RR
2/12/15
Item No. 32

AN ORDINANCE 2015-02-12-0103

AUTHORIZING MUNICIPAL WRECKER SERVICE AGREEMENTS WITH ALANIS WRECKER SERVICES AND MISSION WRECKER SERVICES TO PROVIDE BACK-UP SUPPORT TO THE CURRENT MUNICIPAL WRECKER SERVICE CONTRACTORS.

* * * * *

WHEREAS, on December 1, 2008, Assured Towing, Allied Towing, and Texas Towing commenced providing wrecker services to the City of San Antonio (the "City") under Municipal Wrecker Service Agreements (the "Agreements") awarded by City Council pursuant to Ordinance No. 2008-10-09-0896; and

WHEREAS, City Council agreed to extend the term of the Agreements for a period of one-year commencing on December 1, 2014; and

WHEREAS, in order to provide back-up support to the City's primary wrecker service contractors, City staff is recommending adding Alanis Wrecker Service and Mission Wrecker Service for the remainder of the term of the Agreements; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council approves the terms and conditions of Municipal Wrecker Service Agreements with Alanis Wrecker Service and Mission Wrecker Service to provide back-up wrecker services to Assured, Allied, and Texas Towing.

SECTION 2. The City Manager or her designee is authorized to execute Municipal Wrecker Service Agreements with Alanis Wrecker Service and Mission Wrecker Service in accordance with this Ordinance. A copy of the Agreements, in substantially final form, are set out in **Exhibits A and B**.

SECTION 3. Funds generated by this Ordinance will be deposited into Fund 11001000, Internal Order 217000000052 and General Ledger 4406847.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance shall be effective immediately upon receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

RR
2/12/15
Item No. 32

PASSED AND APPROVED this 12th day of February, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda
Acting City Attorney

Exhibit A

STATE OF TEXAS	§	**EMERGENCY MUNICIPAL**
	§	**LIGHT AND MEDIUM-DUTY WRECKER**
COUNTY OF BEXAR	§	**SERVICE AGREEMENT**

This Emergency Municipal Light and Medium-Duty Wrecker Service Agreement (this "Agreement") is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City") acting by and through its Chief of Police and by Alanis Wrecker Services., through its Owner (hereinafter referred to as "Contractor"), both of which may be referred to herein collectively as the "Parties."

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings as set out below:

"Chief" shall mean the Chief of Police of the San Antonio Police Department.

"City" is defined in the preamble of this Agreement as the City of San Antonio, Texas, a Municipal Corporation incorporated in accordance with the laws of the State of Texas.

"City-Owned Vehicles" shall mean a vehicle owned or leased by the City of San Antonio. Such vehicles may be operated during all times of the day or night.

"City's Dispatch System" shall mean the City's Computer Aided Dispatching (CAD) system – Mainframe and Police Department Dispatch/Communication System.

"City's Vehicle Storage Facility or VSF" shall mean 3625 Growdon Road, San Antonio, TX 78227 or any other location that may be designated by the Chief, including the City's secondary Vehicle Storage Facility located at 442 9th Street, San Antonio, TX 78215.

"Contractor" is defined in the preamble of this Agreement as Alanis Wrecker Services and includes its successors.

"Contractor's Dispatch System" shall mean the automated system that allows Contractor to receive requests for Emergency Light and Medium-Duty Wrecker Services from City and to dispatch Equipment to the designated location.

"Dispatched Location" shall mean the location provided by City to Contractor where Emergency Light and Medium-Duty Wrecker Services are to be initiated under this Agreement.

"Equipment" shall mean vehicles, associated tools and materials needed to perform Emergency Light and Medium-Duty Wrecker Services in accordance with this Agreement.

"Emergency Light Tows" shall mean the towing of a vehicle with a GVWR of 8600 to 10,000 pounds and may include automobiles, pickup trucks and small vans.

"Emergency Medium Tows" shall mean the towing of a vehicle with a GVWR of 10,001 to 26,000 pounds and may include medium sized pickup trucks, buses, and Recreation Vehicles.

"Personnel" shall mean employees and subcontractors of Contractor who are performing services under this Agreement.

"Response Time" shall mean the time in which the City requests "Emergency Light and Medium-Duty Wrecker Services" as defined below to a specified location, either through the City's Dispatch System or other resource, and the time Contractor's personnel arrives at that location with the requested equipment and prepared to perform "Emergency Light and Medium-Duty Wrecker Services." The agreed upon Response Time for this Agreement is thirty (30) minutes.

"Towing Operations" shall mean the detailed manner in which Contractor performs "Emergency Light and Medium-Duty Wrecker Services" as defined below including towing and recovery services, impounding and releasing of vehicles to City's Vehicle Storage Facility. In all cases, Contractor shall ensure that it abides by detailed procedures accepted within the industry that result in no damage to the property of City or a third-party.

"Emergency Light and Medium-Duty Wrecker Services" shall mean all labor, equipment (including tools) and material necessary for the prompt, reliable and efficient removal of Light and Medium-duty motor vehicles from public streets, ways or other public property which are: 1) abandoned; 2) involved in a collision; 3) parked in violation of law; and/or 4) are to be checked for evidence (including recovered stolen vehicles and vehicles belonging to individuals in the custody of the police). "Emergency Light and Medium-Duty Wrecker Services" includes all associated administrative services and the associated clean-up and/or containment of debris and materials, with the exception of hazardous materials, from accident scenes, City/State Rights of Way and private property. "Emergency Light and Medium-Duty Wrecker Services" explicitly excludes the towing of junked vehicles, pursuant to the City's nuisance abatement program contained in Chapter 19 of the City Code.

"Zones" shall mean one of six areas within the city limits of the City of San Antonio which may be commonly referred to as the NORTH, CENTRAL, SOUTH, EAST, WEST and PRUE Zones and as more specifically described in Exhibit I.

II. TERM

2.1 Initial Term. Unless sooner terminated in accordance with the provisions of this Agreement, the Initial Term of this Agreement shall be ten (10) months commencing on February 22, 2015 and terminating on December 31, 2015 (the "Initial Term").

2.2 Renewal Term. At the end of the Initial Term, City, in its sole discretion, may renew this Agreement for one (1) additional three (3) month period (the "Renewal Term"). This Agreement shall be deemed to continue in full force and effect during the Renewal Term.

2.2.1 Notice of Renewal. City shall give written notice of its desire to exercise the Renewal Term at least ten (10) days prior to the expiration of the Initial Term.

III. SCOPE OF SERVICES

3.1 Contractor's Rights. City hereby grants to Contractor the right to provide and Contractor hereby commits to provide Emergency Light and Medium-Duty Wrecker Services at City's direction within the city limits of the City of San Antonio and more specifically described in Exhibit I. Contractor's right to provide Emergency Light and Medium-Duty Wrecker Services is at the direction of City and shall be initiated through City's Police Department Dispatch Communication System or other means. The granting of this right by City does not guarantee Contractor any quantity of work or monetary gain.

3.2 Contractor's Responsibilities. In addition to those services that may encompass "Emergency Light and Medium-Duty Wrecker Services," as defined in this Agreement, Contractor is specifically responsible for the services described below:

3.2.1 Towing Management. Contractor shall ensure that Emergency Light and Medium-Duty Wrecker Services are performed to industry accepted procedures that achieve safety, reliability and the preservation of personal property in the possession or care of Contractor. City may direct amendment or alteration of Contractor's towing operations.

(a) Staffing Plan. Contractor shall be responsible for implementing a staffing plan to adequately service the Zones and meet the Response Time as defined in this Agreement. Such staffing plan must include adequate labor to undertake the management, operation and administration of Emergency Light and Medium-Duty Wrecker Services for the Zones.

(b) Uniforms. All employees or subcontractors of Contractor performing services under this Agreement shall be uniformed including

identification badges, well-groomed, clean, prompt and courteous in order to provide services under this Agreement.

(c) Safety Plan. Contractor shall establish a safety plan which provides a safe and healthy workplace and that minimizes on-the-job injuries by implementing safety standards based on applicable legal and voluntary codes, rules and standards.

(d) OSHA, Training, Certifications, Registrations and Continuing Education. In addition to the safety plan implemented by Contractor in accordance with this Agreement, Contractor shall comply with the Occupational Safety and Health Act (OSHA) and ensure that all wrecker operators/drivers are permitted to perform Emergency Light and Medium-Duty Wrecker Services by the Texas Department of Licensing and Regulation (TDLR).

(e) Incident Management Towing Operator's License. All of Contractor's wrecker drivers performing services under this Agreement shall possess an Incident Management Towing Operator's License in accordance with Texas Occupations Code, Title 14, Section 2308.103, and shall maintain the required level of Continuing Education to renew such license annually. Upon request of City, Contractor shall provide proof of compliance which may include copies of such Incident Management Towing Operator's Licenses.

(f) Labor Relations. Contractor shall be responsible for labor relations with any trade or union represented among Contractor's personnel and shall negotiate and be responsible for resolving all disputes between itself and Contractor's personnel or any union representing such personnel. Contractor shall ensure that in any agreement that Contractor has with any of its subcontractors that there be a similar provision whereby the subcontractors will **indemnify and hold City harmless** for any damages or losses including attorney's fees resulting from labor relation disputes.

(g) RESERVED.

(h) RESERVED.

(i) Complaint Resolution Process. Contractor shall have in place and make available to City prior to the commencement of this Agreement a Complaint Resolution Process. Such process shall be used to address third-party complaints against the manner in which Contractor has provided services under this Agreement. Contractor shall provide a copy of any written complaints and any information and/or documentation relating to any individual complaint to the City. Contractor shall use its best efforts to minimize complaints and resolve disputes with third-parties.

Should a complaint involve monetary damages in an amount less than FIVE HUNDRED DOLLARS ($500.00), the Chief may direct a resolution of the complaint.

(j) RESERVED.

(k) Contractor's Reporting Requirements. Contractor shall report to City monthly activity of Emergency Light and Medium-Duty Wrecker Services performed under this Agreement to include the number of requests for Emergency Light and Medium-Duty Wrecker Services made by City, Response Times to City's request, and any additional information as requested by City. All reporting shall be made electronically unless otherwise directed by City. Additionally, Contractor is required to inform City immediately of any vehicle accident involving a towing vehicle operated by Contractor. City may consider the accident, and the surrounding circumstances, in reviewing Contractor's performance under this Agreement.

(i) City's Performance Review. At any time, including weekly, monthly, quarterly or annually City may conduct a performance review of this Agreement. The information used in assessing Contractor's performance may include the information submitted by Contractor and any other information deemed pertinent by City.

3.2.2 Equipment. Contractor shall provide all Equipment necessary to perform Emergency Light and Medium-Duty Wrecker Services in the Zones. All Equipment shall be in good working order for the duration of this Agreement. Contractor shall supply, upon request by City, a list of Contractor Equipment inventory dedicated to performance of this Agreement. In addition, Contractor shall ensure that Contractor's Equipment meet the following minimum criteria:

(a) Vehicles. Contractor shall have immediate access to a sufficient number of Light and Medium-duty tow trucks necessary to perform under this Agreement. No vehicles used to perform Emergency Light and Medium-Duty Wrecker Services under this Agreement shall be older than fifteen (15) years and Contractor shall allow City access to inspect Contractor's vehicles or other Equipment upon request. All vehicles shall be equipped, at a minimum, with the following:

(i) Permanent labeling on each side door of the vehicle with the Tow Contractor's name and affiliation with City under this Agreement;

(ii) A four-way emergency flashing system and at least one flashing amber light (or other color permitted by State law) at least five (5) inches in diameter, capable of emitting light in a 360

degree radius, mounted high on the tow truck;

(iii) A light mounted behind the cab of the tow truck capable of illuminating the area of the tow scene under dark or foggy conditions;

(iv) Portable auxiliary brake lights, emergency flasher, turn signal, and taillight with protective pads/covers on the bottom, for use on towed vehicles;

(v) A warning alarm, clearly audible above the surrounding noise in the vicinity and designed to sound when the tow vehicle is shifted into reverse to signify that the vehicle is backing;

(vi) A fire extinguisher with an Underwriter's Laboratory rating of at least 5B:C. Class B and C trucks shall carry fire extinguishers with a cumulative UL rating of at least 10B:C;

(vii) A broom, shovel, container for accident debris, ten (10) pounds of grease and fluid absorbent material, and any other equipment necessary to clean up an accident scene in accordance with state and local law;

(viii) At least six (6) flares or other emergency reflective devices;

(ix) Tires, adequate in size and rating for the size and weight of the tow truck, with not less than 3/32nds inch of tread and mounted on rims secured with the manufacturer's recommended number of lug nuts;

(x) Two-way radio equipment capable of communicating with the Tow Contractor's dispatcher at all times. Such equipment shall be approved and licensed in accordance with federal law;

(xi) Any other equipment required by state law.

(b) RESERVED.

(c) Maintenance. Contractor shall ensure that all of Contractor's Equipment is subject to a Maintenance Plan that includes daily, weekly, monthly and annual maintenance to support the safe and reliable operation of such Equipment.

3.2.3 Contractor's Personnel. Contractor shall supply all personnel as may be necessary to perform the required services of this Agreement. All personnel working under this Agreement shall be fully qualified and legally capable of performing their individual job duties, including possessing any necessary

licenses or specialized training mandated by federal, state or local laws or regulations.

(a) City Badging. Wrecker drivers performing services under this Agreement, including subcontractors must be badged by the City's Wrecker Services Unit prior to providing services. The City requires the submission of an application for badge processing and shall coordinate with Contractor to ensure a timely badging process. The City's current fee for badging is fifteen dollars ($15.00) and Contractor is responsible for all costs associated with meeting such badging requirements.

(b) TDLR. Contractor shall ensure that all wrecker drivers meet the criteria set forth by the Texas Department of Licensing and Regulation (TDLR) and shall provide proof of such compliance to City upon request by City.

(b) Employee Criminal Background Check Plan. Contractor shall ensure that all employees performing under this Agreement are subject to criminal background and history checks, including fingerprint verification by the San Antonio Police Department. Prior to commencing employment, all drivers shall be required to produce a statement from the San Antonio Police Department certifying that the driver is not a sex offender registered with the Texas Department of Public Safety and that the driver has never been convicted of any sexual offense or any offense against a child. Any costs associated with the performance of a criminal background check or the issuance of a permit in accordance with Section 2308.201(d) of the Texas Occupations Code, Title 14, shall be paid by Contractor.

(c) Permission to Operate. Additionally, Contractor shall not allow a wrecker driver to operate under this Agreement if the wrecker driver:

- is under indictment or has been convicted or granted deferred adjudication that has not resulted in a dismissal for the offense of criminal homicide including murder, capital murder, manslaughter, but excluding criminally negligent homicide;

- during the seven years immediately preceding the application for employment, the applicant was convicted or granted deferred adjudication for the offense of criminal homicide, including murder, involuntary manslaughter, criminally negligent homicide, rape, sexual abuse, sexual assault, sale or possession of illegal drugs, robbery or felony theft;

- is under indictment or charged by information or complaint or convicted or granted deferred adjudication that did not result in dismissal for any offense involving fraud or theft, the unauthorized use of a vehicle,

violation of any state or federal laws regulating firearms, violence to any person except conduct classified as no greater than a Class C misdemeanor offense under state law prostitution or the promotion of prostitution, sexual assault, sexual abuse, lewdness or indecency, for use, sale or possession of drugs, driving while intoxicated, or any job related offense;

- is on probation, parole, or mandatory supervision for an offense noted herein;

- has falsified or materially altered or omitted pertinent information in any governmental record, including an application for wrecker driver;

- has been convicted of four (4) or more moving violations of the traffic laws of this or any other state within the twelve (12) month period immediately preceding the date of the application;

- has two (2) suspensions pursuant to the provisions of this contract within any twelve (12) month period; has not met the requirements set forth in this Agreement or as set forth by federal, state and local rules and regulations;

- was suspended from operating pursuant to the prior contract with the City within three (3) years preceding the date of application;

- does not provide all the required information in the application or renewal and any documentation required to be provided with the application or renewal, including the statements requested above specific to sex offender registration and sexual abuse of a child;

(d) RESERVED.

(e) Monthly-List of Drivers. Contractor shall provide a list of on-duty wrecker drivers to City on a daily basis for the period beginning at 12:01 a.m. and terminating at midnight. Such list shall be submitted electronically to City and shall be updated immediately if changes occur during the twenty-four (24) hour period. City shall provide contractor with the email address for submission of the daily list.

3.2.4 Contractor's Towing Operations. Contractor shall operate and be capable of providing Emergency Light and Medium-Duty Wrecker Services in accordance with this Agreement twenty-four (24) hours a day, 365 days a year including weekends and holidays. Contractor shall perform Emergency Light and Medium-Duty Wrecker Services under the laws, regulations, orders, ordinances and guidelines of the State of Texas, Bexar County and the City of San Antonio. Contractor shall substantially comply with the Towing Operations. Such operations shall include, but are not limited to, the following:

(a) Dispatching. Contractor shall be capable of receiving requests for Emergency Light and Medium-Duty Wrecker Services from City through City's Dispatch System or other means as required by City, on a 24 hour basis, 365 days a year and immediately dispatch the appropriate Equipment and Personnel to the directed location to perform Emergency Light and Medium-Duty Wrecker Services within the Response Time of thirty (30) minutes.

(b) Response Time and Response Time Performance Rating. City and Contractor agree that the required Response Time for Emergency Light and Medium-Duty Wrecker Services performed under this Agreement is thirty (30) minutes.

(i) RESERVED.

(ii) Traffic Laws. Contractor shall obey all traffic laws while performing under this Agreement.

(iii) Multiple Towing Vehicles Required. When multiple towing vehicles are required to perform Emergency Light and Medium-Duty Wrecker Services , the Response Time of the second vehicle shall be no later than thirty (30) minutes from the time a second wrecker is requested.

(c) RESERVED.

(d) Police Directed Tows. Contractor shall perform a tow at the direction of any City police officer. Contractor shall obey the directions of police officers in performing such tows and shall ensure that such tow is performed with all due care to avoid interference with police activities and police information.

(e) Towing to City's VSF. Contractor shall develop and implement Standard Operating Procedures, which shall include the transfer of vehicle and tow detail data to City's Vehicle Storage Facility (VSF) operator, for towing of vehicles from the Dispatched Location to City's VSF when directed by City. Such Standard Operating Procedures must be approved by City prior to implementation.

(i) City's VSF Policies and Procedures. Upon arrival at City's VSF, Contractor agrees to comply with all instructions, policies, procedures and directions of City's VSF operator.

3.2.5 Emergency Contingency Plan. In the event of an emergency such as declared disasters, evacuations, severe inclement weather or any other event deemed by the City, the City's Emergency Operations Coordinator, or the City

Manager, Contractor shall ensure continued operations by coordinating with one (1) or more designated backup Wrecker Service provider(s) whose purpose is to assist Contractor in meeting the requirements of this Agreement. Such backup Wrecker Service provider shall be designated by the City through its Chief at the time of the declared or deemed emergency. Contractor shall ensure that the back-up Wrecker Service provider is utilized to appropriately cover a high volume of calls generated by the emergency.

3.2.6 Contractors Prohibitions. In the performance of this Agreement, Contractor shall be prohibited from the following:

(a) causing damage to the persons or property of others;

(b) acting or inferring that Contractor's vehicles are emergency vehicles;

(c) operating overhead emergency lights while en route to or from a tow scene;

(d) disobeying traffic control devices (traffic lights, stop signs, etc.);

(e) using any type of siren;

(f) soliciting of any kind related to vehicles towed under this Agreement;

(g) requiring the performance of repair work on a vehicle involved in an accident or breakdown in connection with providing Emergency Light and Medium-Duty Wrecker Services for such vehicle or limiting, in any way, a vehicle owner/operator's ability to have the vehicle towed to a destination of their choice;

(h) making any repairs or alterations to a vehicle;

(i) towing any vehicle which is occupied by any person, except as specifically directed by a police officer;

(j) charging for services not performed or making duplicate charges for the same service or charge any fee in excess of those permitted under state law or this Agreement;

(k) using profane or obscene language which offends a customer or any other person;

(l) being verbally or physically offensive, abusive, disrespectful or discourteous to any customer, motorist, City employee or any other person;

(m) touching any customer, motorist, City employee or any other person;

(n) performing services under this Agreement while consuming, or while under the influence of drugs or alcohol;

(o) operating any vehicle or other equipment in the performance of this Agreement in a careless, reckless, or negligent manner;

(p) requiring any vehicle owner/owner's agent to make any statement or sign any document relieving the Contractor from responsibility for the condition of the vehicle or its personal effects prior to the owner's/owner's agent's inspection of vehicle or personal effects.

3.3 Contractor's Performance. All work performed by Contractor hereunder shall be performed to the satisfaction of the Chief. The determination made by the Chief shall be final, binding and conclusive on all Parties hereto. City shall have the right to terminate this Agreement, in accordance with Article X. Termination, in whole or in part, should Contractor's work be deemed unsatisfactory, based upon recommendations made by the Chief.

IV. FEE SCHEDULE

4.1 Fees to City. Contractor acknowledges and agrees that strict adherence to all terms and conditions of this Agreement and the laws of the City, County and State is material to this Agreement. The Parties agree that the actual damages that might be sustained by City as a result of Contractor's failure to meet any of the following requirements are uncertain and would be difficult to ascertain, and that the sums indicated below would be reasonable compensation for breaches of this Agreement. Contractor hereby promises to pay, and City hereby agrees to accept, such sums as liquidated damages, and not as a penalty, in the event of the particular breach listed below:

(a) RESERVED.

(b) RESERVED.

(c) Use of Safety Chains. The improper use of safety chains and/or wheel straps shall result in a fee of FIFTY DOLLARS ($50.00) being assessed to Contractor per occurrence.

(i) Safety chains and wheel straps should be used to secure vehicles in tow. When using wheel lifts, two safety chains connected from the rear of the wrecker to the vehicle being towed along with two wheel straps should be used.

(ii) Rollback/Flatbed Wreckers should use two safety chains on the rear of their bed and two safety chains on the front of their bed securing the vehicle to prevent movement in any direction should the driver be involved in an accident. The loading device does not count as or take place of the safety chains as the wench may fail.

(iii) Dollies should be secured to the towed vehicle using wheel straps to secure the wheels being carried to the dollies.

(d) Reflective Vests or Jackets. Failure to wear Reflective/Safety Vest shall result in a fee of FIFTY DOLLARS ($50.00) being assessed to Contractor per occurrence.

(i) Wrecker drivers should wear a reflective vest or reflective jacket at all times while working outside of the tow vehicle. Reflective vests or jackets must meet the ANSI/ISEA 207-2006 requirements for high visibility safety apparel. During daylight hours, a fluorescent shirt may be worn instead of the reflective vest or jacket, however, the fluorescent shirt must meet the ANSI/ISEA 207-2006 requirements for high visibility safety apparel.

(e) Improper Use of Tow Lights. The improper use of tow lights shall result in a fee of TWENTY FIVE DOLLARS ($25.00) being assessed to Contractor per occurrence.

(i) Tow lights should be placed on top of and at the outer edges of the end of the vehicle being towed which is the furthest from the wrecker, no more than four feet from the trailing edge. Should the vehicle be made of a material that will not hold the magnetic light, the vehicle should be towed using a rollback wrecker.

(f) Failure to Clean Debris. Failure to properly clean and clear debris from roadways and pedestrian ways shall result in a fee of FIFTY DOLLARS ($50.00) being assessed to Contractor per occurrence.

(g) RESERVED.

(h) RESERVED.

(i) TDLR. Any violation of State towing laws and/or Rules as posted by the Texas Department of License and Regulations shall result in a fee of TWENTY FIVE DOLLARS ($25.00) being assessed to Contractor per occurrence.

4.2 RESERVED.

4.3 Non-Exclusive Remedy. The assessment of fees in this Article IV is in addition to City's right to terminate under Article X of this Agreement.

4.4 RESERVED.

V. CITY'S STORAGE FACILITY

5.1 City's Vehicle Storage Facility. The City currently owns a Vehicle Storage Facility located at 3625 Growdon Road, San Antonio, TX 78227 and as more specifically described in Exhibit IV. This location shall be the primary location for vehicle storage under this Agreement. The City may also instruct Contractor to tow vehicles to 442 Ninth St, San Antonio, TX 78215 as City's secondary Vehicle Storage Facility.

5.2 City Operation. City or a City designee is responsible for the operation of City's Vehicle Storage Facility. Contractor shall comply with any and all policies and procedures mandated by City or City's designee for the conduct, vehicle delivery and vehicle storage at City's Vehicle Storage Facility.

5.3 Payment of Fees to Contractor. No fees are payable to Contractor from City under this Agreement. In instances where a payment is due to Contractor for towing vehicles to City's VSF, Contractor shall be paid under the policies and procedures of the operator of City's VSF.

VI. RATES FOR SERVICE

6.1 Rates. Contractor shall charge the following rates for Emergency Light and Medium-Duty Wrecker Services performed under the terms of this Agreement:

6.1.1 Emergency Light Tows. For Emergency Light Tows, as defined in this Agreement, Contractor shall charge a towing rate of ONE HUNDRED AND THRITY-TWO DOLLARS AND 0 CENTS ($132.00). An additional fee of THRITY DOLLARS AND 0 CENTS ($30.00) may be charged for the required or requested use of a Dollie to perform Wrecker Services.

6.1.2 Emergency Medium Tows. For Emergency Medium Tows, as defined in this Agreement, Contractor shall charge a towing rate of TWO HUNDRED AND SIXTY-SEVEN DOLLARS AND 0 CENTS ($267.00). An additional fee of THIRTY-FIVE DOLLARS AND 0 CENTS ($35.00) may be charged for the required or requested use of a Dollie to perform Wrecker Services.

6.1.3 RESERVED.

6.1.4 City-Owned Vehicles. Emergency Light and Medium-Duty Wrecker Services shall be provided by Contractor to City as described in Exhibit II.

6.2 Drop Fee. Except when instructed by police, when Contractor has arrived at the location of a requested tow and has attached equipment for towing as the first

action of performing Emergency Light and Medium-Duty Wrecker Services, the Contractor may require payment of a reasonable Drop Fee before releasing the vehicle to the owner/owner's agent or operator. City shall receive its compensation in accordance with Section 7.1 of this Agreement for tows subject to a Drop Fee. A "reasonable" Drop Fee should not exceed the following:

6.2.1 Light Tow.....$66.00

6.2.2 Medium Tow.....$134.00

6.3 Reserved.

6.4 Types of Payment. Contractor shall accept cash, check, credit card and debit card, but shall not trade or barter for service.

6. 5 Rate Reviews and Adjustments. The Rates described in Section 6.1.1, 6.1.2 and 6.1.3 may be reviewed by City, at City's sole discretion

6.6 Fuel Adjustments. The formula for fuel adjustments is described in Exhibit IV

VII. RESERVED.

VIII. RESERVED.

IX. RECORDS RETENTION

9.1 Records Retention Period. Contractor shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of this Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Contractor shall retain the records until the resolution of such litigation or other such questions. Contractor acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Contractor to return said documents to City prior to or at the conclusion of said retention period.

9.2 Specified Records. Contractor shall retain all records, including but not limited to tow invoice copies, inventory and condition reports for Contractor's Equipment and any facilities inspection records and within twenty-four (24) hours of the City's request, Contractor shall make available such records for inspection, audit or copying by City or its authorized representative.

9. 3 Notification. Contractor shall notify City, immediately, in the event

Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Contractor understands and agrees that City will process and handle all such requests.

X. SUSPENSION/TERMINATION

10.1 Suspension. City may summarily suspend this Agreement should there be reason to believe that Contractor has breached this Agreement, including violation of any City, State or Federal laws. Such suspension shall remain in effect until such time as the City determines appropriate measures to ensure Contractor's future compliance. Grounds for such suspension include, but are not limited to the following:

(a) Failure to abide by any terms or conditions of this Agreement;

(b) Failure to keep and maintain adequate proof of insurance or bond as required by this Agreement;

(c) Use of substandard, unauthorized or dangerous equipment;

(d) Failure to maintain any equipment required under this Agreement;

(e) Failure to pay city's commission or any other fees collectible under this Agreement;

(f) Failure to maintain a Response Time Performance Rating of ninety-eight percent (98%) for two (2) consecutive months;

(g) The commission of any crime by Contractor, or any owner, part owner, partner, business associate, principal party, officer, or director.

10.2 Termination Defined. For purposes of this Agreement, "termination" shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

10.3 Termination Without Cause. This Agreement may be terminated by either party upon sixty (60) calendar day's written notice, which notice shall be provided in accordance with Article XI. Notice. Should Contractor exercise its option to Terminate Without Cause, City may, at its discretion, seek to recover any and all costs or expenses it may incur as a result of Contractor's action through the Performance Bond required under Article XIII.

10.4 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article XI. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

10.4.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XVII. Assignment and Subcontracting.

10.5 Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in this section, same shall be considered an Event of Default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article XI. Notice, to cure such default. If Contractor fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice or adoption of an ordinance, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Contractor to complete the work required in this Agreement. Should City exercise its option to terminate this Agreement for Contractor's failure to cure any default, City may, at its discretion, seek to recover any and all costs or expenses it may incur as a result of Contractor's inaction through the Performance Bond required under Article XIII. The following actions are defaults which may be cured by Contractor:

10.5.1 Performing unsatisfactorily in the sole discretion of City.

10.5.2 Failing to perform or failing to comply with any covenant herein required as determined by the City.

10.5.3 Bankruptcy or selling substantially all of company's assets

10.5.4 RESERVED.

10.6 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

10. 7 Ceasing Operations. Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Agreement.

10. 8 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

10.9 Mediation/Arbitration. The Parties may agree to resolve any disputes that may arise under this Agreement through mediation and/or non-binding arbitration as follows:

(a) The party seeking resolution of a matter shall provide the other party with a written request for non-binding mediation. If the party receiving notice agrees to such non-binding mediation such shall be held within 30 days of the date of receipt of the request.

(b) A mediator shall be jointly selected, or if a mediator cannot be agreed upon, the parties will submit a request to the American Arbitration Association to administer the mediation and select a neutral.

(c) If the dispute is not resolved at mediation, either party may request non-binding arbitration. Such arbitration shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. The arbitration need not be administered by the American Arbitration Administration, however, if the parties agree in writing to alternative administration.

10.10 Transition Period. Regardless of the method by which this Agreement is terminated, Contractor agrees to provide a transition period of termination for a period not to exceed two (2) months upon City's request. During such transition period, Contractor may continue to provide Emergency Light and Medium-Duty Wrecker Services as provided for under this Agreement.

XI. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Chief
San Antonio Police Department
315 S. Santa Rosa
San Antonio, TX 78207

If intended for Contractor, to:

Alanis Wrecker Services
Attn: Alejandro Alanis
1035 Culebra Rd
San Antonio, Texas 78201

XII. DOCUMENTS, REPORTS, AUDITS

12.1 Documents. Contractor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the Emergency Light and Medium-Duty Wrecker Services rendered hereunder (hereafter referred to as "documents"), and shall make such documents available to the City at their respective offices or through electronic delivery, at all reasonable times and as often as City may deem necessary during the Initial Term, Renewal Term and any extension hereof, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

12.2 Reports. Upon the request of City, Contractor shall provide all reports relating to the performance of Emergency Light and Medium-Duty Wrecker Services under this Agreement. Contractor shall provide such reports to City within five (5) business days after Contractor receives City's written requests, unless the Parties agree in writing on a longer period of time.

12.2.1 City may require Contractor to submit reports in a format that is reasonably requested by the City. Contractor may seek approval of the City by proposing a format in which information shall be provided to City.

12.3 Performance Audit. Periodical performance audits will be performed during the Term of this Agreement. Such audits may be performed by City or a designated representative of City and may include, but not be limited to, a comprehensive review of towing operations, dispatching services, response time, equipment, personnel and safety. After the completion of such performance audit, Contractor shall be notified by the Chief of conditions needing correction or improvement. Contractor shall promptly comply with any such notice.

12.4 Financial Audit Report. As a service provider of City, Contractor's financial condition is pertinent to City's ability to serve the public at large. Within twenty (20) days of City's request, Contractor shall submit a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards. Contractor shall submit the audited financial statements and any management letter prepared by the independent Certified Public Accountant to both the City's Finance Department at P. O. Box 839966, San Antonio, Texas 78238-3966, and to the San Antonio Police Department at 315 S. Santa Rosa, San Antonio, Texas, 78207.

XIV. INSURANCE

14.1 Certificate of Insurance. Prior to the commencement of any work under this Agreement, Contractor shall furnish an original completed Certificate(s) of Insurance to the San Antonio Police Department and the City Clerk's Office, and which shall be clearly labeled "Emergency Light and Medium-Duty Wrecker Services Contract" in the

Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to the San Antonio Police Department and the Clerk's Office, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

14.2 Right to Review. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance will City allow modification whereupon City may incur increased risk.

14.3 Coverage. A Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII). If mutually agreeable to the parties herein, Contractor may elect to add any or each Subcontractor as an additional named insured to its policy or policies in lieu of separate policies for each party. The Contractor and each Subcontractor shall maintain the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory $1,000,000/$1,000,000/$1,000,000
3. Broad Form Commercial General Liability Insurance (or Garage Liability) to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability f. Environmental Impairment/Impact – sufficiently broad to cover disposal liability.	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,0000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence
5. Garage Liability (or Commercial General Liability above) a. On-Tow Coverage b. Non-owned vehicles c. Garage Keepers coverage on a direct primary basis d. Each towing vehicle must carry a sublimit of at least $300,000.00 liability limit and a property damage deductible of $2,500.00 or less e. Comprehensive loss coverage f. Specific causes of loss coverage g. Collision coverage	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

14.4 Copies Upon Request. The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Police Department
215 S. Santa Rosa
San Antonio, Texas 78207

14.5 Incorporated Provisions. Contractor agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of City-owned vehicles under the Auto Coverage, workers' compensation and professional liability polices;

- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and

- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for non-payment of premium.

14.6 Suspension, Cancellation or Non-Renewal. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

14.7 Stop Work Order. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder until such time as Contractor demonstrates compliance with the requirements of this Article XIV.

14.8 No Limitation. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Agreement.

14.9 Primary and Non-Contributory. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

14.10 Separate Obligation. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

14.11 Liability for Equipment. Contractor and any Subcontractors are responsible for all damages to their own equipment.

XV. INDEMNIFICATION

15.1 CONTRACTOR covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively,

from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONTRACTOR's activities under this AGREEMENT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, Contractor or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT.

It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by CONTRACTOR to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. CONTRACTOR further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

CONTRACTOR shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONTRACTOR's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph.

15.2 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

15.3 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under worker's compensation or other employee benefit acts.

XVI. INDEPENDENT CONTRACTOR

Contractor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and Contractors; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and Contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

XVII. ASSIGNMENT, SUBCONTRACTING AND CHANGE OF OWNERSHIP

17.1 No Assignment. Contractor shall not assign, transfer, convey, or otherwise dispose of any part of, or all of its right, title or interest in this Agreement, nor shall Contractor assign, transfer, convey or dispose of any agreement made with City covering the subject matter of this Agreement without first obtaining the written consent of the Chief. Any references in this Agreement to an assignee or transferee indicate only such an entity as has been approved by the City Council.

17.2 Subcontracting. Contractor is not prohibited from subcontracting for specific services related to this Agreement where Contractor retains full responsibility for

acts of the subcontractor and such subcontracting is approved in writing by the City prior to the use of the subcontractor. Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees.

17.3 Breach. Should Contractor assign, transfer, convey, or otherwise dispose or attempt to dispose of its right, title or interest in this Agreement or any agreement made with City covering the subject matter of this Agreement, City may, at its option and through an action of its City Council, terminate this Agreement, and all rights, titles and interests of Contractor shall thereupon cease and terminate, notwithstanding any other remedy available to City under this Agreement or by law. The violation of this provision by Contractor shall in no event release Contractor from any obligations under the terms of this Agreement, nor shall it relieve or release said Contractor from the payment of any damages to City which City sustains as a result of such violation.

17.4 Change of Ownership. Contractor agrees to notify the City of any changes of ownership interest or control of Contractor's business entity not less than thirty (30) calendar days in advance of the effective date of such change. Notwithstanding any other remedies that are available to City under this Agreement, any change of ownership interest or control of its business entity may be grounds for the termination of this Agreement at the sole discretion of City.

XVIII. RESERVED.

XIX. CONFLICT OF INTEREST

19.1 City's Ethics Code. Contractor acknowledges that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as a City-owned utility. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

19.2 Contractor's Certification. Pursuant to the subsection above, Contractor warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Contractor further

warrants and certifies that is has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XX. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by an amendment, in writing, executed by both City and Contractor.

XXI. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXII. CERTIFICATIONS/LICENSES/PERMITS

22.1 Certifications. Contractor warrants and certifies that Contractor and any other person authorized or designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competency standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

22.2 License and Permits. Contractor and any subcontractor involved in the provision of any services under this Agreement, shall, at its own expense and cost, procure and keep in force during the term of this Agreement, all permits and licenses required by law to provide such services, and shall provide copies of such permits and licenses upon request to the City within ten (10) business days after receiving a request from City.

22.2.1 Nothing contained herein shall be construed as binding the City to the issuance of any license or permit needed by Contractor or any of Contractor's subcontractors to enable anyone to provide services hereunder.

XXIII. OWNERSHIP AND LICENSES

23.1 No Copyright. In accordance with Texas law, Contractor acknowledge and agrees that all local government records created or received in the transaction of

official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government record produced by or on behalf of Contractor pursuant to this Agreement shall be the subject of any copyright or proprietary claim by Contractor.

23.2 Government Record. The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

23.3 Property of City. Contractor acknowledges and agrees that all local government records, as described herein, produced in the course of the work required by this Agreement will belong to and be the property of City and Contractor will be required to turn over to City, all such records. Contractor shall not, under any circumstances, release any records created during the course of performance of this Agreement to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.

23.4 Applicable Law. In accordance herewith, Contractor agrees to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

XXIV. INTELLECTUAL PROPERTY

24.1 Royalties and Fees. Contractor agrees to pay all royalties and licensing fees associated with intellectual property and shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in this Agreement. Contractor shall defend all suits for infringement of any Intellectual Property rights. Further, if Contractor has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

24.2 Upon receipt of notification that a third party claims that the program(s), hardware or both the program(s) and the hardware infringe upon any United States patent or copyright, Contractor shall immediately:

a) obtain, at Contractor's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, or both the programs and hardware, as the case may be, or,

b) alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

c) reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

24.3 Contractor further agrees to:

a) assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent or copyright arising from the use and/or sale of the equipment or software under this Agreement,

b) assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

c) indemnify the City against any monetary damages and/or costs awarded in such suit;

XXV. COMPLIANCE

Contractor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XXVI. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by City of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of City to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by City of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the City. Such changes must be approved by the City Council, as described in Article XX. Amendments. No act or omission by City shall in any manner impair or prejudice any right, power, privilege, or remedy available to City or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXVII. LAW APPLICABLE

27.1 **THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL**

OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

27.2 Venue. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXVIII. LEGAL AUTHORITY

The signer of this Agreement for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

XXIX. PARTIES BOUND

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXX. CAPTIONS

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XXXI. INCORPORATION OF EXHIBITS

Each of the Exhibits and Attachments listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below, with this document taking priority over all exhibits and attachments:

Exhibit I:	Zones(s) Description
Exhibit II:	Fee Schedule
Exhibit III:	Fuel Adjustment Formula

XXXII. ENTIRE AGREEMENT

This Agreement, together with its exhibits constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in

writing, dated subsequent to the date hereto and duly executed by the parties, in accordance with Article XX. Amendments.

Signatures appear on next page.

EXECUTED and **AGREED** to this the _____ day of _____, 2015.

CITY:
CITY OF SAN ANTONIO

_____
Sheryl Sculley
City Manager

ATTEST:

_____
Leticia Vacek

Approved as to Form:

_____
City Attorney

CONTRACTOR:
Alanis Wrecker Services

_____
Alejandro Alanis
Owner

ATTEST:

_____

EXHIBIT I: ZONES DESCRIPTION

EXHIBIT II: FEE SCHEDULE

Alanis Wrecker Service
1035 Culebra Rd.
SAN ANTONIO, TX. 78201

CITY DOA RATES

LIGHT DUTY RATES (Vehicles up to 10,000lbs.)

LIGHT DUTY TRUCK	$85.00	Hook	$3.00 Per Mile after 10 Miles
DRIVE SHAFT REMOVAL	$30.00	Removal	$30.00 Reinstall
DOLLIES	$30.00		
LIGHT DUTY LABOR	$85.00 Per Hour		
TIRE CHANGE	$65.00		
JUMP START	$65.00		

MEDIUM DUTY RATES (Vehicles 10,000lbs to 25,950lbs)

MEDIUM DUTY TOW	$125.00	Hook	$3.00 Per Mile from Start
MEDIUM DUTY LABOR	$125.00	Per Hour	
DRIVE SHAFT	$30.00	Removal	$30.00 Reinstall
CAGE BRAKES	$30.00	Per Axel	
ADD AIR	$30.00		
JUMP STAR	$125.00		

EXHIBIT III: SPECIAL EQUIPMENT RATE LIST

EXHIBIT IV: FUEL ADJUSTMENT FORMULA

EXHIBIT IV: FUEL ADJUSTMENT FORMULA

Fuel Adjustment

A per-trip fuel surcharge shall be added to the total cost of the tow where the average "retail" price of diesel fuel is $3.60 or greater. The average "retail" price of diesel fuel in San Antonio shall be based on the retail prices listed for "retail" diesel fuel by the Oil Price Information Service (OPIS) for the San Antonio area. Fuel surcharges shall become effective on March 1, June 1, September 1, and December 1, through the term of this contract. The average price shall be calculated for the most recent 12-week period ending no less than fourteen (14) days prior to the surcharge effective date. The City of San Antonio's Finance Department (Public Utilities group) will calculate the adjustment and communicate to the Police Department for implementation.

The base market price, subject to the adjustment provided for herein, shall be $3.60 per gallon. The fuel adjustment will be calculated based on the following table and shall apply to all tows performed to the contract.

Contract Fuel Adjustment Table

Fuel Prices	Fuel Surcharge
Under $3.60	$ -
$ 3.60 - $ 3.70	$ 0.40
$ 3.70 - $ 3.80	$ 0.80
$ 3.80 - $ 3.90	$ 1.20
$ 3.90 - $ 4.00	$ 1.60
$ 4.00 - $ 4.10	$ 2.00
$ 4.10 - $ 4.20	$ 2.40
$ 4.20 - $ 4.30	$ 2.80
$ 4.30 - $ 4.40	$ 3.20
$ 4.40 - $ 4.50	$ 3.60
$ 4.50 - $ 4.60	$ 4.00
$ 4.60 - $ 4.70	$ 4.40
$ 4.70 - $ 4.80	$ 4.80
$ 4.80 - $ 4.90	$ 5.20
$ 4.90 - $ 5.00	$ 5.60
$ 5.00 - $ 5.10	$ 6.00
$ 5.10 - $ 5.20	$ 6.40
$ 5.20 - $ 5.30	$ 6.80
$ 5.30 - $ 5.40	$ 7.20
$ 5.40 - $ 5.50	$ 7.60
$ 5.50 - $ 5.60	$ 8.00
$ 5.60 - $ 5.70	$ 8.40
$ 5.70 - $ 5.80	$ 8.80
$ 5.80 - $ 5.90	$ 9.20
$ 5.90 - $ 6.00	$ 9.60
$ 6.00 - $ 6.10	$ 10.00
$ 6.10 - $ 6.20	$ 10.40
$ 6.20 - $ 6.30	$ 10.80
$ 6.30 - $ 6.40	$ 11.20
$ 6.40 - $ 6.50	$ 11.60
$ 6.50 - $ 6.60	$ 12.00

Exhibit B

STATE OF TEXAS	§	**EMERGENCY MUNICIPAL**
	§	**LIGHT, MEDIUM AND HEAVY**
		DUTY WRECKER
COUNTY OF BEXAR	§	**SERVICE AGREEMENT**

This Emergency Municipal Light, Medium and Heavy Duty Wrecker Service Agreement (this "Agreement") is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City") acting by and through its Chief of Police and by MISSION WRECKER SERVICE SA, INC., through its President (hereinafter referred to as "Contractor"), both of which may be referred to herein collectively as the "Parties."

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings as set out below:

"Chief" shall mean the Chief of Police of the San Antonio Police Department.

"City" is defined in the preamble of this Agreement as the City of San Antonio, Texas, a Municipal Corporation incorporated in accordance with the laws of the State of Texas.

"City-Owned Vehicles" shall mean a vehicle owned or leased by the City of San Antonio. Such vehicles may be operated during all times of the day or night.

"City's Dispatch System" shall mean the City's Computer Aided Dispatching (CAD) system – Mainframe and Police Department Dispatch/Communication System.

"City's Vehicle Storage Facility or VSF" shall mean 3625 Growdon Road, San Antonio, TX 78227 or any other location that may be designated by the Chief, including the City's secondary Vehicle Storage Facility located at 442 9th Street, San Antonio, TX 78215.

"Contractor" is defined in the preamble of this Agreement as MISSION WRECKER SERVICE SA, INC. and includes its successors.

"Contractor's Dispatch System" shall mean the automated system that allows Contractor to receive requests for Emergency Light, Medium and Heavy Duty Wrecker Services from City and to dispatch Equipment to the designated location.

"Dispatched Location" shall mean the location provided by City to Contractor where Emergency Light, Medium and Heavy Duty Wrecker Services are to be initiated under this Agreement.

"Equipment" shall mean vehicles, associated tools and materials needed to perform Emergency Light, Medium and Heavy Duty Wrecker Services in accordance with this Agreement.

"Emergency Heavy Tows" shall mean the towing of a vehicle with a GVWR of over 26,000 pounds and may include large buses, trucks, trailers, and heavy construction equipment.

"Emergency Light Tows" shall mean the towing of a vehicle with a GVWR of 8600 to 10,000 pounds and may include automobiles, pickup trucks and small vans.

"Emergency Medium Tows" shall mean the towing of a vehicle with a GVWR of 10,001 to 26,000 pounds and may include medium sized pickup trucks, buses, and Recreation Vehicles.

"Personnel" shall mean employees and subcontractors of Contractor who are performing services under this Agreement.

"Response Time" shall mean the time in which the City requests "Emergency Light, Medium and Heavy Duty Wrecker Services" as defined below to a specified location, either through the City's Dispatch System or other resource, and the time Contractor's personnel arrives at that location with the requested equipment and prepared to perform "Emergency Light, Medium and Heavy Duty Wrecker Services." The agreed upon Response Time for this Agreement is thirty (30) minutes which begins when Mission Wrecker is assigned a call from the City.

"Towing Operations" shall mean the detailed manner in which Contractor performs "Emergency Light, Medium and Heavy Duty Wrecker Services" as defined below including towing and recovery services, impounding and releasing of vehicles to City's Vehicle Storage Facility. In all cases, Contractor shall ensure that it abides by detailed procedures accepted within the industry that result in no damage to the property of City or a third-party.

"Emergency Light, Medium and Heavy Duty Wrecker Services" shall mean all labor, equipment (including tools) and material necessary for the prompt, reliable and efficient removal of Light, Medium and Heavy Duty motor vehicles from public streets, ways or other public property which are: 1) abandoned; 2) involved in a collision; 3) parked in violation of law; and/or 4) are to be checked for evidence (including recovered stolen vehicles and vehicles belonging to individuals in the custody of the police). "Emergency Light, Medium and Heavy Duty Wrecker Services" includes all associated administrative services and the associated clean-up and/or containment of debris and materials, with the exception of hazardous materials, from accident scenes, City/State Rights of Way and private property. "Emergency Light, Medium and Heavy Duty Wrecker Services" explicitly excludes the towing of junked vehicles, pursuant to the City's nuisance abatement program contained in Chapter 19 of the City Code.

"Zones" shall mean one of six areas within the city limits of the City of San Antonio which may be commonly referred to as the NORTH, CENTRAL, SOUTH, EAST, WEST and PRUE Zones and as more specifically described in Exhibit I.

II. TERM

2.1 Initial Term. Unless sooner terminated in accordance with the provisions of this Agreement, the Initial Term of this Agreement shall be ten (10) months commencing on February 22, 2015 and terminating on December 31, 2015 (the "Initial Term").

2.2 Renewal Term. At the end of the Initial Term, City, in its sole discretion, may renew this Agreement for one (1) additional three (3) month period (the "Renewal Term"). This Agreement shall be deemed to continue in full force and effect during the Renewal Term.

2.2.1 Notice of Renewal. City shall give written notice of its desire to exercise the Renewal Term at least ten (10) days prior to the expiration of the Initial Term.

2.2.2 Notice of Non-Renewal. City shall give written notice of its desire to not exercise any Renewal Term at least fifty (50) days prior to the expiration of the Initial Term or Renewal Term.

III. SCOPE OF SERVICES

3.1 Contractor's Rights. City hereby grants to Contractor the right to provide and Contractor hereby commits to provide Emergency Light, Medium and Heavy Duty Wrecker Services at City's direction within the city limits of the City of San Antonio and more specifically described in Exhibit I. Contractor's right to provide Emergency Light, Medium and Heavy Duty Wrecker Services is at the direction of City and shall be initiated through City's Police Department Dispatch Communication System or other means. The granting of this right by City does not guarantee Contractor any quantity of work or monetary gain.

3.2 Contractor's Responsibilities. In addition to those services that may encompass "Emergency Light, Medium and Heavy Duty Wrecker Services," as defined in this Agreement, Contractor is specifically responsible for the services described below:

3.2.1 Towing Management. Contractor shall ensure that Emergency Light, Medium and Heavy Duty Wrecker Services are performed to industry accepted procedures that achieve safety, reliability and the preservation of personal property in the possession or care of Contractor. City may direct amendment or alteration of Contractor's towing operations.

(a) Staffing Plan. Contractor shall be responsible for implementing a staffing plan to adequately service the Zones and meet the Response Time as defined in this Agreement. Such staffing plan must include adequate labor to undertake the management, operation and administration of Emergency Light, Medium and Heavy Duty Wrecker Services for the Zones.

(b) Uniforms. All employees or subcontractors of Contractor performing services under this Agreement shall be uniformed including identification badges, well-groomed, clean, prompt and courteous in order to provide services under this Agreement.

(c) Safety Plan. Contractor shall establish a safety plan which provides a safe and healthy workplace and that minimizes on-the-job injuries by implementing safety standards based on applicable legal and voluntary codes, rules and standards.

(d) OSHA, Training, Certifications, Registrations and Continuing Education. In addition to the safety plan implemented by Contractor in accordance with this Agreement, Contractor shall comply with the Occupational Safety and Health Act (OSHA) and ensure that all wrecker operators/drivers are permitted to perform Emergency Light, Medium and Heavy Duty Wrecker Services by the Texas Department of Licensing and Regulation (TDLR).

(e) Incident Management Towing Operator's License. All of Contractor's wrecker drivers performing services under this Agreement shall possess an Incident Management Towing Operator's License in accordance with Texas Occupations Code, Title 14, Section 2308.103, and shall maintain the required level of Continuing Education to renew such license annually. Upon request of City, Contractor shall provide proof of compliance which may include copies of such Incident Management Towing Operator's Licenses.

(f) Labor Relations. Contractor shall be responsible for labor relations with any trade or union represented among Contractor's personnel and shall negotiate and be responsible for resolving all disputes between itself and Contractor's personnel or any union representing such personnel. Contractor shall ensure that in any agreement that Contractor has with any of its subcontractors that there be a similar provision whereby the subcontractors will **indemnify and hold City harmless** for any damages or losses including attorney's fees resulting from labor relation disputes.

(g) RESERVED.

(h) RESERVED.

(i) Complaint Resolution Process. Contractor shall have in place and make available to City prior to the commencement of this Agreement a Complaint Resolution Process. Such process shall be used to address third-party complaints against the manner in which Contractor has provided services under this Agreement. Contractor shall provide a copy of any written complaints and any information and/or documentation relating to any individual complaint to the City. Contractor shall use its best efforts to minimize complaints and resolve disputes with third-parties. Should a complaint involve monetary damages in an amount less than FIVE HUNDRED DOLLARS ($500.00), the Chief may direct a resolution of the complaint.

(j) RESERVED.

(k) Contractor's Reporting Requirements. Contractor shall report to City monthly activity of Emergency Light, Medium and Heavy Duty Wrecker Services performed under this Agreement to include the number of requests for Emergency Light, Medium and Heavy Duty Wrecker Services made by City, Response Times to City's request, and any additional information as requested by City. All reporting shall be made electronically unless otherwise directed by City. Additionally, Contractor is required to inform City immediately of any vehicle accident involving a towing vehicle operated by Contractor. City may consider the accident, and the surrounding circumstances, in reviewing Contractor's performance under this Agreement.

(i) City's Performance Review. At any time, including weekly, monthly, quarterly or annually City may conduct a performance review of this Agreement. The information used in assessing Contractor's performance may include the information submitted by Contractor and any other information deemed pertinent by City.

3.2.2 Equipment. Contractor shall provide all Equipment necessary to perform Emergency Light, Medium and Heavy Duty Wrecker Services in the Zones. All Equipment shall be in good working order for the duration of this Agreement. Contractor shall supply, upon request by City, a list of Contractor Equipment inventory dedicated to performance of this Agreement. In addition, Contractor shall ensure that Contractor's Equipment meet the following minimum criteria:

(a) Vehicles. Contractor shall have immediate access to a sufficient number of Light, Medium and Heavy Duty tow trucks necessary to perform under this Agreement. No vehicles used to perform Emergency Light, Medium and Heavy Duty Wrecker Services under this Agreement shall be older than fifteen (15) years and Contractor shall allow City

access to inspect Contractor's vehicles or other Equipment upon request. All vehicles shall be equipped, at a minimum, with the following:

(i) Permanent labeling on each side door of the vehicle with the Tow Contractor's name and affiliation with City under this Agreement;

(ii) A four-way emergency flashing system and at least one flashing amber light (or other color permitted by State law) at least five (5) inches in diameter, capable of emitting light in a 360 degree radius, mounted high on the tow truck;

(iii) A light mounted behind the cab of the tow truck capable of illuminating the area of the tow scene under dark or foggy conditions;

(iv) Portable auxiliary brake lights, emergency flasher, turn signal, and taillight with protective pads/covers on the bottom, for use on towed vehicles;

(v) A warning alarm, clearly audible above the surrounding noise in the vicinity and designed to sound when the tow vehicle is shifted into reverse to signify that the vehicle is backing;

(vi) A fire extinguisher with an Underwriter's Laboratory rating of at least 5B:C. Class B and C trucks shall carry fire extinguishers with a cumulative UL rating of at least 10B:C;

(vii) A broom, shovel, container for accident debris, ten (10) pounds of grease and fluid absorbent material, and any other equipment necessary to clean up an accident scene in accordance with state and local law;

(viii) At least six (6) flares or other emergency reflective devices;

(ix) Tires, adequate in size and rating for the size and weight of the tow truck, with not less than 3/32nds inch of tread and mounted on rims secured with the manufacturer's recommended number of lug nuts;

(x) Two-way radio equipment capable of communicating with the Tow Contractor's dispatcher at all times. Such equipment shall be approved and licensed in accordance with federal law;

(xi) Any other equipment required by state law.

(b) RESERVED.

(c) Maintenance. Contractor shall ensure that all of Contractor's Equipment is subject to a Maintenance Plan that includes daily, weekly, monthly and annual maintenance to support the safe and reliable operation of such Equipment.

3.2.3 Contractor's Personnel. Contractor shall supply all personnel as may be necessary to perform the required services of this Agreement. All personnel working under this Agreement shall be fully qualified and legally capable of performing their individual job duties, including possessing any necessary licenses or specialized training mandated by federal, state or local laws or regulations.

(a) City Badging. Wrecker drivers performing services under this Agreement, including subcontractors must be badged by the City's Wrecker Services Unit prior to providing services. The City requires the submission of an application for badge processing and shall coordinate with Contractor to ensure a timely badging process. The City's current fee for badging is fifteen dollars ($15.00) and Contractor is responsible for all costs associated with meeting such badging requirements.

(b) TDLR. Contractor shall ensure that all wrecker drivers meet the criteria set forth by the Texas Department of Licensing and Regulation (TDLR) and shall provide proof of such compliance to City upon request by City.

(b) Employee Criminal Background Check Plan. Contractor shall ensure that all employees performing under this Agreement are subject to criminal background and history checks, including fingerprint verification by the San Antonio Police Department. Prior to commencing employment, all drivers shall be required to produce a statement from the San Antonio Police Department certifying that the driver is not a sex offender registered with the Texas Department of Public Safety and that the driver has never been convicted of any sexual offense or any offense against a child. Any costs associated with the performance of a criminal background check or the issuance of a permit in accordance with Section 2308.201(d) of the Texas Occupations Code, Title 14, shall be paid by Contractor.

(c) Permission to Operate. Additionally, Contractor shall not allow a wrecker driver to operate under this Agreement if the wrecker driver:

- is under indictment or has been convicted or granted deferred adjudication that has not resulted in a dismissal for the offense of criminal homicide including murder, capital murder, manslaughter, but excluding criminally negligent homicide;

- during the seven years immediately preceding the application for employment, the applicant was convicted or granted deferred adjudication for the offense of criminal homicide, including murder, involuntary manslaughter, criminally negligent homicide, rape, sexual abuse, sexual assault, sale or possession of illegal drugs, robbery or felony theft;

- is under indictment or charged by information or complaint or convicted or granted deferred adjudication that did not result in dismissal for any offense involving fraud or theft, the unauthorized use of a vehicle, violation of any state or federal laws regulating firearms, violence to any person except conduct classified as no greater than a Class C misdemeanor offense under state law prostitution or the promotion of prostitution, sexual assault, sexual abuse, lewdness or indecency, for use, sale or possession of drugs, driving while intoxicated, or any job related offense;

- is on probation, parole, or mandatory supervision for an offense noted herein;

- has falsified or materially altered or omitted pertinent information in any governmental record, including an application for wrecker driver;

- has been convicted of four (4) or more moving violations of the traffic laws of this or any other state within the twelve (12) month period immediately preceding the date of the application;

- has two (2) suspensions pursuant to the provisions of this contract within any twelve (12) month period; has not met the requirements set forth in this Agreement or as set forth by federal, state and local rules and regulations;

- was suspended from operating pursuant to the prior contract with the City within three (3) years preceding the date of application;

- does not provide all the required information in the application or renewal and any documentation required to be provided with the application or renewal, including the statements requested above specific to sex offender registration and sexual abuse of a child;

(d) RESERVED.

(e) Monthly-List of Drivers. Contractor shall provide a list of on-duty wrecker drivers to City on a daily basis for the period beginning at 12:01 a.m. and terminating at midnight. Such list shall be submitted electronically to City and shall be updated immediately if changes occur during the twenty-four (24) hour period. City shall provide contractor with the email address for submission of the daily list.

3.2.4 Contractor's Towing Operations. Contractor shall operate and be capable of providing Emergency Light, Medium and Heavy Duty Wrecker Services in accordance with this Agreement twenty-four (24) hours a day, 365 days a year including weekends and holidays. Contractor shall perform Emergency Light, Medium and Heavy Duty Wrecker Services under the laws, regulations, orders, ordinances and guidelines of the State of Texas, Bexar County and the City of San Antonio. Contractor shall substantially comply with the Towing Operations. Such operations shall include, but are not limited to, the following:

(a) Dispatching. Contractor shall be capable of receiving requests for Emergency Light, Medium and Heavy Duty Wrecker Services from City through City's Dispatch System or other means as required by City, on a 24 hour basis, 365 days a year and immediately dispatch the appropriate Equipment and Personnel to the directed location to perform Emergency Light, Medium and Heavy Duty Wrecker Services within the Response Time of thirty (30) minutes which begins when Mission Wrecker is assigned a call from the City.

(b) Response Time and Response Time Performance Rating. City and Contractor agree that the required Response Time for Emergency Light, Medium and Heavy Duty Wrecker Services performed under this Agreement is thirty (30) minutes.

(i) RESERVED.

(ii) Traffic Laws. Contractor shall obey all traffic laws while performing under this Agreement.

(iii) Multiple Towing Vehicles Required. When multiple towing vehicles are required to perform Emergency Light, Medium and Heavy Duty Wrecker Services , the Response Time of the second vehicle shall be no later than thirty (30) minutes from the time a second wrecker is requested.

(c) RESERVED.

(d) Police Directed Tows. Contractor shall perform a tow at the direction of any City police officer. Contractor shall obey the directions of police officers in performing such tows and shall ensure that such tow is performed with all due care to avoid interference with police activities and police information.

(e) Towing to City's VSF. Contractor shall develop and implement Standard Operating Procedures, which shall include the transfer of vehicle and tow detail data to City's Vehicle Storage Facility (VSF) operator, for towing of vehicles from the Dispatched Location to City's VSF when

directed by City. Such Standard Operating Procedures must be approved by City prior to implementation.

(i) City's VSF Policies and Procedures. Upon arrival at City's VSF, Contractor agrees to comply with all instructions, policies, procedures and directions of City's VSF operator.

3.2.5 Emergency Contingency Plan. In the event of an emergency such as declared disasters, evacuations, severe inclement weather or any other event deemed by the City, the City's Emergency Operations Coordinator, or the City Manager, Contractor shall ensure continued operations by coordinating with one (1) or more designated backup Wrecker Service provider(s) whose purpose is to assist Contractor in meeting the requirements of this Agreement. Such backup Wrecker Service provider shall be designated by the City through its Chief at the time of the declared or deemed emergency. Contractor shall ensure that the back-up Wrecker Service provider is utilized to appropriately cover a high volume of calls generated by the emergency.

3.2.6 Contractors Prohibitions. In the performance of this Agreement, Contractor shall be prohibited from the following:

(a) causing damage to the persons or property of others;

(b) acting or inferring that Contractor's vehicles are emergency vehicles;

(c) operating overhead emergency lights while en route to or from a tow scene;

(d) disobeying traffic control devices (traffic lights, stop signs, etc.);

(e) using any type of siren;

(f) soliciting of any kind related to vehicles towed under this Agreement;

(g) requiring the performance of repair work on a vehicle involved in an accident or breakdown in connection with providing Emergency Light, Medium and Heavy Duty Wrecker Services for such vehicle or limiting, in any way, a vehicle owner/operator's ability to have the vehicle towed to a destination of their choice;

(h) making any repairs or alterations to a vehicle;

(i) towing any vehicle which is occupied by any person, except as specifically directed by a police officer;

(j) charging for services not performed or making duplicate charges for the same service or charge any fee in excess of those permitted under state

law or this Agreement;

(k) using profane or obscene language which offends a customer or any other person;

(l) being verbally or physically offensive, abusive, disrespectful or discourteous to any customer, motorist, City employee or any other person;

(m) touching any customer, motorist, City employee or any other person;

(n) performing services under this Agreement while consuming, or while under the influence of drugs or alcohol;

(o) operating any vehicle or other equipment in the performance of this Agreement in a careless, reckless, or negligent manner;

(p) requiring any vehicle owner/owner's agent to make any statement or sign any document relieving the Contractor from responsibility for the condition of the vehicle or its personal effects prior to the owner's/owner's agent's inspection of vehicle or personal effects.

3.3 Contractor's Performance. All work performed by Contractor hereunder shall be performed to the satisfaction of the Chief. The determination made by the Chief shall be final, binding and conclusive on all Parties hereto. City shall have the right to terminate this Agreement, in accordance with Article X. Termination, in whole or in part, should Contractor's work be deemed unsatisfactory, based upon recommendations made by the Chief.

IV. FEE SCHEDULE

4.1 Fees to City. Contractor acknowledges and agrees that strict adherence to all terms and conditions of this Agreement and the laws of the City, County and State is material to this Agreement. The Parties agree that the actual damages that might be sustained by City as a result of Contractor's failure to meet any of the following requirements are uncertain and would be difficult to ascertain, and that the sums indicated below would be reasonable compensation for breaches of this Agreement. Contractor hereby promises to pay, and City hereby agrees to accept, such sums as liquidated damages, and not as a penalty, in the event of the particular breach listed below:

(a) RESERVED.

(b) RESERVED.

(c) Use of Safety Chains. The improper use of safety chains and/or wheel straps shall result in a fee of FIFTY DOLLARS ($50.00) being assessed to Contractor per occurrence.

(i) Safety chains and wheel straps should be used to secure vehicles in tow. When using wheel lifts, two safety chains connected from the rear of the wrecker to the vehicle being towed along with two wheel straps should be used.

(ii) Rollback/Flatbed Wreckers should use two safety chains on the rear of their bed and two safety chains on the front of their bed securing the vehicle to prevent movement in any direction should the driver be involved in an accident. The loading device does not count as or take place of the safety chains as the wench may fail.

(iii) Dollies should be secured to the towed vehicle using wheel straps to secure the wheels being carried to the dollies.

(d) Reflective Vests or Jackets. Failure to wear Reflective/Safety Vest shall result in a fee of FIFTY DOLLARS ($50.00) being assessed to Contractor per occurrence.

(i) Wrecker drivers should wear a reflective vest or reflective jacket at all times while working outside of the tow vehicle. Reflective vests or jackets must meet the ANSI/ISEA 207-2006 requirements for high visibility safety apparel. During daylight hours, a fluorescent shirt may be worn instead of the reflective vest or jacket, however, the fluorescent shirt must meet the ANSI/ISEA 207-2006 requirements for high visibility safety apparel.

(e) Improper Use of Tow Lights. The improper use of tow lights shall result in a fee of TWENTY FIVE DOLLARS ($25.00) being assessed to Contractor per occurrence.

(i) Tow lights should be placed on top of and at the outer edges of the end of the vehicle being towed which is the furthest from the wrecker, no more than four feet from the trailing edge. Should the vehicle be made of a material that will not hold the magnetic light, the vehicle should be towed using a rollback wrecker.

(f) Failure to Clean Debris. Failure to properly clean and clear debris from roadways and pedestrian ways shall result in a fee of FIFTY DOLLARS ($50.00) being assessed to Contractor per occurrence.

(g) RESERVED.

(h) RESERVED.

(i) TDLR. Any violation of State towing laws and/or Rules as posted by the Texas Department of License and Regulations shall result in a fee of TWENTY FIVE DOLLARS ($25.00) being assessed to Contractor per occurrence.

4.2 RESERVED.

4.3 Non-Exclusive Remedy. The assessment of fees in this Article IV is in addition to City's right to terminate under Article X of this Agreement.

4.4 RESERVED.

V. CITY'S STORAGE FACILITY

5.1 City's Vehicle Storage Facility. The City currently owns a Vehicle Storage Facility located at 3625 Growdon Road, San Antonio, TX 78227 and as more specifically described in Exhibit IV. This location shall be the primary location for vehicle storage under this Agreement. The City may also instruct Contractor to tow vehicles to 442 Ninth St, San Antonio, TX 78215 as City's secondary Vehicle Storage Facility.

5.2 City Operation. City or a City designee is responsible for the operation of City's Vehicle Storage Facility. Contractor shall comply with any and all policies and procedures mandated by City or City's designee for the conduct, vehicle delivery and vehicle storage at City's Vehicle Storage Facility.

5.3 Payment of Fees to Contractor. No fees are payable to Contractor from City under this Agreement. In instances where a payment is due to Contractor for towing vehicles to City's VSF, Contractor shall be paid under the policies and procedures of the operator of City's VSF.

VI. RATES FOR SERVICE

6.1 Rates. Contractor shall charge the following rates for Emergency Light, Medium and Heavy Duty Wrecker Services performed under the terms of this Agreement:

6.1.1 Emergency Light Tows. For Emergency Light Tows, as defined in this Agreement, Contractor shall charge a towing rate of ONE HUNDRED AND THRITY-TWO DOLLARS AND 0 CENTS ($132.00). An additional fee of THRITY DOLLARS AND 0 CENTS ($30.00) may be charged for the required or requested use of a Dollie to perform Wrecker Services.

6.1.2 Emergency Medium Tows. For Emergency Medium Tows, as defined in this Agreement, Contractor shall charge a towing rate of TWO

HUNDRED AND SIXTY-SEVEN DOLLARS AND 0 CENTS ($267.00). An additional fee of THIRTY-FIVE DOLLARS AND 0 CENTS ($35.00) may be charged for the required or requested use of a Dollie to perform Wrecker Services.

6.1.3 Emergency Heavy Tows. For Emergency Heavy Duty Tows, as defined in this Agreement, Contractor shall charge a towing rate of THREE HUNDRED AND FORTY-FIVE DOLLARS ($345.00) per hour, with a two (2) hour minimum charge. Additionally, should Contractor be required to utilize special equipment or procedures necessary to perform a Heavy Tow, Contractor may utilize those charges approved in Exhibit III.

6.1.4 City-Owned Vehicles. Emergency Light, Medium and Heavy Duty Wrecker Services shall be provided by Contractor to City as described in Exhibit II.

6.2 Drop Fee. Except when instructed by police, when Contractor has arrived at the location of a requested tow and has attached equipment for towing as the first action of performing Emergency Light, Medium and Heavy Duty Wrecker Services, the Contractor may require payment of a reasonable Drop Fee before releasing the vehicle to the owner/owner's agent or operator. City shall receive its compensation in accordance with Section 7.1 of this Agreement for tows subject to a Drop Fee. A "reasonable" Drop Fee should not exceed the following:

6.2.1 Light Tow.....$66.00

6.2.2 Medium Tow.....$134.00

6.2.3 Heavy Tow.....$170.00

6.3 Special Equipment. In the event that circumstances require Contractor to use specialized equipment in the performance of Emergency Heavy Duty Wrecker Services, Contractor may charge those rates as prescribed in Exhibit III. Should Contractor be required to utilize special equipment not identified in Exhibit III, Contractor shall charge a reasonable amount consistent with industry rates and standards for such equipment. The assessment of such additional amount requires Contractor to submit documentation of the necessity for such equipment and rate verification.

6.4 Types of Payment. Contractor shall accept cash, check, credit card and debit card, but shall not trade or barter for service.

6. 5 Rate Reviews and Adjustments. The Rates described in Section 6.1.1, 6.1.2 and 6.1.3 may be reviewed by City, at City's sole discretion

6.6 Fuel Adjustments. The formula for fuel adjustments is described in Exhibit IV

VII. RESERVED.

VIII. RESERVED.

IX. RECORDS RETENTION

9.1 Records Retention Period. Contractor shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of this Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Contractor shall retain the records until the resolution of such litigation or other such questions. Contractor acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Contractor to return said documents to City prior to or at the conclusion of said retention period.

9.2 Specified Records. Contractor shall retain all records, including but not limited to tow invoice copies, inventory and condition reports for Contractor's Equipment and any facilities inspection records and within twenty-four (24) hours of the City's request, Contractor shall make available such records for inspection, audit or copying by City or its authorized representative.

9. 3 Notification. Contractor shall notify City, immediately, in the event Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Contractor understands and agrees that City will process and handle all such requests.

X. SUSPENSION/TERMINATION

10.1 Suspension. City may summarily suspend this Agreement should there be reason to believe that Contractor has breached this Agreement, including violation of any City, State or Federal laws. Such suspension shall remain in effect until such time as the City determines appropriate measures to ensure Contractor's future compliance. Grounds for such suspension include, but are not limited to the following:

(a) Failure to abide by any terms or conditions of this Agreement;

(b) Failure to keep and maintain adequate proof of insurance or bond as required by this Agreement;

(c) Use of substandard, unauthorized or dangerous equipment;

(d) Failure to maintain any equipment required under this Agreement;

(e) Failure to pay city's commission or any other fees collectible under this Agreement;

(f) Failure to maintain a Response Time Performance Rating of ninety-eight percent (98%) for two (2) consecutive months;

(g) The commission of any crime by Contractor, or any owner, part owner, partner, business associate, principal party, officer, or director.

10.2 Termination Defined. For purposes of this Agreement, "termination" shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

10.3 Termination Without Cause. This Agreement may be terminated by either party upon sixty (60) calendar day's written notice, which notice shall be provided in accordance with Article XI. Notice. Should Contractor exercise its option to Terminate Without Cause, City may, at its discretion, seek to recover any and all costs or expenses it may incur as a result of Contractor's action through the Performance Bond required under Article XIII.

10.4 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article XI. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

10.4.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XVII. Assignment and Subcontracting.

10.5 Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in this section, same shall be considered an Event of Default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article XI. Notice, to cure such default. If Contractor fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice or adoption of an ordinance, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Contractor to complete the work required in this Agreement. Should City exercise its option to terminate this Agreement for Contractor's failure to cure any default, City may, at its discretion, seek to recover any and all costs or expenses it may incur as a result of Contractor's inaction through the Performance Bond required under Article XIII. The following actions are defaults which may be cured by Contractor:

10.5.1 Performing unsatisfactorily in the sole discretion of City.

10.5.2 Failing to perform or failing to comply with any covenant herein required as determined by the City.

10.5.3 Bankruptcy or selling substantially all of company's assets

10.5.4 RESERVED.

10.6 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

10. 7 Ceasing Operations. Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Agreement.

10. 8 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

10.9 Mediation/Arbitration. The Parties may agree to resolve any disputes that may arise under this Agreement through mediation and/or non-binding arbitration as follows:

(a) The party seeking resolution of a matter shall provide the other party with a written request for non-binding mediation. If the party receiving notice agrees to such non-binding mediation such shall be held within 30 days of the date of receipt of the request.

(b) A mediator shall be jointly selected, or if a mediator cannot be agreed upon, the parties will submit a request to the American Arbitration Association to administer the mediation and select a neutral.

(c) If the dispute is not resolved at mediation, either party may request non-binding arbitration. Such arbitration shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. The arbitration need not be administered by the American Arbitration Administration, however, if the parties agree in writing to alternative administration.

10.10 Transition Period. Regardless of the method by which this Agreement is terminated, Contractor agrees to provide a transition period of termination for a period not to exceed two (2) months upon City's request. During such transition period,

Contractor may continue to provide Emergency Light, Medium and Heavy Duty Wrecker Services as provided for under this Agreement.

XI. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:	City of San Antonio Attn: Chief San Antonio Police Department 315 S. Santa Rosa San Antonio, TX 78207
If intended for Contractor, to:	Mission Wrecker Service SA, Inc. Attn: Vernon Oliver 4535 FM 1516 North Converse, TX 78109

XII. DOCUMENTS, REPORTS, AUDITS

12.1 Documents. Contractor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the Emergency Light, Medium and Heavy Duty Wrecker Services rendered hereunder (hereafter referred to as "documents"), and shall make such documents available to the City at their respective offices or through electronic delivery, at all reasonable times and as often as City may deem necessary during the Initial Term, Renewal Term and any extension hereof, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

12.2 Reports. Upon the request of City, Contractor shall provide all reports relating to the performance of Emergency Light, Medium and Heavy Duty Wrecker Services under this Agreement. Contractor shall provide such reports to City within five (5) business days after Contractor receives City's written requests, unless the Parties agree in writing on a longer period of time.

12.2.1 City may require Contractor to submit reports in a format that is reasonably requested by the City. Contractor may seek approval of the City by proposing a format in which information shall be provided to City.

12.3 Performance Audit. Periodical performance audits will be performed during the Term of this Agreement. Such audits may be performed by City or a designated representative of City and may include, but not be limited to, a comprehensive review of towing operations, dispatching services, response time, equipment, personnel and safety. After the completion of such performance audit, Contractor shall be notified by the Chief of conditions needing correction or improvement. Contractor shall promptly comply with any such notice.

12.4 Financial Audit Report. As a service provider of City, Contractor's financial condition is pertinent to City's ability to serve the public at large. Within twenty (20) days of City's request, Contractor shall submit a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards. Contractor shall submit the audited financial statements and any management letter prepared by the independent Certified Public Accountant to both the City's Finance Department at P. O. Box 839966, San Antonio, Texas 78238-3966, and to the San Antonio Police Department at 315 S. Santa Rosa, San Antonio, Texas, 78207.

XIV. INSURANCE

14.1 Certificate of Insurance. Prior to the commencement of any work under this Agreement, Contractor shall furnish an original completed Certificate(s) of Insurance to the San Antonio Police Department and the City Clerk's Office, and which shall be clearly labeled "Emergency Light, Medium and Heavy Duty Wrecker Services Contract" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to the San Antonio Police Department and the Clerk's Office, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

14.2 Right to Review. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance will City allow modification whereupon City may incur increased risk.

14.3 Coverage. A Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII). If mutually agreeable to the parties herein, Contractor may elect to add any or each Subcontractor as an additional named insured to its policy or policies in lieu of separate policies for each party. The Contractor and each Subcontractor shall maintain the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory $1,000,000/$1,000,000/$1,000,000
3. Broad Form Commercial General Liability Insurance (or Garage Liability) to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability f. Environmental Impairment/Impact – sufficiently broad to cover disposal liability.	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence
5. Garage Liability (or Commercial General Liability above) a. On-Tow Coverage b. Non-owned vehicles c. Garage Keepers coverage on a direct primary basis d. Each towing vehicle must carry a sublimit of at least $300,000.00 liability limit and a property damage deductible of $2,500.00 or less e. Comprehensive loss coverage f. Specific causes of loss coverage g. Collision coverage	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

14.4 Copies Upon Request. The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Police Department
P.O. Box 839966
San Antonio, Texas 78283-3966

14.5 Incorporated Provisions. Contractor agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of City-owned vehicles under the Auto Coverage, workers' compensation and professional liability polices;

- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and

- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for non-payment of premium.

14.6 Suspension, Cancellation or Non-Renewal. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage

at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

14.7 Stop Work Order. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder until such time as Contractor demonstrates compliance with the requirements of this Article XIV.

14.8 No Limitation. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Agreement.

14.9 Primary and Non-Contributory. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

14.10 Separate Obligation. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

14.11 Liability for Equipment. Contractor and any Subcontractors are responsible for all damages to their own equipment.

XV. INDEMNIFICATION

15.1 CONTRACTOR covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONTRACTOR's activities under this AGREEMENT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, Contractor or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES,

OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT.

It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by CONTRACTOR to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. CONTRACTOR further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

CONTRACTOR shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONTRACTOR's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph.

15.2 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

15.3 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for

Contractor or any subcontractor under worker's compensation or other employee benefit acts.

XVI. INDEPENDENT CONTRACTOR

Contractor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and Contractors; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and Contractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

XVII. ASSIGNMENT, SUBCONTRACTING AND CHANGE OF OWNERSHIP

17.1 No Assignment. Contractor shall not assign, transfer, convey, or otherwise dispose of any part of, or all of its right, title or interest in this Agreement, nor shall Contractor assign, transfer, convey or dispose of any agreement made with City covering the subject matter of this Agreement without first obtaining the written consent of the Chief. Any references in this Agreement to an assignee or transferee indicate only such an entity as has been approved by the City Council.

17.2 Subcontracting. Contractor is not prohibited from subcontracting for specific services related to this Agreement where Contractor retains full responsibility for acts of the subcontractor and such subcontracting is approved in writing by the City prior to the use of the subcontractor. Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees.

17.3 Breach. Should Contractor assign, transfer, convey, or otherwise dispose or attempt to dispose of its right, title or interest in this Agreement or any agreement made with City covering the subject matter of this Agreement, City may, at its option and through an action of its City Council, terminate this Agreement, and all rights, titles and interests of Contractor shall thereupon cease and terminate, notwithstanding any other remedy available to City under this Agreement or by law. The violation of this provision by Contractor shall in no event release Contractor from any obligations under the terms

of this Agreement, nor shall it relieve or release said Contractor from the payment of any damages to City which City sustains as a result of such violation.

17.4 Change of Ownership. Contractor agrees to notify the City of any changes of ownership interest or control of Contractor's business entity not less than thirty (30) calendar days in advance of the effective date of such change. Notwithstanding any other remedies that are available to City under this Agreement, any change of ownership interest or control of its business entity may be grounds for the termination of this Agreement at the sole discretion of City.

XVIII. RESERVED.

XIX. CONFLICT OF INTEREST

19.1 City's Ethics Code. Contractor acknowledges that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as a City-owned utility. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

19.2 Contractor's Certification. Pursuant to the subsection above, Contractor warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Contractor further warrants and certifies that is has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XX. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by an amendment, in writing, executed by both City and Contractor.

XXI. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the

remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XXII. CERTIFICATIONS/LICENSES/PERMITS

22.1 Certifications. Contractor warrants and certifies that Contractor and any other person authorized or designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competency standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

22.2 License and Permits. Contractor and any subcontractor involved in the provision of any services under this Agreement, shall, at its own expense and cost, procure and keep in force during the term of this Agreement, all permits and licenses required by law to provide such services, and shall provide copies of such permits and licenses upon request to the City within ten (10) business days after receiving a request from City.

22.2.1 Nothing contained herein shall be construed as binding the City to the issuance of any license or permit needed by Contractor or any of Contractor's subcontractors to enable anyone to provide services hereunder.

XXIII. OWNERSHIP AND LICENSES

23.1 No Copyright. In accordance with Texas law, Contractor acknowledge and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government record produced by or on behalf of Contractor pursuant to this Agreement shall be the subject of any copyright or proprietary claim by Contractor.

23.2 Government Record. The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

23.3 Property of City. Contractor acknowledges and agrees that all local

government records, as described herein, produced in the course of the work required by this Agreement will belong to and be the property of City and Contractor will be required to turn over to City, all such records. Contractor shall not, under any circumstances, release any records created during the course of performance of this Agreement to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.

23.4 Applicable Law. In accordance herewith, Contractor agrees to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

XXIV. INTELLECTUAL PROPERTY

24.1 Royalties and Fees. Contractor agrees to pay all royalties and licensing fees associated with intellectual property and shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in this Agreement. Contractor shall defend all suits for infringement of any Intellectual Property rights. Further, if Contractor has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

24.2 Upon receipt of notification that a third party claims that the program(s), hardware or both the program(s) and the hardware infringe upon any United States patent or copyright, Contractor shall immediately:

a) obtain, at Contractor's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, or both the programs and hardware, as the case may be, or,

b) alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

c) reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

24.3 Contractor further agrees to:

a) assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent or copyright arising from the use and/or sale of the equipment or software under this Agreement,

b) assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

c) indemnify the City against any monetary damages and/or costs awarded in such suit;

XXV. COMPLIANCE

Contractor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XXVI. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by City of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of City to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by City of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the City. Such changes must be approved by the City Council, as described in Article XX. Amendments. No act or omission by City shall in any manner impair or prejudice any right, power, privilege, or remedy available to City or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXVII. LAW APPLICABLE

27.1 **THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

27.2 Venue. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXVIII. LEGAL AUTHORITY

The signer of this Agreement for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

XXIX. PARTIES BOUND

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXX. CAPTIONS

The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XXXI. INCORPORATION OF EXHIBITS

Each of the Exhibits and Attachments listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below, with this document taking priority over all exhibits and attachments:

Exhibit I:	Zones(s) Description
Exhibit II:	Fee Schedule
Exhibit III:	Fuel Adjustment Formula

XXXII. ENTIRE AGREEMENT

This Agreement, together with its exhibits constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto and duly executed by the parties, in accordance with Article XX. Amendments.

Signatures appear on next page.

EXECUTED and **AGREED** to this the _____ day of _____, 2015.

CITY:
CITY OF SAN ANTONIO

_____
Sheryl Sculley
City Manager

ATTEST:

_____
Leticia Vacek

Approved as to Form:

_____
City Attorney

CONTRACTOR:
MISSION WRECKER SERVICE SA, INC.

Vernon S Oliver
_____
Name: Vernon Oliver
Title: General Manager, Vice President

ATTEST:

_____

EXHIBIT I: ZONES DESCRIPTION

EXHIBIT II: FEE SCHEDULE

Mission
Wrecker Service S.A., Inc.
210-341-0333

Light & Medium Duty
Rate Schedule 2014 - 2015
City of San Antonio Vehicles

Light Duty Vehicles		
Service	**Type**	**Rate**
Cars, Pickups, Vans	Hook Up	$ 80.00
Motorcycles	Hook Up	$ 125.00
Mileage	Out of Town (per mile)	$ 3.00
Dollies / Skates	Flat Rate	$ 25.00
Recovery / Winching	Per Hour 1 hr min.	$ 75.00
Tire Change / Jump	Flat Rate	$ 50.00
Fuel Charge	Out of Town	15%

Medium Duty Vehicles		
Service	**Type**	**Rate**
1-Ton & Super Duty's	Hook Up	$ 95.00
Med. Duty w/trailers	Hook Up	$ 120.00
Mileage	Out of Town (per mile)	$ 3.00
Drive Line / Axle	Removal	$ 25.00
Recovery / Winching	Per Hour 1 hr min.	$ 85.00
Jump Start	Flat Rate	$ 50.00
Fuel Charge	Out of Town	15%

*Extra labor and waiting time may apply if required.

Mission
Wrecker Service S.A., Inc.
210-341-0333

Heavy Duty Rates

Rate Schedule 2014

City of San Antonio Vehicles

Towing		
Straight Truck Rate:	$ 180.00	Flat
Tractor Trailer Rate:	$ 255.00	Flat
Coach / RV Rate:	$ 300.00	Flat
Super HD (Garbage Truck / Fire Truck):	$ 315.00	Flat
Recovery / Accidents		
Trailer Lift / Winching / Decking:	$ 230.00	per hr.
Accident Recovery:	$ 345.00	per hr.
Incident Manager:	$ 150.00	per hr.

** "Flat Rate" is for vehicles picked up and dropped within the City of San Antonio.
All rates are per truck.

EXHIBIT III: SPECIAL EQUIPMENT RATE LIST

EXHIBIT IV: FUEL ADJUSTMENT FORMULA

EXHIBIT IV: FUEL ADJUSTMENT FORMULA

Fuel Adjustment

A per-trip fuel surcharge shall be added to the total cost of the tow where the average "retail" price of diesel fuel is $3.60 or greater. The average "retail" price of diesel fuel in San Antonio shall be based on the retail prices listed for "retail" diesel fuel by the Oil Price Information Service (OPIS) for the San Antonio area. Fuel surcharges shall become effective on March 1, June 1, September 1, and December 1, through the term of this contract. The average price shall be calculated for the most recent 12-week period ending no less than fourteen (14) days prior to the surcharge effective date. The City of San Antonio's Finance Department (Public Utilities group) will calculate the adjustment and communicate to the Police Department for implementation.

The base market price, subject to the adjustment provided for herein, shall be $3.60 per gallon. The fuel adjustment will be calculated based on the following table and shall apply to all tows performed to the contract.

Contract Fuel Adjustment Table

Fuel Prices	Fuel Surcharge
Under $3.60	$ -
$ 3.60 - $ 3.70	$ 0.40
$ 3.70 - $ 3.80	$ 0.80
$ 3.80 - $ 3.90	$ 1.20
$ 3.90 - $ 4.00	$ 1.60
$ 4.00 - $ 4.10	$ 2.00
$ 4.10 - $ 4.20	$ 2.40
$ 4.20 - $ 4.30	$ 2.80
$ 4.30 - $ 4.40	$ 3.20
$ 4.40 - $ 4.50	$ 3.60
$ 4.50 - $ 4.60	$ 4.00
$ 4.60 - $ 4.70	$ 4.40
$ 4.70 - $ 4.80	$ 4.80
$ 4.80 - $ 4.90	$ 5.20
$ 4.90 - $ 5.00	$ 5.60
$ 5.00 - $ 5.10	$ 6.00
$ 5.10 - $ 5.20	$ 6.40
$ 5.20 - $ 5.30	$ 6.80
$ 5.30 - $ 5.40	$ 7.20
$ 5.40 - $ 5.50	$ 7.60
$ 5.50 - $ 5.60	$ 8.00
$ 5.60 - $ 5.70	$ 8.40
$ 5.70 - $ 5.80	$ 8.80
$ 5.80 - $ 5.90	$ 9.20
$ 5.90 - $ 6.00	$ 9.60
$ 6.00 - $ 6.10	$ 10.00
$ 6.10 - $ 6.20	$ 10.40
$ 6.20 - $ 6.30	$ 10.80
$ 6.30 - $ 6.40	$ 11.20
$ 6.40 - $ 6.50	$ 11.60
$ 6.50 - $ 6.60	$ 12.00