

CONTRACT SUMMARY SHEET

TO: THE OFFICE OF THE CITY CLERK, INDEX SECTION

FROM: LOS ANGELES POLICE DEPARTMENT
COMMISSION INVESTIGATION DIVISION

CONTRACT NO. AND/OR AMENDMENT NO:

C 99317

COUNCIL FILE NO.:

DATE OF COUNCIL APPROVAL:

2-27-98

CONTRACTOR NAME:

ABSOLUTE TOWING HOLLENBECK DIVISION INC.

TERM OF CONTRACT: 5 YEARS

THRU: FEB. 27, 2003

TOTAL AMOUNT:

PURPOSE OF CONTRACT: OFFICIAL POLICE GARAGE

ORDINANCE 80.77.4 LAMC.

52
13

C-99317

AGREEMENT BETWEEN THE CITY OF LOS ANGELES
AND ABSOLUTE TOWING, HOLLENBECK DIVISION, INC.,
FOR
POLICE TOWING AND STORAGE SERVICES AS AN
"OFFICIAL POLICE GARAGE" FOR THE CITY OF LOS ANGELES

THIS AGREEMENT is entered into by and between the City of Los Angeles (hereinafter referred to as "CITY"), a municipal corporation, acting by and through the Board of Police Commissioners (hereinafter referred to as "BOARD") and ABSOLUTE TOWING HOLLENBECK DIVISION, INC. A California Corporation (hereinafter referred to as "CONTRACTOR").

Witnesseth:

WHEREAS, the BOARD issued a Request for Proposal on January 15, 1997 for towing and storage services as an Official Police Garage (hereinafter referred to as "OPG") for the Hollenbeck Area of the Los Angeles Police Department; and

WHEREAS, after receipt of proposals on March 28, 1997 and evaluation of said proposals, the CITY Council approved staff's recommendation on February 27, 1998 to award the contract to ABSOLUTE TOWING HOLLENBECK DIVISION, INC. on the basis of the best overall value to the City of Los Angeles;

NOW THEREFORE, in consideration of the premises, and the mutual covenants and agreements herein contained, the parties hereto represent and covenant as follows:

Article 1. AUTHORIZATION

The CONTRACTOR is authorized to respond to and undertake all requests to remove and store vehicles by any police officer, including officers of the Port, Airport or Housing Authority Police Departments, or Department of

transportation Traffic Officer employed by the City of Los Angeles, as defined in the Los Angeles Municipal Code, Section 80.77.4 attached hereto as Exhibit "D" and made a part thereof, as well as any and all Los Angeles City governmental agency requests who are duly authorized in the removal of vehicles for the purpose of storage and/or investigation.

Article 2. PERMITS AND LICENSES

The CONTRACTOR shall obtain and maintain in good standing a Towing Operation Police Permit during the term of this Contract. All employees of the CONTRACTOR engaged in operating tow vehicles shall obtain and maintain valid Tow Unit Operator Police Permits while so employed. The CONTRACTOR and any subcontractors shall also obtain and maintain a valid City of Los Angeles Business Tax Registration Certificate.

The CONTRACTOR shall abide by all applicable laws and regulations of the Los Angeles Municipal Code, the California Vehicle Code and the California Business and Professions Code.

Article 3. COMPLIANCE WITH RULES AND LAWS

The CONTRACTOR shall at all times abide by all duties and requirements as specified in the Los Angeles Police Commission Rules Governing Official Police Garages attached hereto as Exhibit "E" and made a part thereof. A copy of the above indicated Rules, as well as copies of the Los Angeles Police Commission Rules Governing Tow Operations and Tow Unit Operators attached hereto as Exhibit "F" and made a part thereof shall be posted in each facility in a conspicuous place clearly visible to the public. The CONTRACTOR shall at all times abide by all Los Angeles Municipal Code Sections applicable to the operation of the towing business including but not limited to Section 80.77.4 of the L.A.M.C. The CONTRACTOR shall at all times comply with all applicable

laws and regulations of the CITY, the State of California, and the United States of America.

Article 4. PRIORITY OF REQUESTS

The CONTRACTOR shall give priority to tow and other service requests from any City of Los Angeles police or traffic enforcement agency. The CONTRACTOR shall not be responsible for responding to requests for heavy-duty tow, as defined in the Rules Governing Official Police Garages.

The CONTRACTOR shall not own or have a controlling interest in the operation of any auto dismantling or wrecking yards, auto body shops or repair shops, used car lots, or any other auto-related business that could interfere with the CONTRACTOR'S ability to perform as an Official Police Garage for the City of Los Angeles.

Article 5. RATES

The CONTRACTOR shall charge rates for towing, storage and other services in accordance with the Rules Governing Official Police Garages or as otherwise established by the Board of Police Commissioners. Rates and charges for services rendered as an Official Police Garage shall not exceed the rates and charges set by the BOARD. Except as authorized by the BOARD, additional charges shall not be made for special equipment or service necessary to prepare vehicles for removal. The schedule of approved rates and charges shall be posted in the CONTRACTOR'S primary facility in a place clearly visible to the public. Any change in the rates shall become applicable upon the consideration and approval of the Board of Police Commissioners.

Article 6. AREA OF RESPONSIBILITY

The CONTRACTOR shall provide towing and storage services for the Hollenbeck Area of the Los Angeles Police Department. Hollenbeck Area is defined as that area bordered on the north by the Pasadena Freeway from the Los Angeles River north to York Boulevard; on the east and south by the Los Angeles City limits; and on the west by the Los Angeles River. If such boundaries should in the future be modified by the Los Angeles Police Department, the CONTRACTOR shall continue to be designated as the Hollenbeck Area OPG and shall continue to provide services *only* within the Hollenbeck Area boundaries as then defined. The foregoing shall be the case even if the boundary change places the CONTRACTOR'S primary facility outside Hollenbeck Area's boundaries.

Article 7. AUDIT AND INSPECTION OF RECORDS

With respect to matters covered by this Contract the CONTRACTOR shall make available for examination or audit all data and records, including computer data files, by any representative of the CITY or the Los Angeles Police Department. Such documents and files shall be made available during normal business hours and as often as the CITY may deem necessary. Such materials shall include, but not be limited to receipts, invoices, payrolls, accounting, personnel and other data relating to all matters covered by this Contract. The CONTRACTOR shall maintain such data and records in an accessible location for a period of three years following the termination of this Contract.

Article 8. OPERATING EQUIPMENT

8.1. Vehicles

The CONTRACTOR shall maintain an adequate number of tow trucks and other equipment to provide required towing service within the time frame prescribed by the BOARD in its Rules Governing Official Police Garages.

At minimum that shall be seven tow trucks and one flat bed carrier. Each truck shall be equipped with two-way radio communications equipment and such other contemporary equipment as required by the BOARD and the California Vehicle Code.

8.2. Other Operating Equipment

CONTRACTOR'S primary facility shall have two-way radio communications equipment that is monitored on a 24 hour a day basis. CONTRACTOR shall also maintain a dedicated personal computer for access to the CITY'S Ticket Information Management System (TIMS) to be used to determine the scofflaw status of all vehicles prior to release. Such personal computer will also require a modem and dedicated telephone line. Such equipment will be at CONTRACTOR'S expense.

Article 9. FACILITIES

The CONTRACTOR'S primary storage facility shall be located within the City of Los Angeles within close proximity to its Area police station, as determined and approved by the BOARD. The primary place of business must include an office and a paved, lighted and fenced storage area with a capacity sufficient for stored vehicles as determined by the BOARD to serve the Area's needs. The primary storage facility shall contain a sufficient number of enclosed spaces for the storage of vehicles which are of evidentiary value, and sufficient spaces for the storage of vehicles considered "high dollar" (appraised at more than \$4,000.00). ALL stored vehicles shall be protected from damage and theft in accordance with the Los Angeles Police Commission Rules Governing Official Police Garages.

CONTRACTOR may also maintain one or more secondary storage facilities of sufficient capacity to store at minimum 600 vehicles. All storage facilities shall

be properly zoned as prescribed by Zoning Ordinance Section 165042 attached hereto as Exhibit "G" and made a part thereof.

Article 10. COMPENSATION

The CITY will NOT provide any compensation for towing or storage services rendered under terms of this Contract. The BOARD will establish rates and charges for towing and storage. The owners of impounded vehicles are responsible for such charges. These charges become a lien against such vehicles.

Article 11. TOWING AND STORAGE OF CITY OWNED VEHICLES

The CONTRACTOR shall be required to tow and store CITY owned vehicles without charge to the CITY. Those vehicles, which qualify, as CITY owned vehicles exempt from towing and storage fees, are described as:

Los Angeles Police Department vehicles within the CONTRACTOR'S area of responsibility, provided that a tow truck from the Police Department's Motor Transport Division is unavailable or unable to respond within 30 minutes.

City of Los Angeles Department of Transportation vehicles within the CONTRACTOR'S area of responsibility provided that a tow truck from the CITY'S Fleet Services Division is not available or unable to respond within 30 minutes.

Article 12. VEHICLE RELEASE FEE

The CONTRACTOR will collect the CITY'S Vehicle Release Fee assessed to persons redeeming any vehicle, which was impounded at the direction of any CITY Police Officer or CITY Traffic Officer. Such fees shall be remitted to the

City of Los Angeles; Office of the City Clerk quarterly based on the following schedule:

<u>QUARTERS</u>	<u>3-MONTH PERIOD</u>	<u>DUE</u>	<u>DELINQUENT</u>
1 st Quarter	Jan-Feb-Mar	April 1	May 1
2 nd Quarter	April-May-June	July 1	August 1
3 rd Quarter	July-August-Sept	October 1	November 1
4 th Quarter	Oct-Nov-Dec	January 1	February 1

If the fees are not remitted prior to the delinquent date, a penalty charge amounting to twenty-five percent (25%) of the total amount of fees due will be imposed. (Ordinance No. 169,128) attached hereto as Exhibit "H" and made a part thereof.

The amount of the Release Fee is currently \$40.00 and is subject to revision by the City Council.

Article 13. LIEN SALE VEHICLES

Vehicles impounded at the request of the CITY valued over \$300 that are abandoned and/or unclaimed by their owners are exempt from the CITY'S Vehicle Release Fee in accordance with the provisions set forth in Article 12. The balance of all outstanding parking citations shall be added to the account of each lien sale vehicle, and shall be remitted to the CITY as a secondary lien holder from surplus sale monies in the manner prescribed by State law.

Article 14. FRANCHISE FEES

The CONTRACTOR shall pay to the CITY a Franchise Fee equal to seven per cent (7%) of gross revenue generated from the impounds conducted at the direction of CITY Government, which includes all revenues obtained by the CONTRACTOR through its Official Police Garage status, including towing,

storage, and sale of lien sale vehicles, but shall not include revenues obtained through contracts with other public agencies or through private parties. The franchise fee shall be remitted to the City of Los Angeles Office of the City Clerk quarterly on or before the last day of the calendar month following the close of each calendar quarter.

Such fees shall be remitted to the City of Los Angeles; Office of the City Clerk quarterly based on the following schedule:

<u>QUARTERS</u>	<u>3-MONTH PERIOD</u>	<u>DUE</u>	<u>DELINQUENT</u>
1 st Quarter	Jan-Feb-Mar	April 1	May 1
2 nd Quarter	April-May-June	July 1	August 1
3 rd Quarter	July-August-Sept	October 1	November 1
4 th Quarter	Oct-Nov-Dec	January 1	February 1

Article 15. PARKING TAX

The CONTRACTOR shall collect the tax imposed by Los Angeles Municipal Code Article 1.15 Section 21.15.1.through 21.15.14. attached hereto as Exhibit "T" and made a part thereof to the same extent and at the same time that the storage fees are collected from any person redeeming a vehicle, which has been impounded at an Official Police Garage. The operator shall be liable to the City for the amount of the taxable storage fee collected from the claimant under the provisions of this article the same as though the tax were paid by the claimant. The amount of the tax shall be separately stated from the amount of the storage fee charged, and each claimant, upon demand, shall be given a receipt for payment. No operator shall advertise or hold out or state to the public or any claimant, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the storage fee for the storage space, or that, if added, it or any part thereof will be refunded.

Each operator shall, on or before the 25th day of the calendar month following each three-month period ending on the last day of August, November, February and May of each year, make a statement to the City Clerk, on forms provided by him, of the total storage fees charged and received and the amount of tax collected for storage. At the time the statement is filed, the full amount of the tax collected, and tax not collected but required to be collected, shall be remitted to the City Clerk. An operator shall not be required to remit to the City Clerk any amount of tax not collected and not required to be collected from a claimant. The City Clerk may establish shorter reporting periods for any certificate holder, if he deems it necessary in order to insure collection of the tax, and he may require further information in the statement. Statements and remittances of taxes are due immediately upon cessation of business for any reason, at which time the operator shall furnish the City Clerk with the name and address of the successor operator. All taxes collected by operators pursuant to this article shall be held in trust for the account of the City until payment thereof is made to the City Clerk.

Article 16. LATE PAYMENT

Late payments apply to PARKING OCCUPANCY TAX and FRANCHISE FEES. Any amount owed the CITY more than 15 days beyond the date such amount is due shall accrue interest each day that such amount is not paid, at the lower of the following rates: 1) An annual rate equal to twelve per cent (12%) per annum; or 2) The maximum rate permitted by applicable law.

Article 17. KEY PERSONNEL

The CITY shall have the right to conduct background investigations, consistent  with applicable laws, on all people directly assigned to the Contract, including but not limited to those people who will be directly involved in the day to day operation of the business. Those key people will be accessible and available for

solving problems and answering inquiries as necessary. The CITY reserves the right to approve any changes in key personnel.

Article 18. CONTRACT TERM

The term of this agreement shall commence on June 19, 1998 and end on June 18, 2003, subject to the termination provisions herein. Either party may give notice to terminate on or before the end of the first five-year term. The City has the option to renew this agreement for one additional five-year term on the same terms and conditions subject to the approval of the City Council.

Article 19. TERMINATION

The City may terminate this Agreement immediately for cause by giving written notice to Contractor. Such notice shall specify the effective date of the termination.

Notice shall be provided by sending a letter to the CONTRACTOR at the address specified herein for the sending of notices.

Article 20. INDEMNITY AND INSURANCE

The CONTRACTOR shall obtain and maintain at all times and at its own expense insurance coverage in the types and amounts specified in the Rules Governing Official Police Garages and in the Los Angeles Municipal Code Section 103.204(I) attached hereto as Exhibit "J" and made a part thereof.

The CONTRACTOR agrees to indemnify the CITY and its agents in accord with requirements set forth in the Standard Provisions for Personal Services Contracts, paragraphs PSC-16 and PSC-17.

Article 21. STANDARD PROVISIONS FOR CITY PERSONAL SERVICE
CONTRACTS

The CONTRACTOR shall comply with the requirements included in the Standard Provisions for City Personal Service Contracts, attached hereto as Exhibit "A" and made a part hereof.

Article 22. INCORPORATION OF EXHIBITS

The following Exhibits are hereby incorporated into and made a part of this Agreement wherever referred to as though set forth at length, except where certain portions of specific Exhibits have been deleted or superseded by other sections of this Agreement:

- Exhibit A. Standard provisions for CITY Personal Services contracts.
- Exhibit B. the Request for Proposal for towing and storage services as an OPG for the Hollenbeck Area.
- Exhibit C. Proposal response submitted Todd Smart doing business as Absolute Towing & Transporting, Inc.
- Exhibit D. Los Angeles Municipal Code Section 80.77.4.
- Exhibit E. Los Angeles Police Commission Rules Governing Official Police Garages.
- Exhibit F. Los Angeles Police Commission Rules Governing Tow Operations and Tow Unit Operators.
- Exhibit G. Zoning Ordinance # 165042.

Exhibit H. Release Fee Ordinance # 169,128.

Exhibit I. City Parking Tax Ordinance Article 1.15 Section 21.15.4.

Exhibit J. Los Angeles Municipal Code Section 103.204(I) (Insurance).

ORDER OF DOCUMENT PRECEDENCE

Precedence between Agreement and Attachments.

In the event of any inconsistency between any of the provisions of this Agreement and/or the attachments hereto, the inconsistency shall be resolved by giving precedence in the following order:

- 1). This Agreement.
- 2). Standard Provisions for CITY Personal Service Contracts.
- 3). The Request for Proposal for the Hollenbeck Area OPG.
- 4). The proposal response submitted by Todd Smart doing business as Absolute Towing & Transporting Inc.

REPRESENTATIVES OF THE PARTIES AND SERVICE NOTICES

- A. The representatives of the respective parties who are authorized to administer this agreement and to whom formal notices, demands and communications shall be given are as follow:
1. The representative of the City shall be, unless otherwise stated in the Agreement:

Ronald E. Marbrey, Lieutenant
Commission Investigation Division
150 North Los Angeles Street
Los Angeles, CA 90012
 2. The representative of the Contractor shall be :

Todd Q. Smart
4760 Valley Boulevard
Los Angeles, CA 90032
- B. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.
- C. If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accord with this section, within five (5) working days of said change.

COMPLETE AGREEMENT

This Agreement contains the full and complete Agreement between the two parties. No verbal agreement nor conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

NUMBER OF PAGES AND ATTACHMENTS

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes fifteen (15) pages and ten (10) Exhibits which constitute the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective duly authorized representatives.

DATE: 11/16/99

THE CITY OF LOS ANGELES

By Gerald L. Chaleff
GERALD L. CHALEFF, President
Board of Police Commissioners

DATE: 11-12-99

ABSOLUTE TOWING, HOLLENBECK
DIVISION, INC.

By Todd Q. Smart
TODD Q. SMART, President

By Todd Q. Smart
Additional Corporate Officer

APPROVED AS TO FORM:
JAMES K. HAHN, City Attorney

By James K. Hahn
Assistant City Attorney

DATE: 12/22/99

ATTEST:
ELIAS MARTINEZ, City Clerk

By _____
Deputy City Clerk

DATE: _____



Attest: J. Michael Carey, City Clerk

By J. Michael Carey
Deputy

12/22/99

C-99317