such material prior to such time. All such material shall be maintained by CONTRACTOR at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then CONTRACTOR shall transport such material to a location in Los Angeles County or pay COUNTY for travel, per diem, and other costs incurred by COUNTY to examine, audit, excerpt, copy or transcribe such material at such other location.

10.2 In the event that an audit is conducted of CONTRACTOR specifically regarding this MOU by any Federal or State auditor, or by any auditor or accountant who is not an employee of CONTRACTOR, then CONTRACTOR shall file a copy of such audit report with COUNTY's Auditor-Controller within thirty (30) days of CONTRACTOR's receipt thereof, unless otherwise provided by applicable Federal or State law or under this MOU. COUNTY shall make a reasonable effort to maintain the confidentiality of such audit report(s).

10.3 Failure on the part of CONTRACTOR to comply with the provisions of this Paragraph 10 shall constitute a material breach of this MOU upon which COUNTY may terminate or suspend this MOU.

11. NOTICES

All notices or demands required or permitted to be given or made under this MOU, unless otherwise specified, shall be in writing and shall be addressed to the parties at the following addresses and delivered: (1) by hand with signed receipt, (2) by first-class registered or certified mail, postage prepaid, or (3) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by first-class registered or certified mail, postage prepaid. Notices shall be deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, or on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing. Addresses may be changed by either party giving ten (10) days prior written notice thereof to the other party

Sheriff shall have the authority to issue all notices or demands which are required or permitted by COUNTY under this MOU.

If to COUNTY:

Project Director
Los Angeles County Sheriff's Department
Captain, Major Crimes Bureau
11515 South Colima Road, Bldg. C, Rm.111
Whittier, California 90604

If to CONTRACTOR:

NAME: _____
ADDRESS: _____
CITY/ ZIP: _____

Phone No.: _____
Facsimile: _____
E-mail: _____

12. CHANGE NOTICES AND AMENDMENTS

12.1 COUNTY reserves the right to initiate changes to any portion of the work required under this MOU and any other provisions of this MOU. All such changes shall be accomplished only as provided in this Paragraph 12.

12.2 Any changes to this MOU shall be prepared and executed by the Sheriff and/or COUNTY's Board of Supervisors and CONTRACTOR, as determined by County to be appropriate and or required by COUNTY Code, rules or regulations.

13. WARRANTY AGAINST CONTINGENT FEES

13.1 CONTRACTOR warrants that no person or selling agency has been employed or retained to solicit or secure this MOU upon any MOU or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CONTRACTOR for the purpose of securing business.

13.2 For breach of the warranty in Subparagraph 13.1, COUNTY shall have the right to terminate this MOU and, in its sole discretion, deduct from the MOU price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. RESTRICTIONS ON LOBBYING

CONTRACTOR, and each COUNTY lobbyist or COUNTY lobbying firm as defined in COUNTY Code Section 2.160.010, retained by CONTRACTOR, shall fully comply with COUNTY's Lobbyist Ordinance, COUNTY Code Chapter 2.160. Failure on the part of CONTRACTOR or any COUNTY lobbyist or COUNTY lobbying firm retained by CONTRACTOR to fully comply with COUNTY's Lobbyist Ordinance shall constitute a material breach of this MOU upon which COUNTY may immediately terminate or suspend this MOU.

15. DISCLOSURE OF INFORMATION

CONTRACTOR shall not disclose any details in connection with this MOU to any person or entity except as may be otherwise provided herein or required by law. In the event CONTRACTOR receives any court or administrative agency order, service of process, or request by any person or entity (other than CONTRACTOR's professionals) for disclosure of any such details, CONTRACTOR shall immediately notify COUNTY's Project Director. Thereafter, CONTRACTOR shall comply with such order, process or request only to the extent required by applicable law. Notwithstanding the preceding sentence, to the extent permitted by law, CONTRACTOR shall delay such compliance and cooperate with COUNTY to obtain relief from such obligations to disclose until COUNTY shall have been given a reasonable opportunity to obtain such relief. However, in recognizing CONTRACTOR's need to identify its services and related clients to sustain itself, COUNTY shall not inhibit CONTRACTOR from publishing its role under this MOU within the following conditions:

(a) CONTRACTOR shall develop all publicity material in a professional manner.

(b) During the term of this MOU, CONTRACTOR shall not publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of COUNTY without the prior written consent of COUNTY's Project Director.

(c) CONTRACTOR may, without the prior written consent of COUNTY, indicate in its proposals and sales materials that it has been awarded this MOU with the County of Los Angeles, provided that the requirements of this Paragraph 15 shall apply.

16. NO THIRD PARTY BENEFICIARIES

Notwithstanding any other provision of this MOU, CONTRACTOR and COUNTY do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of this MOU, except that this provision shall not be construed to diminish CONTRACTOR's indemnification obligations hereunder.

17. ACCESS TO COUNTY JAIL FACILITIES

17.1 General

If CONTRACTOR's staff are granted access to COUNTY Jail Facilities, subject to CONTRACTOR's prior notification to COUNTY's Project

Director and full compliance with all COUNTY's administrative and security requirements, for the purpose of executing CONTRACTOR's obligations under this MOU. Access to COUNTY Jail Facilities, outside the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, COUNTY observed holidays excepted, must be approved in writing in advance by COUNTY's Project Director. While present at a COUNTY Jail Facility, CONTRACTOR's staff shall be accompanied by COUNTY personnel at all times in accordance with Sheriff's Department security requirements and shall fully comply with all rules, regulations, policies and procedures of the COUNTY Jail Facility. CONTRACTOR shall have no tenancy or any other property or other rights in COUNTY Jail Facilities.

17.2 Security Search of CONTRACTOR's Staff

Weapons, drugs, alcohol, tobacco products and other contraband are not permitted at COUNTY Jail Facilities and all persons entering are subject to search. CONTRACTOR's staff shall be subject to all COUNTY Jail Facility rules, regulations, policies and procedures while present at a COUNTY Jail Facility, including, but not limited to, a criminal background check pursuant to Subparagraph 9.4, Criminal Background Check of CONTRACTOR's Staff. As requested by Sheriff's Department staff, CONTRACTOR's staff shall submit to a search of his/her person and/or property at any time while entering, leaving or working at a COUNTY Jail Facility. Any breach of security by CONTRACTOR or any CONTRACTOR staff may result in the denial of further access to COUNTY Jail Facilities and may be cause for criminal prosecution.

18. CONFIDENTIALITY

CONTRACTOR shall maintain the confidentiality of all records and information, including, but not limited to, billings, COUNTY records, inmate records and information, and information, in accordance with all applicable Federal, State and local laws, regulations, ordinances, guidelines and directives relating to confidentiality. CONTRACTOR shall inform all of its officers, employees and agents providing services hereunder of the confidentiality provisions of this MOU. CONTRACTOR shall provide to COUNTY an executed CONTRACTOR Acknowledgment, Confidentiality and Copyright Assignment Agreement (Exhibit C). CONTRACTOR shall indemnify and hold harmless COUNTY, its officers, employees, and agents, from and against any and all loss, damage, liability, and expense arising from any disclosure of such records and information by CONTRACTOR, its officers, employees, or agents, except for any disclosure authorized by this Paragraph 18. With respect to any identifiable information concerning any inmate that is obtained by CONTRACTOR, CONTRACTOR shall: (1) not use any such information

for any purpose whatsoever other than carrying out the express terms of this MOU; (2) promptly transmit to COUNTY all requests for disclosure of any such information; (3) not disclose, except as otherwise specifically permitted by this MOU, any such information to any person or organization other than COUNTY without COUNTY's prior written authorization that the information is releasable; and (4) at the expiration or termination of this MOU, return all such information to COUNTY or maintain such information according to the written procedures sent to CONTRACTOR by COUNTY for this purpose.

19. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION

CONTRACTOR shall not assign its rights or delegate its duties under this MOU, or both, whether in whole or in part, without the prior written consent of COUNTY, and any unapproved assignment or delegation shall be null and void. Any payments by COUNTY to any approved delegate or assignee on any claim under this MOU, in consequence of any such consent, shall be subject to set off, recoupment, or other reduction for any claim which CONTRACTOR may have against COUNTY, whether under this MOU or otherwise.

20. COUNTY/DEPARTMENT REGULATIONS

CONTRACTOR and its employees shall become familiar with and shall obey all COUNTY regulations, including, but not limited to, fire, traffic safety and security regulations. Any and all CONTRACTOR equipment shall be conspicuously marked for easy identification when entering or exiting COUNTY facilities.

21. INDEPENDENT CONTRACTOR STATUS

21.1 This MOU is by and between CONTRACTOR and COUNTY and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between CONTRACTOR and COUNTY. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

21.2 CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this MOU all compensation and benefits. COUNTY shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of CONTRACTOR.

21.3 CONTRACTOR understands and agrees that all persons performing work pursuant to this MOU are, for purposes of workers' compensation liability, the sole employees of CONTRACTOR and its Subcontractors and not employees of COUNTY. CONTRACTOR and its Subcontractors shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of CONTRACTOR pursuant to this MOU.

21.4 CONTRACTOR has the sole right and obligation to supervise, manage, direct, procure, perform or cause to be performed, all work to be performed by CONTRACTOR under this MOU unless otherwise provided herein. CONTRACTOR and COUNTY agree that neither CONTRACTOR nor COUNTY shall be involved in the termination or other discipline of any employees of the other party.

22. SUBCONTRACTING

22.1 Portions of the work performed under this MOU, may be subcontracted by CONTRACTOR without the prior written consent of COUNTY as provided in this Paragraph 22. However, Station Captain shall be notified in writing within three business days of such subcontract. Any attempt by CONTRACTOR to subcontract any performance, obligation, or responsibility under this MOU, without notice to the Station Captain, shall be null and void and shall constitute a material breach of this MOU upon which COUNTY may immediately terminate this MOU. CONTRACTOR shall notify all potential Subcontractors of the provisions of this Paragraph 22.

22.2 When CONTRACTOR subcontracts any portion of its performance, obligations, or responsibilities under this MOU, CONTRACTOR shall make a written notice to COUNTY. CONTRACTOR's notice to COUNTY shall include:

(a) Name of subcontractor

(b) The reason(s) for the particular subcontract.

(c) A detailed description of the work to be performed by the Subcontractor.

(d) Any other information and/or certifications requested by COUNTY.

22.3 CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents, from and against any and all claims, demands, liabilities, damages, costs, and expenses, including, but not limited to, reasonable defense costs and legal, accounting or other expert consulting or professional fees in any way directly or indirectly arising from or related to CONTRACTOR's use of any Subcontractor, including any officers, employees, or agents of any Subcontractor, in the same manner as required for CONTRACTOR, its officers, employees, and agents, under this MOU.

22.4 Notwithstanding any COUNTY consent to any subcontracting, CONTRACTOR shall remain responsible for any and all performance required of it under this MOU, including, but not limited to, the obligation to properly supervise, coordinate, and perform, all work required hereunder, and no subcontract shall bind or purport to bind COUNTY. Further, COUNTY approval of any subcontract shall not be construed to limit in any way CONTRACTOR's performance, obligations, or responsibilities, to COUNTY, nor shall such approval limit in any way any of COUNTY's rights or remedies contained in this MOU. Additionally, COUNTY approval of any subcontract shall not be construed in any way to constitute the determination of the allowed ability or appropriateness of any cost or payment under this MOU.

22.5 CONTRACTOR shall be solely liable and responsible for any and all payments and other compensation to all Subcontractors and their officers, employees, and agents. COUNTY shall have no liability or responsibility whatsoever for any payment or other compensation for any Subcontractors or their officers, employees, and agents.

23. COMPLIANCE WITH APPLICABLE LAW

23.1 CONTRACTOR shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, guidelines, and directives, and all provisions required thereby to be included in this MOU are hereby incorporated herein by reference. CONTRACTOR shall have up to fifteen (15) days to correct any noncompliance with COUNTY rules, regulations, ordinances, guidelines, and directives following written notice from COUNTY including written copies of such applicable rules, regulations, ordinances, guidelines and/or directives.

23.2 CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents from and against any and all claims,

demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, arising from or related to any violation on the part of CONTRACTOR, its employees, agents, or Subcontractors of any such laws, rules, regulations, ordinances, guidelines, or directives. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Subparagraph 26.2 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by COUNTY (which approval shall not be unreasonably withheld) in writing. Notwithstanding the preceding sentence, COUNTY shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide COUNTY with a full and adequate defense, as required by law or this MOU, COUNTY shall be entitled to reimbursement for all such costs and expenses.

24. FAIR LABOR STANDARDS

CONTRACTOR shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by CONTRACTOR's employees.

25. NONDISCRIMINATION AND AFFIRMATIVE ACTION

25.1 CONTRACTOR certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

25.2 CONTRACTOR shall certify to, and comply with, the provisions of Exhibit D (CONTRACTOR's EEO Certification).

25.3 CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer,

recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

25.4 CONTRACTOR certifies and agrees that it will deal with its Subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability.

25.5 CONTRACTOR certifies and agrees that it, its affiliates, subsidiaries or holding companies, shall comply with all applicable Federal and State laws and regulations, including, but not limited to:

i. Title VII, Civil Rights Act of 1964;
ii. Section 504, Rehabilitation Act of 1973;

iii. Age Discrimination Act of 1975;
iv. Title IX, Education Amendments of 1973, as applicable; and
v. Title 43, Part 17, Code of Federal Regulations, Subparts A & B;and that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this MOU, or under any project, program, or activity supported by this MOU.

25.6 CONTRACTOR shall allow COUNTY representatives access to CONTRACTOR's employment records during regular business hours to verify compliance with the provisions of this Paragraph 28 when so requested by COUNTY.

25.7 COUNTY encourages the participation of minority business enterprises (hereafter in this Subparagraph 25.7 "MBE") and women's business enterprises (hereafter in this Subparagraph 25.7 "WBE") in the performance of this MOU. COUNTY strongly urges the participation of MBE/WBEs in this MOU; however, the final selection shall be without regard to race, color or creed. CONTRACTOR shall take affirmative steps to assure that MBE/WBEs are utilized by CONTRACTOR when possible as sources of supplies, hardware, software, services and other work under this MOU. The final selection shall be based on the business' ability to provide the best work and value for COUNTY.

25.8 If COUNTY finds that any of the provisions of this Paragraph 25 have been violated, such violation shall constitute a material breach of this MOU upon which COUNTY may immediately terminate this MOU. While COUNTY reserves the right to determine independently that the

anti-discrimination provisions of this MOU have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that CONTRACTOR has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by COUNTY that CONTRACTOR has violated the anti-discrimination provisions of this MOU.

25.9 The parties agree that in the event CONTRACTOR violates the anti-discrimination provisions of this MOU, COUNTY shall, at its option, be entitled to the sum of Five Hundred Dollars ($500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating this MOU.

26. EMPLOYMENT ELIGIBILITY VERIFICATION

CONTRACTOR warrants that it fully complies with all Federal statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this MOU meet the citizenship or alien status requirements set forth in Federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for the period prescribed by law.

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, but not limited to, reasonable defense costs and legal, accounting and other expert, consulting or professional fees, arising out of or in connection with any employer sanctions and any other liability which may be assessed against CONTRACTOR or COUNTY in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of any persons performing work hereunder. Any legal defense pursuant to CONTRACTOR's indemnification obligations under this Paragraph 26 shall be conducted by CONTRACTOR and performed by counsel selected by CONTRACTOR and approved by COUNTY (which approval shall not be unreasonably withheld) in writing. Notwithstanding the preceding sentence, COUNTY shall have the right to participate in any such defense at its sole cost and expense, except that in the event CONTRACTOR fails to provide COUNTY with a full and adequate defense, as required by law or this MOU, COUNTY shall be entitled to reimbursement for all such costs and expenses.

27. CAPTIONS AND PARAGRAPH HEADINGS

Captions and paragraph headings used in this MOU are for convenience only and are not a part of this MOU and shall not be used in construing this MOU.

28. WAIVER

No waiver by COUNTY of any breach of any provision of this MOU shall constitute a waiver of any other breach or of such provision. Failure of COUNTY to enforce at any time, or from time to time, any provision of this MOU shall not be construed as a waiver thereof. The rights and remedies set forth in this

Paragraph 28 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this MOU.

Without limitation of the foregoing, COUNTY may deduct from amounts otherwise payable to CONTRACTOR hereunder COUNTY's damages for CONTRACTOR's breach of any provision hereof. The preceding sentence is intended only as a clarification of COUNTY's remedies in the event of breach, and shall not be deemed to impair any claims that CONTRACTOR may have against COUNTY or CONTRACTOR's rights to assert such claims pursuant to Paragraph 40, Disputes.

29. GOVERNING LAW, JURISDICTION AND VENUE

This MOU shall be governed by, and construed in accordance with, the laws of the State of California applicable to MOUs made and to be performed within that State. CONTRACTOR agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this MOU and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California.

30. SEVERABILITY

If any provision of this MOU is adjudged void or invalid for any reason whatsoever, but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective. In the event that one or more of the provisions of this MOU is found to be invalid, illegal or unenforceable in any respect, such provision shall be deemed deleted here from and the validity, legality and enforce ability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

31. TERMINATION FOR GRATUITIES OR IMPROPER CONSIDERATION

COUNTY may, by written notice to CONTRACTOR, terminate the right of CONTRACTOR to proceed under this MOU upon one (1) calendar day's notice, if it is found that consideration in any form of gratuities in the form of entertainment, gifts, or otherwise were offered or given by CONTRACTOR, or any agent or representative of CONTRACTOR, to any officer, employee, or agent of COUNTY with the intent of securing a contract/MOU or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contracts. In the event of such termination, COUNTY shall be entitled to pursue the same

remedies against CONTRACTOR as it could pursue in the event of default by CONTRACTOR.

32. TERMINATION FOR INSOLVENCY

32.1 COUNTY may terminate this MOU immediately at any time following the occurrence of any of the following:

(a) Insolvency of CONTRACTOR. CONTRACTOR shall be deemed to be insolvent if it has ceased to pay or has admitted in writing its inability to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not CONTRACTOR is insolvent within the meaning of the United States Bankruptcy Code, provided that CONTRACTOR shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts which are disputed in good faith and which are not related to this MOU as determined by COUNTY.

(b) The filing of a voluntary or involuntary petition regarding CONTRACTOR under the United States Bankruptcy Code.

(c) The appointment of a Receiver or Trustee for CONTRACTOR.

(d) The execution by CONTRACTOR of a general assignment for the benefit of creditors.

32.2 The rights and remedies of COUNTY provided in this Paragraph 32 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this MOU.

33. TERMINATION FOR DEFAULT

33.1 COUNTY may, by written notice to CONTRACTOR, terminate the whole or any part of this MOU if, in the sole judgment of COUNTY's Project Director:

1. CONTRACTOR fails to provide service such as turning calls down, not being available for calls and late response times to calls or other work within the times specified in this MOU or any authorized extensions thereof; or

2. CONTRACTOR fails to perform or comply with any of the other provisions of this MOU, or so fails to make progress as to endanger performance of this MOU in accordance with its terms and, in either of these two circumstances, does not cure such failure within a period of ten (10) days (or such longer period as COUNTY may authorize in writing) after receipt of written notice from COUNTY specifying such failure, except that CONTRACTOR shall not be entitled to any cure period, and COUNTY may terminate immediately in the event that CONTRACTOR's failure to perform or comply is not reasonably capable of being cured. If, pursuant to the preceding sentence, COUNTY has terminated this MOU without providing a cure period, and subsequently a final and binding determination is made that the default was capable of being cured, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 34, Termination for Convenience.

33.2 In the event that COUNTY terminates this MOU in whole or in part as provided in Paragraph 34, Termination for Insolvency, or this Paragraph 33, then:

(a) COUNTY shall have the right to procure, upon such terms and in such a manner as COUNTY may deem appropriate, services and other work, similar to those so terminated, and CONTRACTOR shall be liable to COUNTY for any and all excess costs incurred by COUNTY, as determined by COUNTY, to procure services and other work;

(b) CONTRACTOR shall continue the performance of this MOU to the extent not terminated under the provisions of Paragraph 33, Termination for Insolvency, of this MOU and this Paragraph 33; and

(c) CONTRACTOR shall transfer possession and deliver to COUNTY all completed work and work in process.

33.3 Except with respect to defaults of any Subcontractor(s), CONTRACTOR shall not be liable for any such excess costs, if its failure to perform this MOU arises out of causes beyond the reasonable control and without any fault or negligence of CONTRACTOR. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of Federal or State Governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the reasonable control and without any fault or negligence of CONTRACTOR. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the reasonable control of both CONTRACTOR and Subcontractor, and without any fault or negligence of either of them, CONTRACTOR shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit CONTRACTOR to meet the required performance schedule. CONTRACTOR agrees to use all reasonable commercial efforts to obtain such goods or services from other sources. As used in this Subparagraph 34.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

33.4 If, after COUNTY has given notice of termination under the provisions of this Paragraph 33, it is determined by COUNTY that CONTRACTOR was not in default under the provisions of this Paragraph 33, or that the default was excusable under the provisions of this Paragraph 33, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 34, Termination for Convenience.

33.5 The rights and remedies of COUNTY provided in this Paragraph 33 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this MOU.

34. TERMINATION FOR CONVENIENCE

34.1 This MOU may be terminated, in whole or in part, from time to time, when such action is deemed by COUNTY to be in its best interest. Termination of work hereunder shall be effected by delivery to CONTRACTOR of a notice of termination specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent, provided that in the event COUNTY has purported to terminate this MOU for default by notice pursuant to Paragraph 34, Termination for Default and it has later been determined that CONTRACTOR was not in default, no additional notice shall be required upon such determination.

34.2 After receipt of a notice of termination, and except as otherwise directed by COUNTY, CONTRACTOR shall:

(a) Stop work under this MOU on the date and to the extent specified in such notice;

(b) Transfer possession and deliver to COUNTY all other completed work and work in process; and

(c) Complete performance of such part of the work as shall not have been terminated by such notice.

34.3 For a period of five (5) years after final settlement under this MOU, CONTRACTOR shall make available to COUNTY, at all reasonable times, all its books, records, documents, or other evidence bearing on the costs and expenses of CONTRACTOR under this MOU with respect to the termination of work hereunder. All such material shall be maintained by CONTRACTOR at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at COUNTY's option, CONTRACTOR shall pay COUNTY for travel, per diem, and other costs incurred by COUNTY to examine, audit, excerpt, copy or transcribe such material at such other location.

34.4 Contractor may terminate this MOU upon giving thirty (30) days written notice of intent to terminate.

34.5 This MOU is immediately terminated upon change of ownership or any change of corporation owners.

35. COUNTY AUDIT SETTLEMENTS

If, at any time during or after the term of this MOU, representatives of COUNTY conduct an audit of CONTRACTOR regarding the work performed under this MOU, and if such audit finds that COUNTY's dollar liability for any such work is less than payments made by COUNTY to CONTRACTOR, then the difference, together with COUNTY's reasonable costs of audit, shall be either repaid by CONTRACTOR to COUNTY by cash payment upon demand or, at the sole option of Sheriff, deducted from any amounts due to CONTRACTOR from COUNTY, whether under this MOU or otherwise. If such audit finds that COUNTY's dollar liability for such work is more than the payments made by COUNTY to CONTRACTOR, then the difference shall be paid to CONTRACTOR by COUNTY, but in no event shall COUNTY's payments to CONTRACTOR exceed the Towing and Storage Fees identified in Exhibit B of this MOU.

36. NOTICE OF DELAYS

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the time the work is to be performed in this MOU, that part shall within five (5) days, give notice thereof, including all relevant information with respect thereto, to the other party

37. CONFLICT OF INTEREST

37.1 No COUNTY employee whose position with COUNTY enables such employee to influence the award of this MOU or any competing MOU, and no spouse or economic dependent of such employee, shall be employed in any capacity by CONTRACTOR or have any other direct or indirect financial interest in this MOU. No officer or employee of CONTRACTOR, who may financially benefit from the performance of work hereunder, shall in any way participate in COUNTY's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence COUNTY's approval or ongoing evaluation of such work.

37.2 CONTRACTOR shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this MOU. CONTRACTOR warrants that it is not now aware of any facts which do or could create a conflict of interest. If CONTRACTOR hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to COUNTY. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

38. DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

38.1 CONTRACTOR shall repair, or cause to be repaired, at its own cost, any and all damage to COUNTY facilities, buildings or grounds caused by CONTRACTOR or employees or agents of CONTRACTOR. Such repairs shall be made immediately after CONTRACTOR has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

38.2 If CONTRACTOR fails to make timely repairs, COUNTY may make any necessary repairs. All costs incurred by COUNTY, as determined by COUNTY, for such repairs shall be repaid by CONTRACTOR by cash payment upon demand, or without limitation of all COUNTY's other rights and remedies provided by law or under this MOU, COUNTY may deduct such costs from any amounts due to CONTRACTOR from COUNTY, whether under this MOU or otherwise.

39. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES

CONTRACTOR shall obtain and maintain in effect during the term of this MOU all licenses, permits, registrations, accreditations, and certificates required by all Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives, which are applicable to COUNTY Jail Facilities and CONTRACTOR's services under this MOU. CONTRACTOR shall further ensure that all of its officers, employees, agents, and Subcontractors who perform services hereunder, shall obtain and maintain in effect during the term of this MOU all licenses, permits, registrations, accreditations, and certificates which are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation, and certificate required by all applicable Federal, State, and local laws, ordinances, rules, regulations, guidelines and directives shall be provided, in duplicate, to COUNTY's Project Director.

40. DISPUTES

Any dispute which may arise between CONTRACTOR and COUNTY with respect to the performance of any work under this MOU shall be brought to the attention of the Sheriff, or his designee, and shall be resolved by Sheriff/designee, in his sole judgment.

41. CONSIDERATION OF GAIN PROGRAM PARTICIPANTS FOR EMPLOYMENT

Should CONTRACTOR require additional or replacement personnel after the Effective Date, CONTRACTOR shall give consideration for any such employment openings to participants in COUNTY's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program who meet CONTRACTOR's minimum qualifications for the open position. COUNTY will refer GAIN participants by job category to CONTRACTOR.

42. COUNTY's QUALITY ASSURANCE PLAN

COUNTY or its agent will evaluate CONTRACTOR's performance under this MOU on not less than an annual basis. Such evaluation will include assessing CONTRACTOR's compliance with the terms and performance standards of this MOU. CONTRACTOR deficiencies which COUNTY determines are severe or continuing and that may place performance of the MOU in jeopardy if not corrected will be reported to COUNTY's Board of Supervisors. The report will include improvement / corrective action measures taken by COUNTY and CONTRACTOR. If improvement does not occur consistently with the corrective action measures, COUNTY may terminate this MOU or impose other penalties as specified in this MOU.

43. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

CONTRACTOR acknowledges that COUNTY has established a goal of ensuring that all individuals who benefit financially from COUNTY through a contract are in compliance with their court-ordered child, family and espousal support obligations in order to mitigate the economic burden otherwise imposed upon COUNTY and its taxpayers.

As required by COUNTY'S Child Support Compliance Program (County Code Chapter 2.200) and without limiting CONTRACTOR's duty under this MOU to comply with all applicable provisions of law, CONTRACTOR warrants that it is now in compliance and shall during the term of this MOU maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

44. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of CONTRACTOR to maintain compliance with the requirements set forth in Paragraph 51 (CONTRACTOR's Warranty of Adherence to COUNTY's Child Support Compliance Program) shall constitute a default by CONTRACTOR under this MOU. Without limiting the rights and remedies available to COUNTY under any other provision of this MOU, failure to cure such default within ninety (90) days of notice by the Los Angeles County District Attorney shall be grounds upon which COUNTY's Board of Supervisors may terminate this MOU pursuant to Paragraph 38 (Termination for Default).

45. CONTRACTOR'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT

CONTRACTOR acknowledges that COUNTY places a high priority on the enforcement of child support laws and the apprehension of child support evaders. CONTRACTOR understands that it is COUNTY's policy to encourage all COUNTY contractors to voluntarily post COUNTY's "L.A's Most Wanted: Delinquent Parents" poster in a prominent position at CONTRACTOR's place of business. COUNTY's District Attorney will supply CONTRACTOR with the poster to be used.

46. SECURITY REQUIREMENTS

Nothing in this MOU shall be construed in any way to limit the authority of COUNTY to prescribe new, or to enforce existing, security regulations governing admission or exclusion of persons and the conduct of personnel while in or around COUNTY facilities, including, but not limited to, the right to search all persons and vehicles. CONTRACTOR shall return to COUNTY any items of identification which may have been issued to CONTRACTOR's employees during the course of this MOU.

47. SAFETY REQUIREMENTS

CONTRACTOR shall perform all work in a safe manner and shall comply with the requirements of State and local rules and regulations and CAL OSHA safety standards.

48. TRADE SECRETS

Recognizing that COUNTY has no way to safeguard trade secrets or proprietary information, CONTRACTOR shall hold COUNTY harmless from any and all damages, costs, and expenses, by reason of any disclosure by COUNTY of nay trade secrets and proprietary information.

49. COUNTY PERFORMANCE OF CONTRACTED WORK

Should an emergency require performance of work beyond the capability of CONTRACTOR, COUNTY may perform or supplement performance of work with COUNTY personnel. Such performance shall not constitute a breach of this MOU by COUNTY.

COUNTY shall be entitled to an equitable adjustment for any work performed by COUNTY personnel pursuant to this Paragraph 49, if such work would normally have been required by CONTRACTOR in the performance of this MOU. Such performance and adjustment shall not constitute a termination for convenience by COUNTY within the meaning of Paragraph 34, Termination for Convenience.

Nothing in this Paragraph 49 shall be deemed to waive or limit any right of COUNTY under this MOU.

50. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with CONTRACTOR. This MOU shall not restrict COUNTY from acquiring similar, equal or like goods and/or services from other entities or sources.

51. EXCLUSION OF WARRANTIES

Except as provided in this MOU, there are no other warranties, either express or implied, including, but not limited to, any implied warranty of merchantability or fitness of a product for a particular purpose.

52. AUTHORIZATION WARRANTY

CONTRACTOR represents and warrants that the person executing this MOU for CONTRACTOR is an authorized agent who has actual authority to bind CONTRACTOR to each and every term, condition and obligation of this MOU and that all requirements of CONTRACTOR have been fulfilled to provide such actual authority.

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MOU BY AND BETWEEN THE COUNTY OF LOS ANGELES
VEHICLE TOWING AND STORAGE COMPANY

IN WITNESS WHEREOF, the County of Los Angeles has caused this MOU to be subscribed by its Sheriff and CONTRACTOR, by its duly authorized officer, this _____ day of _____, in the year of _____

COUNTY OF LOS ANGELES

Sheriff's Department

_____
Leroy D. Baca, Sheriff

CONTRACTOR
VEHICLE TOWING AND STORAGE COMPANY NAME:

_____

By _____
(Signature)

Name _____

Title _____

APPROVED AS TO FORM:
JOHN F. KRATTLI
County Counsel

By _____
Principal Deputy County Counsel

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
Minimum Towing Contractual Requirements and Towing Application
(June 2012)
Attachment A

During the course of our daily activities, the Sheriff's Department requires vehicle towing and storage due to the requirements of the California Vehicle Code. Due to the fact that the Sheriff's Department does not maintain an official Departmental garage for the storage of motor vehicles, the Sheriff's Department must utilize private companies to comply with Vehicle Code requirements. In an effort to ensure that these services maintain the highest standards and are applied consistently throughout the County, we developed this "Minimum Towing Contractual Requirements" Sheet.

I. OFFICE

1. The office shall be neat in appearance, clean and properly painted.

2. The office shall have radio communication for dispatching all units.

3. An enclosed waiting room will be available to customers, it shall be clean, neat, properly painted, with adequate facilities and equipment for the comfort of the customer. Seating shall be available for customers and the facility must have a maintained restroom available for customer use.

4. The 24 hour phone number shall be posted and visible to the motoring public.

5. All parking areas and driveways shall be kept clean and free of holes or areas that are decomposed or broken and shall have adequate drainage.

6. Shall have adequate parking available for customers at no cost.

II. EVIDENCE STORAGE BUILDING

1. The building shall be located at the primary impound lot, kept clean and free of debris and in good repair so as to present a good appearance.

2. The building or area in the building will be well lighted, have a cement floor, and be adequate in size to accommodate a minimum of 3 vehicles. The building shall also be large enough to provide easy access and sufficient work space (3 feet) on all sides of vehicles to preclude the possibility of damage or contamination, and have a minimum ten (10) foot ceiling.

3. The building or area in the building will be secured from all employees and public to preclude the possibility of theft, possible damage or the contamination of prints, etc. All entries to the evidence room must be logged and kept on file.

4. Vehicles stored for prints, photographs, or special investigations will be stored in the evidence storage building to protect from dust and dirt or deterioration by the sun or other elements and will not be removed from such storage until authorized by an appropriate member of the Sheriff's Department.

5. Vehicle shall be made immediately available for prints and or investigations.

6. Evidence room/facility must be properly maintained per city and/or county codes.

III. PRIMARY IMPOUND LOT

1. Office/facilities shall be immediately adjacent to or on the impound lot.

2. The impound lot shall be adequate in size to accommodate a minimum of 150 vehicles such as:

   (a) "Hold" and stored vehicles
   (b) High value vehicles
   (c) Specially equipped vehicles
   (d) Vehicles to be released immediately to owners
   (e) Lien sale vehicles

3. The lot shall be entirely surfaced with either concrete or asphaltic material. The condition of the surfacing shall be free of holes or areas that are decomposed or broken and shall have adequate drainage.

4. Undamaged (high value) vehicles should be separated from wrecks or junks to preclude possible damage.

5. Spacing of vehicles shall be systematically spaced to afford easy identification with impound records and to allow sufficient work space a minimum of 18" on all sides vehicles.

6. Security shall be adequate to prevent the public from entering the storage area and to preclude theft or vandalism. This should include adequate fencing and gates. It is recommended that where the lot is exposed to public view, the fencing be a block or similar construction to a minimum height of 6'0", or in compliance with city or county ordinances.

7. The lot shall be clean and free of litter, debris, weeds, oil and grease.

8. Lighting shall be sufficient to afford easy visibility to all areas of the lot.

9. Ingress and egress shall be sufficient to afford ready and easy access to all vehicles.

IV. SECONDARY IMPOUND LOTS

1. The secondary lot will meet the same standards as the primary lot except does not require an office at the location.

V. TRUCKS AND EQUIPMENT

1. Tow vehicles shall be rated at a minimum of one ton capacity. Each vehicle shall be maintained in compliance with the provisions of Sections 24605, 25253, 25300, 27700, and 27907 of the Vehicle Code and must be inspected and certified by the California Highway Patrol.

2. The minimum number of tow vehicles available for light and medium duty service is four (4), of which two (2) must be flat bed tow vehicles and one (1) must be a medium duty vehicle.

3. Yards equipped to provide heavy duty tow should have a minimum of three (3) vehicles, one (1) class C truck, one (1) class D truck and one (1) lowboy trailer.

4. Trucks shall be adequately painted with the paint in good condition.

5. Trucks bodies shall be kept in good repair, free of dents and clean.

6. The cab interior shall be clean with only proper equipment inside.

7. A flatbed or service truck or trailer must be available to transport vehicle parts, i.e., engine, transmission, doors, etc.

8. Trucks shall be equipped with radios for two-way communication with the dispatcher.

VI. RECORDS

1. All impound inventory records shall be complete and contain the required information including a complete vehicle inventory including any included personal property.

2. Time clocks or records shall be used to reflect the following:

   (a) Time call for service received.
   (b) Time tow vehicle dispatched.
   (c) Time arrived at scene.
   (d) Time left scene.
   (e) Time returned to garage.

3. Permanent records shall be maintained in adequate files for easy access; i.e., business licenses, LASD Monthly Report of Vehicles Stored/Impounded, insurance papers, etc.

4. Adequate records shall be maintained on all charges for impounded vehicles.

5. Employers shall subscribe to the Pull Notice Program as required by section 1808.1 Vehicle Code.

VII. PERSONNEL

1. Contractors and all their employees shall be photographed and fingerprinted (live scan)at the contractors expense upon request by the Sheriff's Department.

2. Company Owners and or Officers must provide individual statements describing and explaining any criminal misdemeanor or felony charges within the last 7 years. If none, provide a statement for each indicating "none."

3. All tow truck operators shall have appropriate class of drivers license.

4. All tow truck operators shall meet State Certification requirements.

5. All tow truck operators shall be apprized of their responsibilities regarding the cleaning of debris from the scene of a traffic accident.

6. Tow truck operators shall be trained and qualified to operate their equipment prior to being released "on their own" in the field.

7. Tow truck operators shall be in uniform and maintain acceptable standards of dress, personal cleanliness and grooming during their working hours.

8. Contractor will conduct annual and unannounced drug testing of all employees.

VIII. INSURANCE

1. The tow service shall furnish satisfactory evidence of the ability to respond to damage claims as required by Section 16500.5 of the Vehicle Code. Policy expiration dates and any notice of cancellation shall be furnished to the Sheriff's Department immediately upon receipt.

2. Insurance minimums should be: Comprehensive Liability $2,000,000, Comprehensive Auto Liability $1,000,000, Garage keepers Liability $500,000, *(note: recommendation based on highest value of vehicle to be towed)* and Current Workers Compensation Insurance for all employees.

IX. BUSINESS LICENSE AND PERMITS

1. The tow service operator shall have the appropriate business licenses and comply with all city and/or County ordinances and zoning requirements.

X. BUSINESS HOURS / GATE FEES

1. Contractor will have employee's present at the towing facility and be open to the general public for a period of not less than 8:00am to 5:00pm Monday thru Friday, and be open to the general public for 2 consecutive hours on Saturdays, Sundays, and Holidays between 8:00am and 5:00pm.

2. Hours of operation must be posted and visible to the motoring public.

3. Gate fee's may be charged from 5:01pm thru 7:59am Mondays thru Fridays, and any time outside of the 2 consecutive posted hours for Saturdays, Sundays and Holidays.

XI. DRIVER CERTIFICATION

1. All drivers both heavy and light duty must have current drivers certification that meet the standards required by the California Highway Patrol.

2. All drivers regardless of drivers license classification must be enrolled in the PULL Notice Program.

XII. BUSINESS REQUIREMENTS

1. Provide satisfactory proof that the applicant has a minimum of 7 years' experience in the towing industry as owner with specific governmental agency experience.
   (a) Provide the date of the company's inception.
   (b) List the corporation's full name or d.b.a. and also list the legal owners of the company.
   (c) Describe the company's past and present governmental towing and impound experience. Provide a list of all past and current government contracts.
   (d) Describe in detail any government contracts that were suspended, revoked, disputed, or terminated in the last five years.

2. The facility lien sale policy must comply with State Law.

3. The owner operator must not have a financial interest in a body shop, auto repair business, used automobile sales lot, or auto salvage business.

XIII. RESPONSE TIME REQUIREMENTS

1. The contractor shall respond to calls 24 hours a day, seven (7) days a week, within the maximum response time limits.

2. Routine light and medium duty tow response in urban areas shall be within a 30 minute maximum, and in rural areas within a 60 minute maximum. The responding operator shall be properly licensed, trained and equipped. Exigent circumstances or conditions which delay adherence within these times frames shall be documented with the call by the contractor.

3. Other services request, ie heavy duty, recovery, overturn or salvage, shall be given a priority response by the contractor.

4. The contractor shall advise at the time of the call if they are either unable to respond or unable to meet the maximum response time.

NOTE: Towing applications are kept on file until a towing facility is needed at the station of request, or contracts expire and new towing facilities are chosen (contracts are for 3 years).

The Department reserves the right to modify any requirement as it relates to any specific current or Proposed LASD tow service. The following are among factors to be considered:

A. Local environment
B. City or County and state ordinance requirements/restrictions and laws
C. Needs of the Department

Los Angeles County Sheriff's Department

Towing Application

Please Print
application must be entirely filled out and signed to be accepted

Name:_____

Home Address:_____

Home Phone:_____ SSN: _____

Drivers License #:_____ State:_____

Business Name:_____ Years in Business:_____

Address:_____

Phone #:_____ FAX #:_____

Lien Sale Company
Used:_____

I have read the "Minimum Towing Contractual Requirements Sheet"and my Towing Facility meets all the listed requirements. I wish to apply for a contract to provide towing and storage services for the Los Angeles County Sheriff's Department at the following Station(s).

(1)_____

(2)_____

FOR: Light and Medium Duty Towing ( ) Heavy Duty Towing ( )

_____ _____
date applicant signature

Send Application To:

Towing Project Director
Los Angeles County Sheriff's Department
Captain, Major Crimes Bureau
11515 South Colima Road, Bldg. C, Rm. 111
Whittier, California 90604