

**AGREEMENT TO PROVIDE TOWING SERVICES FOR
THE WEBER COUNTY SHERIFF'S OFFICE**

This agreement is made and entered into on this 15 day of February, 2022, by and between Weber County ("County"), a political subdivision of the State of Utah, and Ogden Auto Towing, Inc. ("Contractor"), a tow truck company organized under the laws of the State of Utah. The parties to this agreement may be referred to as "Party" individually or "Parties" collectively.

WHEREAS, the Weber County Sheriff's Office ("Sheriff's Office") has a need for a tow truck company that can provide non-preference towing services for the Sheriff's Office;

WHEREAS, Contractor is willing and capable of providing such services; and

WHEREAS, County has selected Contractor pursuant to the provisions of County's purchasing code;

NOW THEREFORE, based upon the mutual promises and other good and satisfactory consideration, the Parties agree as follows:

1. **Performance of Services.** Contractor hereby agrees to perform the following services:
 - a. Contractor shall provide vehicle towing, impound, and storage services as requested by the County ("Towing Services"). Towing Services shall include:
 - i. vehicle accidents where the owner has not expressed a preference of a tow operator,
 - ii. vehicles towed for parking violations,
 - iii. vehicles towed for County code violations,
 - iv. abandoned vehicles,
 - v. evidence tows,
 - vi. safe keep requests, and
 - vii. other County-related tows as needed, including RVs, trailers, and vessels.
 - b. Contractor shall follow all federal, state, and local laws and regulations pertaining to towing companies in performing the Towing Services.
 - c. Contractor shall be available to respond to requests for Towing Services twenty-four hours per day, seven days per week, three hundred and sixty-five days per year.
 - d. When Towing Services are required, the County shall notify the Weber Area Dispatch 911 and Emergency Services District ("Weber Area Dispatch") and Weber Area Dispatch will notify Contractor. Contractor will need to enter into a separate agreement with Weber Area Dispatch to receive requests for Towing Services.
 - e. Contractor shall respond to calls for vehicle accidents with one vehicle/operator to tow and a second vehicle/operator to clean-up.
 - f. Contractor's operators shall arrive on scene within twenty minutes of being dispatched, unless otherwise excused by the County because of inclement weather, unusual traffic conditions, excessive distance, or other good cause.
 - g. When Contractor's operators arrive on scene to provide Towing Services, the operators

shall provide the owner or driver (if present at the scene) with a copy of the Utah Consumer Bill of Rights Regarding Towing, the location where the vehicle will be stored, a copy of the current rate schedule, and the terms of the vehicle recovery.

- h. Once an operator is given control of a vehicle at the tow site, the operator shall note on the invoice the description of any property that is removed from the vehicle and the name of the person removing it.
- i. Operators shall not leave the scene of a traffic accident until all non-hazardous material, including debris, glass, metal, oils, and radiator fluids (including all absorbent material) has been properly removed from the roadway as coordinated by an officer at the scene.
- j. When hazardous material is present or when the responding vehicle is incapable of removing the quantity of fluids or materials present, Contractor shall notify the responding officer at the scene who shall contact Weber Area Dispatch.
- k. Each tow truck that responds to tow a motorcycle shall be so equipped as to provide for one person loading and safe and secure upright transport of the motorcycle.
- l. Vehicles will be towed to the nearest approved yard owned by the Contractor, unless the owner/driver of the vehicle requests that the vehicle be taken to another location.
- m. If requested, Contractor shall provide a courtesy ride to the driver and passengers of a towed vehicle.
- n. Vehicle owners may retrieve a vehicle towed at the mistake of the County at no cost.
- o. Contractor will scrap and/or dispose of an abandoned RVs once it obtains title to the vehicle.
- p. Upon request of the County, Contractor will provide a secure storage area for vehicles retained for evidentiary purposes.
- q. Contractor will safe-keep vehicles towed in connection with temporary parking restrictions due to County special events, County construction projects and similar circumstances. In such instances, vehicle owners: will be charged a flat \$50.00 tow fee, may retrieve their vehicle 24/7, and will not be charged a storage fee if retrieved within the first 24 hours after tow.
- r. Upon request or referral of the County, Contractor will offer lock-out, spare tire-change or jump-start services to citizens for a \$40.00 fee.
- s. Contractor will perform tows of County owned vehicles at its customary private tow rate.
- t. The owner of a towed stolen vehicle will not be charged impound or storage fees. If the towing fee cannot be paid by owner's auto insurance, Contractor will offer to reduce the towing fee to \$50.00 for a stolen vehicle.
- u. Rental vehicles will be released to vehicle renters with paid fees, valid proof of identification, and a valid rental agreement in renter's possession or within the towed vehicle.
- v. All property removed from towed vehicles by the Contractor for safe keeping must be listed on the invoice that is to be received by the owner.

- w. The Contractor will maintain complete and accurate records of all Towing Services performed on behalf of County and shall provide the County with such records as requested.
- x. The Contractor shall make every effort to resolve legitimate claims for damage or theft that are obviously related to the towing or storage of the vehicle and shall do so in a timely manner.
- y. The Contractor shall only provide those services that are necessary or requested.

2. Contractor's Employees.

- a. Contractor shall ensure that its employees are aware of and comply with the requirements of this agreement.
- b. Contractor's operators, assistants and trainees shall have sufficient experience and training in currently recommended towing techniques to be capable of performing their duties in a lawful, safe, proper, and effective manner.
- c. Operators shall comply with federal, state and local laws and regulations when providing Towing Services.
- d. Each tow truck operator must have an authorized towing certificate in accordance with Utah Code Ann. Section 72-9-602.
- e. Serious operator error may result in an immediate termination of this agreement.
- f. Contractor shall not send an operator to provide Towing Services who is not in compliance with state code and the terms of this agreement.
- g. Contractor shall perform background checks on all employees and require random drug and alcohol testing of its operators.

3. Trucks and Equipment.

- a. Contractor must have one or more tow trucks capable of towing medium duty vehicles, as defined by UDOT Rule 909-19-3.
- b. Each tow truck shall comply with the safety equipment requirements found in Title 72, Chapter 9, Part 6 of the Utah Code, and Utah Administrative Code R909-19.
- c. Each tow truck shall have the necessary equipment to safely tow the vehicle and clean up any non-hazardous debris.
- d. County may perform unannounced inspections of Contractor's tow trucks and equipment.

4. Storage Yard.

- a. Contractor's yards shall be in compliance with all state laws and regulations.
- b. Contractor's yards must be state tax approved and currently in compliance with all State Tax Commission requirements and will remain in compliance for the duration of the term of this agreement. State Tax requirements are minimum requirements and state tax approval is not to be considered as a guarantee that the yard will be approved for purposes

of this agreement.

- c. Contractor shall provide the County with a copy of the Central Office Authorization as permitted in R873-22M-17. This can be a letter from the State Tax Commission designating the Central Office or a copy of the yard inspection designating the Central Office.
 - d. County may perform unannounced yard inspections during normal business hours to ensure the yard meets the requirements of R873-22M-17.
 - e. If Contractor is authorized to maintain multiple yards that are served by a central office, upon contact by the owner of a vehicle, the Contractor shall:
 - i. during normal business hours, respond to the yard within 20 minutes or shall respond by appointment at the discretion of the owner;
 - ii. not charge the owner an additional fee for responding to the yard during normal business hours for purposes of:
 - 1. releasing a vehicle,
 - 2. releasing personal property contained within the vehicle, or
 - 3. inspecting the condition of the vehicle;
 - ii. not require the owner to respond to more than one location to arrange for and obtain the release of the vehicle.
 - f. Contractor shall provide owner access to vehicles towed on a 24 hour, 7 day per week basis.
 - g. If the owner requests a release of a vehicle or access to the vehicle to obtain life-essential property as defined in R909-19-3, the Contractor shall make personnel available to release the vehicle or provide access to the vehicle within two hours of when the owner makes the request.
 - h. Contractor shall ensure that all vehicles stored in their yards are safe from theft or vandalism.
 - i. The Contractor shall ensure that the storage yard operator maintains a log of individuals who have been given access to vehicles for the purpose of removing personal property and such log shall show the name, vehicle, date, time, and receipt number.
5. **Term.** This agreement shall be effective as of 12:01 a.m. on April 1, 2022 and shall continue until midnight on December 31, 2024 unless terminated earlier pursuant to the terms and conditions of this agreement.
6. **Renewal.** This agreement may be renewed upon mutual agreement of the parties for an additional two years.
7. **Termination for Convenience.** The County or Contractor may terminate this agreement at any time by giving written notice to the other and specifying the effective date thereof at least 60 days before the effective date of such termination.
8. **Termination for Cause.** If, through any cause, Contractor shall fail to fulfill, in a timely and

proper manner, its obligations under this agreement, or if Contractor shall violate any of the covenants, agreements or stipulations of this agreement, County shall have the right to terminate this agreement by giving written notice to Contractor of such termination and specifying the effective date thereof.

9. In the event of termination for cause, Contractor shall be entitled to receive only the share of the total compensation which is equal to any satisfactory work completed as of the date of termination.
10. **Non-assignability/Third-party Tow Companies.** Contractor shall not assign any interest in this agreement, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the County. Contractor may use third-party tow companies to meet some contract requirements provided that Contractor is fully responsible for the quality and efficiency of service of such third-party providers and meets all other requirements of the agreement. County reserves the right to audit Contractor's compliance with this agreement, including compliance of third-party tow providers and may inspect applicable Contractor/third-party tow Contractor records, vehicles, site locations, etc. upon advance written notice of at least one business day.
11. **Interest of Contractor.** Contractor covenants that Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services hereunder. Contractor further covenants that in the performance of this agreement no person having such interest shall be employed.
12. **Compensation.** Contractor's compensation under this agreement shall be limited to fees and charges it collects from owners or drivers for the provided Towing Services. Said compensation shall constitute full payment for all services rendered and costs incurred by Contractor in performing this agreement.
13. Contractor shall not charge an owner or driver fees other than those allowed in Utah Code Ann. § 72-9-603 regardless of the name given to describe them. The one exception to this rule is for a reasonable after hour gate fee as long as a signed waiver is obtained from the owner indicating consent to pay this additional fee.
14. This agreement does not guarantee Contractor will be extended any specific amount of work.
15. County reserves the right to enter into agreements with more than one tow operator if the County determines at any time that it is in the County's interests to do so.
16. **Insurance Coverage.** Contractor, at its own cost, shall secure and maintain during the term of this agreement, including any renewal or extension terms, the following minimum insurance coverage:
 - a. Commercial General Liability (CGL) insurance with contractual liability coverage to cover Contractor's obligations under the indemnification provision of this agreement in the amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate and \$1,000,000 Products and Completed Operations policy aggregate. The policy shall protect

Contractor and the County under the contractual liability coverage from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from Contractor's operations under this agreement. If the CGL coverage is provided on a claims-made basis, Contractor shall maintain such policy of insurance for no less than four years after termination of this agreement.

- b. Workers' Compensation with statutory benefits limits as required by the State of Utah, including employer's liability coverage in the amount of \$1,000,000 per accident.
 - c. Commercial Automobile Liability insurance that provides coverage for owned, hired, and non-owned automobiles, in the minimum amount of \$1,000,000 per person, \$2,000,000 per accident, and \$500,000 per occurrence for property damage.
17. If County receives a notification from the Contractor's insurance provider that the Contractor's insurance policy has been cancelled, the County may immediately terminate this agreement and consider Contractor an irresponsible bidder for future contracts.
18. The Contractor shall provide renewal copies of business licenses, insurance, registration, and driver certificates to the County at the time the business license, insurance, registration, and/or driver certificates are renewed.
19. **Indemnification.** The Contractor agrees to indemnify and hold harmless Weber County and all its officers, agents, volunteers, and employees from and against any and all losses, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the acts or negligence of the Contractor, its officers, agents, volunteers, or employees.
20. **Notice.** Any notice, or notices, required or permitted to be given pursuant to this agreement, may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following addresses:

County: Weber County Sheriff's Office

Contractor: Ogden Auto Towing, Inc.
Thomas Baur
2050 Wall Ave, Ogden, UT 84401
801-791-7338

21. **Independent Contractor.** Contractor is independent of the County and shall perform all services according to its own methods without being subject to the control of the County except as to the results obtained. The County shall not carry Workers Compensation insurance or any health or accident insurance to cover Contractor. The County shall not pay nor be responsible for any contribution to Social Security, unemployment insurance, federal or state withholding taxes, nor provide any other contributions or benefits which might be expected in an employer-employee

relationship. Contractor, as an independent contractor, shall provide and be responsible for any and all of Contractor, and its employees or agents, Workers Compensation contributions, federal and state withholding, unemployment compensation contributions and social security tax withholding, etc. Contractor agrees to report and pay any contributions for taxes, unemployment insurance, Social Security and other benefits.

22. **Private Cause of Action.** It is the intent of the Parties to create a private right of action for owners as third-party beneficiaries of this agreement to enforce the provisions of this agreement directly against Contractor through a judicial or UDOT administrative proceeding, including an action for reimbursement of fees charged. It is not the intent of the Parties to create a private right of action against Weber County or Weber Area Dispatch for failure to implement or enforce any provision of this agreement.
23. **Entire Agreement.** This agreement contains the entire agreement between County and Contractor and supersedes any and all other prior or contemporaneous agreements and understandings between the parties, whether oral or written. No promise, representation, warranty, or covenant not included in this agreement has been or is relied upon by the Parties.
24. **Governing Law.** The provisions of this agreement shall be governed by the laws of the State of Utah. The Parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this agreement or the breach thereof. Venue shall be in Ogden County, in the Second Judicial District Court for Weber County.
25. **Waiver.** The failure of either Party to insist upon the performance of any of the terms and conditions of this agreement, or the waiver of any breach of any of the terms and conditions of this agreement, shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.
26. **Government Records Access and Management Act.** Contractor may be required to conform with the provisions of the Utah Government Records Access and Management Act (U.C.A. § 63G-2-101 et. seq.).
27. **Severability.** A declaration by any court, or any other binding legal source, that any provision of this agreement is illegal and void shall not affect the legality and enforceability of any other provision of this agreement, unless the provisions are mutually dependent.
28. **Assignment.** Contractor shall not assign or subcontract any of its rights or obligations under this agreement without the written consent of the County.
29. **Amendment.** This agreement may be amended, modified, or supplemented only by written amendment to the agreement, executed by authorized persons of the Parties hereto.
30. **Employment Status Verification.** Contractor warrants that it is in and shall remain in compliance during the term of this agreement with the Status Verification System requirements of Utah Code Ann. § 63G-12-302.

IN WITNESS WHEREOF the Parties have hereunto set their hands as of the _____ day of _____, 2022.

BOARD OF COUNTY COMMISSIONERS
OF WEBER COUNTY

By _____
Scott Jenkins, Chair

Commissioner Harvey voted _____
Commissioner Froerer voted _____
Commissioner Jenkins voted _____

ATTEST:

Ricky Hatch, CPA
Weber County

OGDEN AUTO TOWING, INC.



Thomas Baur, President