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# Tow Service Policy and Contract

## 511.1 PURPOSE AND SCOPE

The purpose of this regulation is to set forth Newark Police Department's policy and procedure for establishing a rotational tow list of contracting tow companies for the removal of vehicles from within the city limits or the removal of vehicles from other cities in which control of those vehicles is maintained by City authority. This regulation shall also establish a fee schedule for the administrative costs and towing and storage expense of said vehicles. The objective of this regulation is to provide a fair, equitable and effective resource for the appropriate removal and storage of vehicles.

## 511.2 POLICY

Under the Vehicle Code and by Ordinance of the City of Newark, the Police Department is charged with the responsibility of the removal and or storage of vehicles from the roadways and private property under defined circumstances. The City is additionally responsible for establishing and maintaining agreements, which will define the terms and conditions with contract tow companies to accomplish this task.

## 511.3 PROCEDURE

### 511.3.1 APPLICATION PROCESS

Applications for the position of "Rotation Tow Company" shall be maintained at the front counter of the police Department. The application form shall define the minimum eligibility requirements to be considered as a rotational tow company.

Tow company contracts with the City will be automatically reapplied at the time the contract expires. Thirty (30) days prior to the beginning of the new contract period, each applicant tow company shall be notified and allowed to update his or her application before the start of the new contract date.

Tow companies shall be ranked by scores based on an established rating system identifying City towing needs and will be added to the rotational tow list as required.

### 511.3.2 DETERMINATION OF NUMBER OF TOW COMPANIES REQUIRED

The number of tow companies allowed to participate on the rotation list shall be based on city population and number of calls for tow service. One tow company will be allowed for every 10,000 residents.

### 511.3.3 SERVICE AGREEMENT

Each tow company chosen to participate as a rotational tow company shall enter into a "Tow Service Contract," with the City. This contract shall be hereinafter referred to as "TSC" A tow company, in performing the duties of the TSC, shall operate as an independent contractor, and

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not as an employee or agent of the City. Said contractor shall be hereinafter referred to as "Independent Contractor."

#### 511.3.4 CONTRACT TERM

A normal contract term shall continue for a period of three (3) years commencing July 1 at 0001 hours and concluding on June 30 at 2400 hours. A replacement contract period shall extend from date of appointment through the following June 30 at 2400 hours. If the replacement contract is in effect for a period of less than 365 days, it shall automatically be renewed for the following three (3) year period. The TSC shall contain rules and regulations governing the tow services provided by the Independent Contractor. The TSC shall be signed by a representative from each tow company and a representative from the City acknowledging a valid offer, unequivocal acceptance and consideration for receiving a rotation tow listing with the City. Participation in the tow rotation is voluntary and an Independent Contractor may withdraw at anytime. Compliance with all of the terms and conditions of the TSC is mandatory for an Independent Contractor participating in the program.

#### 511.3.5 ROTATION LIST

Two tow rotation lists shall be established. First, an abandoned vehicle rotation tow list and second, non-abandoned rotation tow list. An abandoned vehicle shall be any vehicle as defined in the Vehicle Code or Newark Municipal Code as such, and that has been left standing in violation of 22669 of the Vehicle Code or in violation of 10.24.020 or 10.24.072 of the Newark Municipal Code. These lists will operate independently of each other. Tow companies shall be utilized in order of rotation on the list.

#### 511.3.6 RATES

A rate schedule shall be established with the mutual agreement of all Independent Contractors and the City. The schedule shall take effect on July of each year. The tow, storage and gate fee rates will be identical for each of the participating Independent Contractors and shall never exceed the rates set by the Hayward Office of the California Highway Patrol. The rate fee chart shall be included in the TSC by attachment.

#### 511.3.7 INSPECTIONS

Routine site and truck inspections shall be conducted annually by the traffic sergeant or his designee for each Independent Contractor on the City's rotational list. The inspection shall ensure compliance with the Tow Service Contract. Unannounced inspections may be made at any time during normal business hours (MF, 08001700 hours, excluding holidays.)

#### 511.3.8 HEARINGS AND SUSPENSIONS

If for any reason, Independent Contractor shall fail to fulfill its obligations in a timely and proper manner under the TSAC, or if the Independent Contractor shall violate any of the covenants, agreements, or stipulations of the TSC, City shall there upon have the right to immediately suspend any and all services of the Independent Contractor, and within ten (10) days, notify the Independent Contractor in writing of the date and time of the hearing, and the proposed discipline

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action. The hearing shall be conducted by the Chief of Police or his/her designee and shall allot a reasonable amount of time for the Independent Contractor or his or her representative to be heard on the matter. All decisions shall be final.