

The date and time of bid opening is provided in the Notice to Bidders included herewith. All bids must be sealed in an envelope, must be addressed to the Town Clerk, 363 Underhill Avenue, Yorktown Heights, NY 10598 and clearly mark on the outside of the envelope the "Name of Company," "Name of Bid," "Date of Bid," "Time of Bid Opening" as stated in Notice to Bidders.

This Notice to Bidders consists of five Parts, as follows:

Part One

Summary of Bid

Part Two

General Terms and Conditions of Bid

Part Three

Specifications

Part Four

License

Part Five

Appendices

A completed bid will consist of one copy of the Summary of Bid, signed on behalf of Bidder and with information for all blanks supplied, and a detailed listing of any exceptions from any of the bid documents taken by Bidder, and a signed Contract with all blanks filled in. Bidder should be aware that any required information, which is not supplied or any exception taken to any of the bid documents may, at Town's option, render such bid non-responsive.

If the bid is accepted by the Town, the completed Contract will be signed on behalf of the Town and a copy furnished to the Bidder.

PART ONE

SUMMARY OF BID

The Town of Yorktown seeks bids from entities for an exclusive License for towing and emergency repair services for calls generated by the Yorktown Police Department. A description of the work is set forth in the Specifications in Part Three of this document. An exclusive License will be awarded to the highest responsible bidder. The Town has established a minimum acceptable bid of \$100,000.00. Bids for less than the stated minimum will be rejected. The Yorktown Town Board shall make the final determination as to the award of the License.

Before submitting a bid, bidders should carefully examine and understand the contents of each Part of this bid package including the Summary of Bid, Specifications, General Terms and Conditions, Appendices and the License.

These documents set forth the character and quality of the equipment to be provided by the bidder.

The terms of the Notice to Bidders, Summary of Bid, Specifications, and General Terms and Conditions and Appendices are specifically incorporated into the License.

LICENSE FOR PROVISION OF CERTAIN TOWING AND EMERGENCY REPAIR SERVICES TO VEHICLES

Bid Price: \$ _____

Firm Name _____

Signed By _____

Print Name _____

Title _____

Address _____

Telephone _____

Fax _____

E-mail _____

PART TWO

GENERAL TERMS AND CONDITIONS OF BID

Article Numbers

Heading

- | | |
|-------|--|
| I. | INTERPRETATION AND APPROVAL |
| II. | NON-COLLUSION |
| III. | LATE BIDS |
| IV. | BID OPENING |
| V. | WITHDRAWL OF BID BECAUSE OF ERROR MADE BY BIDDER |
| VI. | ACCEPTANCE OR REJECTION |
| VII. | AWARD |
| VIII. | NOTICE OF AWARD |
| IX. | ASSIGNMENT OF CONTRACT CLAUSE |
| X. | REPRESENTATIONS AS TO REVISIONS OF SOLICITATIONS |
| XI. | COPYRIGHT |
| XII. | SPECIAL REQUIREMENTS |
| XIII. | TERMINATION |

I. Interpretation and Approval

1.1 No interpretation of the meaning of the bid document will be made to any Bidder orally. Every request for such interpretation must be in writing, addressed to:

Diana Quast, Town Clerk
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598,

not later than five (5) working days prior to the date fixed for the opening of bids. Notice of any and all such interpretations and any supplemental instructions will be served upon all Bidders of record by the Town Clerk in the form of addenda to the bid specifications. All addenda so issued shall become a part of the bid document.

1.2 Interpretation of the bid specifications shall be decided by the Town. Should it be necessary, the Police Chief's decision shall be final and binding on all parties.

II. Non-collusion

Bidder shall certify that it has complied with all of the requirements stated on the non-collusive bidding certification form by signing the said form included in Appendix C of the bid document. Failure by Bidder to complete and sign the non-collusive bidding certificate form will constitute grounds for rejection of the bid proposal by Town.

III. Late Bids

Bid proposals that arrive after the time stated for the opening of bids shall not be accepted and will be returned to the Bidder unopened. Whether sent by mail or by means of personal delivery, the Bidder assumes responsibility for having its bid delivered on time at the place specified in the legal notice.

IV. Bid Opening

Sealed Bids will be publicly opened on the date and time specified in the Notice to Bidders. Bids may be read aloud to those persons present when practical. Any Bidder may request to review the bid proposals submitted by arranging a mutually convenient time when bids may be reviewed with the Town Clerk.

V. Withdrawal of Bid Because of Error Made by Bidder

After the opening of the bids, a Bidder may request withdrawal of their bid due to an error contained in the bid proposal. The Town will consider the request of the Bidder providing said Bidder complies with the requirements stated below:

5.1 Requests to withdraw a bid proposal must be in writing and addressed to the Town Clerk. The request must include the reasons (s) for withdrawal of the bid, and evidence to substantiate the reason (s), including financial impact on the Bidder.

5.2 The request must be received by the Town Clerk not later than 48 hours following the opening of the bid.

5.3 Bidder may be required to appear before the Town Board or its designee to review the requested withdrawal of the bid proposal and to provide all worksheets, summary sheets, and other pertinent data directly applicable to the formulation of the bid proposal. Failure of Bidder to appear or to make available data requested may result in Town rejecting the request of Bidder to withdraw its bid.

5.4 Bidder agrees that the Town's determination of the request for withdrawal of the bid proposal shall be at the sole discretion of Town and the Town's decision shall be final and binding.

5.5 If the Town approves withdrawal of the bid proposal as requested by Bidder, the Town may, as condition of said withdrawal, require that said Bidder be excluded from submitting a new bid if the Town elects to request new bids from all Bidders.

VI. Acceptance or Rejection

The Town reserves the sole right to waive any informality, to reject any or all bids, and the Town's decision shall be final and binding on all parties.

VII. Award

Awards will be made to the responsible Bidder submitting the highest bid that fully complies with all the specifications stated in the bid document.

The Town reserves the right to make awards within sixty (60) days after the date of the bid opening, during which period bids may not be withdrawn, unless the Bidder distinctly states in its bid that acceptance thereof must be made within a shorter specified time.

VIII. Notice of Award

Town shall notify the successful Bidder, through the return of the signed and executed Contract, as notice of award or acceptance of bid for any of the items for which the bid was submitted. Such notice shall constitute a contract between Town and the successful Bidder to provide towing services as stated in the award or acceptance of bid.

IX. Assignment of Contract Clause

It is mutually understood and agreed that Bidder shall not assign, transfer, convey, sublet, subcontract or otherwise dispose of the contract or its right, title, or interest therein,

or its power to execute such contract, to any other person, or entity without the previous written consent of Town.

X. Representations as to Revision of Solicitations

If any questions or responses require revision to the solicitation as originally published, such revision will be by formal amendment only. If the solicitation includes a contact person for technical information, offerors are cautioned that any oral or written representation made by this or any other person that appear or change materially any portion of the solicitation must not be relied upon unless subsequently ratified by a written amendment to this solicitation issued by the Town Clerk. For determination as to whether any representation made requires that an amendment be issued, contact the Town Clerk.

XI. Copyright

Bidder shall irrevocably transfer, assign, set over, and convey to Town all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this contract. Bidder further agrees to execute such documents as Town may request to effect such transfer or assignment. Further, Bidder agrees that the rights granted to Town by this paragraph are irrevocable. Bidder's remedy in the event of termination of or dispute over any agreement entered into as a result of this solicitation shall not include any right to rescind, terminate, or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this Article. Similarly, no termination of any agreement entered into as a result of this solicitation shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this Article.

XII. Special Requirements

Special requirements for any bid proposal may supersede and/or be added to any provision contained in the instructions noted above. These instructions are to be considered an integral part of all bid proposals.

XIII. Termination

The Town, upon forty-eight (48) hours' written notice may terminate License upon a finding of violation or breach of its terms, violation of applicable law or regulations, or other incapacity. Grounds for termination shall include but not be limited to overcharges, failure to timely respond to calls, late payment of license fees, unsafe practices, and failure to maintain proper insurance. No refund of the license fee shall be made in the event of such a termination.

Town may also terminate the license upon ten days written notice to Licensee, when it deems such termination to be in Town's best interest. Town shall refund, on a pro-rated basis, any portion of the license fee paid by Licensee for the period of termination.

Licensee shall not hire any individual convicted of a felony assault, felony theft or felony narcotics distribution/possession.

Licensee shall not hire any subject who is a registered sex offender.

Licensee must be accessible via phone to the Yorktown Police Department 24 hours per day, 7 days per week and 365 days per year.

Licensee shall provide towing services for the Yorktown Parks Department Stage at no cost to the Town.

Licensee shall provide towing services within the boundaries of the Town, for all Town vehicles, including the Police Department, at no cost to the Town.

PART THREE SPECIFICATIONS

Generally

Bidders must include with their bid proposal a bid deposit equal to 25% of the bid amount. The bid deposit must be in the form of a certified or cashier's check made payable to the Town of Yorktown. Bid proposals which do not contain the required bid deposit will be rejected.

Except for the spaces specifically set aside in this bid document for provision by bidders of requested information Bidder should not change or alter language, place additional language and/or attempt to delete language from the pages of this bid document in any way whatsoever. All bid proposals must be in one copy and completed and executed in ink.

In addition to the bid deposit, described above, each bid proposal submitted must include the Bid Summary and the following items which are attached as Appendices:

1. Non-Collusive Bidding Certification - Appendix C
2. Bidder's Acknowledgment - Appendix D
3. Certificate of Authority - Appendix E
4. Bid Deposit - Appendix F

Inspection of Bidder

A representative of the Town will inspect the operation and facilities of the Bidder to determine whether Bidder meets the qualifications set forth in the Specifications. The inspections will be conducted within two weeks following the date of the bid opening. If any deficiencies are noted during the inspection, the Bidder will be provided a written statement of deficiencies. A reinspection will be conducted seven (7) days after the Bidder is given the written statement of deficiencies. If the deficiencies have not been satisfactorily corrected by the time of the reinspection, the bid will be rejected and the bid deposit will be forfeited and paid to Town.

Term of the License Agreement

License will commence on June 1, 2023 and terminate on May 31, 2024. Throughout the term hereof Licensee shall operate the License granted hereunder for the accommodation of the public and Town at such times and in such a manner as the Yorktown Police Department may reasonably prescribe. The term of the license may be extended upon the terms and conditions as set forth below:

1. Town shall have the unilateral option, exercisable in its sole discretion, of extending this License for two (2) additional periods of twelve (12) months each upon the

same terms and conditions as are contained in this License at the time said options(s) are exercised.

2. Said options shall be exercised by written notification from Town not less than thirty (30) calendar days prior to the expiration of the License.
3. If Town exercises the option for the first additional twelve (12) month period, the License as extended shall be deemed thereafter to be amended so that paragraph "1" above shall include the option provision for a single additional twelve (12) month renewal period. The total duration of this License, including the exercise of any option(s) under this clause, shall not exceed thirty-six (36) months.
4. Bidders are cautioned that the exercise of the options is a Town prerogative, not a contractual right on the part of Bidder. If Town exercises the option(s) within the time frames prescribed herein, Bidder shall be contractually bound to perform the services for the option period(s).
5. Town reserves the right to terminate this current License or any subsequent extension upon thirty (30) days notice to the Bidder in writing.

Estimated Number of Towing Calls

The estimated number of reported towing calls (calls and time period) is as follows: _____.
It should be noted that the preceding number is an estimated only, and not a minimum or guarantee. The preceding number(s) do not include service calls for Town vehicles or abandoned vehicles.

Payment of License Fees

As consideration for the privilege of operating pursuant to this License, Licensee shall pay Town a license fee of \$ _____ (\$ _____) dollars. Payment shall be made by certified check or cashier's check made payable to the Town of Yorktown and delivered to the Town Comptroller in accordance with the following schedule:

- (25% on execution of the License Agreement) \$ _____ no later than June 1, 2023.
- (25%) \$ _____ on or before September 1, 2023; and
- (25%) \$ _____ on or before December 1, 2023; and
- (25%) \$ _____ on or before March 1, 2024.

The bid deposit may serve as the first payment for Bidder. Payment of the license fee must be made by certified check or cashier's check, payable to the Town of Yorktown and

delivered to: Finance Department, Yorktown heights, NY 10598, Attention: Town Comptroller. Failure to pay the license fees on time will result in a 5% penalty to be imposed.

OPERATION: Licensee shall be prepared to render services provided for hereunder twenty-four (24) hours each day, seven (7) days per week during the term of License. Licensee shall respond to each request for such services with thirty (30) minutes from the time Licensee receives notice thereof. Upon failure of Licensee to comply with the required response time, Town at its sole option and in addition to any right it might have to seek damages, judicial enforcement or any other lawful remedy, may terminate License effective immediately upon notification to Licensee. Services rendered hereunder shall be effected in a safe and orderly manner so as not to create or result in a traffic hazard. All debris including but not limited to, broken glass and loose parts shall be removed by Licensee and disposed of in such manner as the Yorktown Police Department may direct. Schedule "A" sets forth the geographical area within the County of Westchester in which the Licensee is authorized to operate pursuant to the terms of this Agreement.

Also attached as Schedule "B" is a rate schedule which sets forth the maximum allowable rates for towing, repair and other vehicles assistance services. For purposes of License, a normal hoist or tow is defined as one where the vehicle is on a roadway or shoulder, where the operator is present and which requires no extra work due to the vehicle's condition. Licensee shall not exceed the rates set forth in such schedule in billing vehicle owners for services rendered hereunder.

In the event a disabled vehicle must be towed, the operator of the vehicle shall be offered the option of being towed to either the Licensee's service garage or storage lot, to the nearest service garage or storage lot or to any other location.

Licensee shall be required to tow abandoned vehicles to Licensee's service garage or storage lot and secure such vehicles until disposition is made in accordance with law. Town shall not be liable to Licensee for the cost of towing, storage and impounding any such abandoned vehicles.

Licensee shall be required to tow disabled Town vehicles to a location within the Town of Yorktown, as directed at no charge to Town.

It is understood and agreed by and between the parties hereto that only minor road service repairs and towing are provided for hereunder, and that Licensee shall undertake no major repair work pursuant to the terms of License. Licensee represents and warrants that charges for any

additional repair or service rendered shall not exceed the prevailing rates in the area or the charges normally imposed for such repairs or services by Licensee. The daily storage charge may be charged only after the involved vehicle has been parked at Licensee's service garage for a period of twenty-four (24) hours. At a minimum, vehicles must be available for release Monday through Saturday, 8:00 a.m. – 6:00 p.m. except for the following holidays: New Year's Day, Memorial Day, Independence day, Labor Day, Thanksgiving Day and Christmas Day. Storage charges shall not apply for days that a vehicle is not available for release.

Licensee, at all times during the term of License, shall accept at least one major interbank credit card in payment for services rendered hereunder. Licensee shall not refuse to render services hereunder for lack of the motorist's ability to pay.

Towing Destination

For purposes of towing, the operator of the disabled vehicle is to be offered the option of being towed to either the Licensee's service garage or to such other location as may be determined by the police officer in charge considering the tow operator's ability to respond to other service calls generated by the Police Department.

Rates and Fees

1. Rate Schedule: The applicable rates have been set by Town and are set forth in Appendix B of the Appendices of this Bid Document. Licensee may not charge more than the set rates for any of the services covered by License.

2. Vehicle Repairs: In the event that the owner of a vehicle authorizes Licensee to provide repair services to his vehicle at the Licensee's service garage, Licensee shall not charge more than the prevailing rates for such repairs.

3. Storage Fees: No vehicle storage fees shall be charged if the vehicle is removed from the storage facility within twenty-four hours of the time it arrives at the storage facility. Vehicle storage fees may be charged after twenty-four hours, at prevailing rates. Vehicles must be available for release Monday through Saturday, 8:00 a.m. – 6:00 p.m., at a minimum, except for the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving day and Christmas Day. Storage charges shall not be charged for days that vehicles are not available for release.

4. Invoices: Licensee will be required to furnish and use a three-part invoice, in a format approved by Town, for all service calls performed by it pursuant to Licensee. The invoices shall include the rate schedule, as set forth in Appendix B.

5. Rate Signs: Licensee shall affix and display a rate sign in a form and manner approved by Town, to each of the tow and/or road service vehicles used by Licensee to provide services under License. Rate signs must also be prominently posted and displayed at Licensee's service garage and storage facility.

6. Charge Cards and Payment: Licensee must honor at least one major interbank credit card for service rendered under the license. Licensees may not refuse to provide service if a motorist is not immediately able to pay.

Registrations, Licenses and Permits

Licensee must be the operator of a motor vehicle repair shop registered with the New York State Department of Motor Vehicles under Article 12-A of the Vehicle and Traffic Law. Licensee shall also procure any and all other licenses, permits or approvals at its own expense as necessary for the legal operation of the business to be conducted under License. Licensee shall at its sole cost and expense, procure and maintain in full force and effect for the term of License, all permits, licenses and approvals from all applicable governmental authorities. Licensee shall comply with all applicable federal, state and local laws, rules, regulations and orders including, but not limited to the Labor Law, Workers' Compensation Law, State Unemployment Insurance Law, Federal Social Security Law and all rules and regulations promulgated by the United States Department of Labor and /or the Industrial Commissioner of the State of New York and all amendments and additions thereto.

Equipment, Storage Facility and Personnel

Licensee, at its sole cost and expense, shall supply, repair and replace all equipment required for the proper operation of License. All such equipment shall comply with all applicable regulations and requirements. If Licensee does not repair the equipment upon seven (7) days notice, Town may terminate License. Licensee shall provide at a minimum three (3) suitable radio equipped towing vehicles, one of which shall be a properly equipped flatbed truck, available to render the services required pursuant to License. The type, size and color of vehicles shall be approved by the Yorktown Police Dept. prior to their being put into service. Licensee shall have a rate schedule sign in a format approved by Town affixed to the towing and road service vehicle used by Licensee in the performance of License. Licensee shall also use invoices containing the

rate schedule, in a format approved by Town for all service calls related to License. Licensee shall maintain in good and current status, its registration as a Motor Vehicle Repair shop with the State of New York. If Licensee does not stay in good and current status and does not cure its failure to maintain standing within seven (7) days notice from Town, Town may terminate the License. Additionally, Licensee shall:

1. Make towing vehicles available for inspection by and approved by Town before award of a License. Towing vehicles not owned by Licensee must be under sole lease to Licensee and properly insured for the term of License. The original lease must be available for inspection by Town. Leased vehicles must also display Licensee's name and address and the required rate sign.

2. Licensee is to have qualified operator(s) available to respond to any calls at any time of the day under all weather conditions. In the event of inclement weather or other emergencies, at the direction of the Yorktown Police Department. The Licensee will simultaneously station at least one suitable towing vehicle in each of the northern and southern sections of the Town.

3. Licensee must have available, for the purposes of License, a suitable, secure and fenced storage area capable of storing a minimum of 30 automobiles, located within one half mile of Licensee's service station. Licensee also must have available at Licensee's service station, for the purposes of License, a suitable, secure and heated indoor storage area capable of storing a minimum of 5 Yorktown Highway Dept. dump trucks. This requirement and the capacity and location of storage will be evaluated as a part of the bid award process.

4. Licensee must provide and maintain the means for direct telephone contact at all times so as to assure a response within thirty minutes from 7:00 p.m. to 7:00 a.m. of any call.

5. Licensee will be required to furnish, at its own cost and expense, all utilities and equipment necessary for the proper operation of the business to be conducted.

Abandoned Vehicles

At the direction of the Police Department of Town or other authorized official of Town, Licensee shall be required to tow any abandoned vehicles from Town property or facilities or otherwise within the jurisdiction of Town to its own service garage or storage lot and to secure such vehicles until disposition is made pursuant to the Vehicle and Traffic Law. Town shall not be liable to Licensee for the cost of towing, storage and impounding of any such abandoned vehicles.

Town Owned Vehicles

Licensee shall be required to tow disabled Town vehicles to a location within Town at no cost to the Town. Licensee shall also transport the Town's mobile stage for Town-sponsored events at no cost to the Town. If Licensee moves the Town's mobile stage for an event that is not Town-sponsored, it shall charge \$300 for that service.

Licensee must be able to tow a class D heavy duty 50-ton vehicle.

Cleaning and Maintenance

All services shall be conducted in a careful and orderly manner so that no traffic hazard shall be created and Licensee shall render prompt and courteous service. All waste material including broken glass and loose parts shall be removed by Licensee at the time and place where any work is performed.

Records and Accounts

Licensee shall keep accurate books of account and records of its business operations hereunder in accordance with generally accepted accounting principles consistently applied and in a manner acceptable to the Yorktown Police Department. Town shall have the right to inspect and audit such records at all reasonable times to insure Licensee's compliance with the terms of License. A log detailing all services rendered pursuant to License shall be kept by Licensee in duplicate, in such for as the Yorktown Police Dept. may require. One copy of said log shall be submitted to the Town Clerk not later than the tenth day of each month detailing the prior month's services performed.

Inspection

Town of Yorktown Police Dept. or its authorized representative shall be entitled to enter any space used by Licensee for provision of services hereunder for the purpose of inspecting, observing and monitoring any aspect of Licensee's operations. Licensee shall also permit inspection of same by any federal, state, county or municipal officer having jurisdiction. Licensee, at its sole cost and expense, shall promptly remedy any and all violations issued as a result of such inspection.

Advertising

All advertising and promotions to be employed by Licensee in connection with the operation of License shall be subject to prior written approval of Town.

Personnel

Licensee shall employ a sufficient number of trained, knowledgeable personnel to insure the safe, proper and courteous operation of License. Licensee shall provide, and its employees shall carry appropriate employee identification. Employee identification shall be subject to the approval of Town

Assignment

Licensee shall not assign, sublet, subcontract or otherwise dispose of License, or any right, duty or interest herein, without the prior written consent of Town. No assignment, subcontracting, subletting or other such disposition of License, either with or without such consent of the Administrator, shall serve to relieve Licensee of its obligations hereunder.

Exceptions and Exclusions Applicable to this License and for Emergencies

License applies only to calls generated by the Yorktown Police Department. Licensee is advised that, when public safety requires, Town may allow other firms to provide towing and emergency repair services.

Authority to do Business in New York

Any Bidder which is a corporation not incorporated under the laws of the State of New York, must furnish a copy of its certificate of authority to do business in the State of New York in accordance with Article 13 of the New York State Business Corporation Law.

Commercial Vehicles

The rates set forth in Appendix B apply to cars, vans and light-duty trucks up to 10,000 pounds. Licensee will be permitted to charge the prevailing rate within the area for larger vehicles which it tows or services.

Insurance, Indemnification and Defense

1. Licensee shall provide proof of the following insurance coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

- a. Workers' Compensation. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Worker's Compensation Law. State Workers' Compensation Board form KDB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be

“All locations in Westchester County, New York.” (Where an applicant claims to not be required to carry either a Worker’s Compensation Policy or disability Benefits’ Policy or both, a temporary permit may be issued if the employer completes form C-105.2 in duplicate. A copy of form C-105.2 is sent to the Worker’s Compensation Board, Information Unit for investigation and report). If Licensee is self-insured for Worker’s Compensation, he should present a certificate from the New York State Workers’ Compensation Board evidencing that fact.

b. Employer’s Liability with a minimum limit of \$100,000.

c. General Liability Insurance with a minimum limit of liability per occurrence of \$10,000,000 for bodily injury and \$100,000 for property damage or a combined single limit of \$1,000,000 (c.s.l.), naming the Town of Yorktown as an additional insured. This insurance shall indicate on the certificate of insurance the following coverage:

- (i) Premises – Operations.
- (ii) Broad Form Contractual.
- (iii) Products and Completed Operati
- (iv) Independent Contractor and Sub-Contractor
- (v) Garage Keepers Legal Liability - \$100,000

2. Prior to commencing work Licensee shall obtain, at its own cost and expense, the required insurance from insurance companies licensed in the State of New York, carrying a Best’s financial rating of A or better, and shall provide evidence of such insurance to Town, as may be required and approved by Town. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to Town by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name Licensee and identify the License. If at any time any of the policies required herein shall be or become unsatisfactory to Town, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to Town, Licensee shall upon notice to that effect from Town, promptly obtain a new policy, submit the same for approval and submit a certificate thereof. Upon failure of Licensee to furnish, deliver and maintain such insurance within seven (7) days after written notice, the License, at the election of Town, may be declared suspended, discontinued or terminated. Failure of Licensee to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve Licensee from any liability under the License, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of Licensee concerning indemnification.

All property losses shall be made payable to and adjusted with Town. In the event that claims, for which Town may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under License, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due Licensee until such time as Licensee shall furnish such additional security covering such claims in a form satisfactory to Town. Licensee shall indemnify and hold Town harmless in the event of any of Licensee's acts or omissions.

3. All policies and certificates of insurance of Licensee shall contain the following clauses:

(a) Insurance shall have no right to recovery or subrogation against Town (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which Town is named as an insured, shall not apply to Town.

(c) The insurance companies issuing the policy or policies shall have no recourse against Town (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, Licensee.

Resolution of Disputes and Overcharges

All complaints, questions, claims and disputes concerning services or overcharges of Licensee shall be referred to the Yorktown Police Department. The Police Department shall promptly notify Licensee in writing of any such complaints or claims. Licensee shall have fifteen days after receiving such notice from the Police Department to request further information or documentation, or provide information or documentation pertinent to the complaint or claim. Within a reasonable period of time thereafter, the Police Department shall advise Licensee and the complainant or other party, of his or her findings and determination regarding the complaint, claim or dispute. Licensee agrees to abide by the Police Department's determination in all such cases.

Termination

Town, upon ten (10) days written notice, may terminate License in whole or in part, with or without cause when it deems such termination to be in the Town's best interest. In the event of such a termination, the Town shall be paid by the Licensee such portion of the license fee which covers the period of termination; Licensee shall post a bond with Town equal to 35% of the bid amount. In the event that Licensee defaults in the performance of any term, condition or covenant herein contained, Town, at its option and in addition to any right it might have to seek damages, judicial enforcement or any other lawful remedy, may terminate License upon forty-eight (48) hours written notice to Licensee and no refund of the license fee shall be made to Licensee.

Risk of Operation

Licensee assumes all risks in the operation of License. Licensee shall comply with any and all rules and regulations prescribed by Town for the operation of License. Upon request, Town shall furnish a copy of such rules and regulations to Licensee. It is expressly understood and agreed by and between the parties hereto that the Chief of Police and any other police officers are acting in a representative capacity and not for their own benefit, and that Licensee shall not have any claim against them as individuals in any event whatsoever.

Bankruptcy

If at any time during the term of License, any petition in bankruptcy shall be filed by or against Licensee or if Licensee shall be adjudicated as bankrupt, or if a Receiver shall be appointed to take possession of Licensee's property; or if Licensee shall make any assignment for the benefit of creditors, License shall, at the option of Town, immediately cease, terminate and expire. Nothing hereunder shall relieve Licensee from any liability incurred under License.

Notices

All notices of any nature referred to in License shall be in writing and sent by registered or certified mail postage prepaid to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing:

To Town: Supervisor
 Town of Yorktown
 363 Underhill Avenue
 Yorktown Heights, NY 10598

To Police Chief: Police Chief
Yorktown Police Department
2281 Crompond Road
Yorktown Heights, NY 10598

With a copy to: Town Attorney
Town Hall
363 Underhill Avenue
P.O. Box 703
Yorktown Heights, NY 10598

To Licensee: _____

Non-discrimination

Licensee expressly agrees:

(a) That neither Licensee, subcontractor, nor any person acting on behalf of Licensee or subcontractor, shall by reason of race, creed, color, sex, age, physical disability, political affiliation, marital status or national origin discriminate against any person in the performance of License; and

(b) That neither Licensee, subcontractor, nor any person on his behalf shall in any manner, discriminate against or intimidate any employee hired for the performance of work under License on account of race, creed, color, sex, age, physical disability, political affiliation, marital status or national origin.

PART FOUR

LICENSE

AGREEMENT made this _____ day of _____, 20____ by and between:

THE TOWN OF YORKTOWN, a municipal corporation of the State of New York, having an office and place of business at 363 Underhill Avenue, Yorktown Heights, New York 10598 ("Town") and

_____, with
an office and place of business at:

_____ ("Licensee")

W I T N E S S E T H:

WHEREAS, Town desires to obtain towing and emergency repair services for certain vehicles; and

WHEREAS, Licensee desires to provide such services on the terms herein provided.

NOW, THEREFORE, the parties in consideration of the terms and conditions contained in the Notice to Bidders, Summary of Bid, General Terms and Conditions of Bid, Specifications, Appendices and terms contained in the License herein do agree as follows:

1. Town hereby grants to Licensee and Licensee hereby accepts from Town, a License for the privilege of providing towing and emergency repair services for calls generated by the Yorktown Police Department within Town of Yorktown, as set forth in Schedule "A", which is annexed to and made a part of License. The rate scheduled applicable to the towing and other services to be provided by Licensee hereunder is also attached as Appendix "B".

2. License shall commence on _____, 20____ and shall expire on _____, 20____ subject to the terms and conditions set forth in the General Terms and Conditions of the Bid and the Specifications.

3. The failure of Town to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect. Acceptance by Town of payment of any fee due hereunder with knowledge of a breach of any term or condition hereof,

shall not be deemed a waiver of any such breach and no waiver by Town or any provision hereof shall be implied.

4. License and its attachments including Notice to Bidders, Summary of Bid, General Terms and Conditions of Bid, Specifications and Appendices constitute the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, comments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

5. License shall not be enforceable until signed by both parties and approved by the Office of the Town Attorney.

IN WITNESS WHEREOF, the parties hereto have executed this License in quadruplicate.

THE TOWN OF YORKTOWN

By: Thomas P. Diana, Supervisor

Approved as to form and
Manner of execution:

Adam Rodriguez, Esq.

PART FIVE

APPENDICES

APPENDIX A

The geographic area is of the Town of Yorktown, Exclusive of the Taconic State Parkway.

APPENDIX B

RATE SCHEDULE

Rates for Calls Generated by Yorktown Police Department

	<u>RATE</u>
Towing: 8:00 A.M. to 5:00 P.M.	<u>\$165.00</u>
5:00 P.M. to 8:00 A.M.	<u>\$185.00</u>
Weekends	<u>\$185.00</u>
Holidays	<u>\$185.00</u>
Recovery and Waiting	<u>\$110.00</u>
Extra Man	<u>\$75.00 per half hour</u>
Service call: (Gas, jump, etc.)	<u>\$80.00</u>
Holidays	<u>\$85.00</u>

Second truck needed – service call plus recovery fee.

Large trucks: Reasonable fee at discretion of tow operator.

Note – Large truck tows should be considered a Preference Call (a call for a specific tow firm by a vehicle's operator or owner).

Storage fee, based on 24 hours or any part thereof \$60.00 per day from the time a vehicle enters the yard..

Recovery & Waiting – can charge for full hour (\$110.00) for more than thirty minutes on First Hour Only. After the 1st hour, \$75.00 for every half hour. .

PROPOSAL

Please submit a bid for a License to provide towing and emergency repair services in accordance with the Bid Documents. Bidder acknowledges, without qualification, that Bidder will provide the services in the manner prescribed by law and as set forth in License and specifications at the prescribed rates. Town shall award a License Agreement, if at all, to the highest responsible bidder, considering however storage capacity.

Nothing contained herein shall be construed to limit the right of Town to utilize firms to provide these services in the event the successful bidder is unable or unwilling to provide the services.

APPENDIX C

NON-COLLUSIVE BIDDING CERTIFICATION

Made pursuant to Section 103-d of the General Municipal Law of the State of New York.

By submission of this bid, Bidder and each person signing on behalf of Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

- I. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
- II. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by Bidder and will not knowingly be disclosed by Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- III. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A bid shall not be considered for award nor shall any award be made where (1) (2) and (3) above, have not been complied with; provided, however, that if in any case Bidder cannot make the foregoing certification, Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

Dated: _____

Bidder: _____
(Legal name of person, firm or corporation)

By: _____
(Signature)

(Title)

State of New York)
County of _____)ss.:

On this ____ day of _____ in the year 200__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Notary Public)

APPENDIX D

**BIDDER'S ACKNOWLEDGEMENT:
(If Corporation)**

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

On this ___ day of _____, 20___, before me personally came _____ to me known, and known to me to be _____ of _____ the corporation described in and which executed the within instrument, who being by me duly sworn did depose and say that the said _____ resides at _____, is _____ of said corporation and knows the corporate seal of the said corporation; that the seal affixed to the within instrument is such corporate seal and that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

NOTARY PUBLIC

**BIDDERS ACKNOWLEDGEMENT
(If Individual)**

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss:

On this _____ day of _____, 20____, before me personally came

to me known and known to me to be the _____

of _____, the corporation described in and

which executed the within instrument, who being by me duly sworn did depose and say

that said _____, is _____ of

said corporation and knows the seal of said corporation; that the seal affixed to the within instrument is such corporate seal and that it was affixed by the of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

NOTARY PUBLIC

APPENDIX E

CERTIFICATE OF AUTHORITY

I, _____ (officer other than officer signing contract) certify that I am the _____ (title) of the _____ (name of Licensee) a _____ (corporation/partnership etc.) duly organized and in good standing under the _____ (law under which organized, e.g. the New York Business Corporation Law) named in the foregoing agreement; that _____ (person executing the agreement) I further certify that said agreement was duly signed for and in behalf of said _____ (Licensee) by authority of its Board of Directors, thereunto duly authorized, and that such authority is in full force and effect at the date hereof.

(Signature)

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

On this ____ day of _____, 2____, before me personally came _____, whose signature appears above, to me known, and known to me to be a _____ of the firm of _____, the corporation/partnership/individual described in, and who executed the above certificate, who being by me duly sworn did depose and say that he/she, the said _____, resides at _____, and that he/she is the _____ of said corporation/partnership.

Notary Public

APPENDIX F

In this space attach your certified or cashier's check made payable to the Town of Yorktown in an amount equal to twenty five percent (25%) of your bid amount. Payment is to be furnished in a single check. Do not attach multiple checks or cash. Failure to attach your bid deposit will result in your bid being rejected.