SERVICE CONTRACT

NON-PREFERENCE TOW SERVICES

THIS AGREEMENT by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the State of Oregon, hereinafter termed "CONTRACTOR”, and the City of Central Point, a municipal corporation in the State of Oregon, hereinafter termed "CITY". This Contract shall be effective on the last date set forth on the signature page.

Article 1. The Work

 CONTRACTOR, in consideration of inclusion on the CITY Non-Preferential Tow List, and according to the mutual promises in this agreement, agrees to furnish all materials and labor for the following project:

Non-Preference Tow Services

Article 2. Scope of Services

 CONTRACTOR shall furnish all necessary machinery, tools, apparatus, materials and labor to do the work in the most substantial and workmanlike manner according to the specifications and provisions set forth above or attached as Exhibit “A” and hereby incorporated.

Article 3. Term

The services of the CONTRACTOR are to commence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and continue for a term of \_\_\_\_\_ years, unless terminated sooner as provided below.

Article 4. Personnel

A. The CONTRACTOR represents that it employs, or will employ at its own expense, all personnel required in performing the services under this Agreement.

B. All of the services required hereunder will be performed by the CONTRACTOR or under its direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

C. CONTRACTOR shall be responsible to ensure that it and any subcontractors comply with all applicable Federal, State and local laws regarding employee wages, hours, benefits, health care, and workers compensation, and shall ensure that all expenses and claims related thereto are paid promptly. The applicable provisions of ORS 279B is attached hereto as Exhibit “B” and incorporated herein by reference.

D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the CITY.

Article 5. Compliance with Laws and Regulations

CONTRACTOR shall at all times observe and comply with all federal and state laws and local ordinances and regulations, including but not limited to possession of a valid City of Central Point business license, in any manner affecting the conduct of the work, and all such orders or decrees as exist at the present and those which may be made or enacted later by bodies or tribunals having any jurisdiction or authority over the work.

Article 6. Contractor’s Compliance with Tax Laws

For a period of six years prior to entering this contract, and throughout the duration of this Contract and any extensions, CONTRACTOR covenants that it shall comply with all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; and shall comply with any tax provisions imposed by any City, County, or other political subdivision of the State of Oregon that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor.

In addition to any other remedies available at law or under this contract, CONTRACTOR’S failure to comply with the above provision constitutes a default for which CITY may terminate the contract and seek damages and other relief available.

Article 7. Federal Requirements and Provisions

Notwithstanding any other provision hereof, any applicable federal laws, rules or regulations are to govern in any case where federal funds are involved and the federal laws conflict with any provision hereof.

Article 8. Compensation

 There is no compensation by the City of Central Point. Tow companies are expected to charge their normal and reasonable fees for their non-preference service.

Article 9. Independent Contractor Status

 It is agreed, and pursuant to the attached Declaration, that CONTRACTOR shall perform the work as an independent contractor and is not an employee of CITY. CONTRACTOR maintains his or her own place of business, uses his or her own equipment, and shall perform the work specified independent of CITY’S supervision and control, being responsible only for satisfactory performance and completion of the work.

Article 10. Termination

CITY may terminate all or a portion of the work covered by this Agreement as provided in Exhibit “A”.

Article 11. Indemnity

CONTRACTOR hereby agrees to defend, indemnify, and hold harmless CITY, its officers, agents, and employees, from and against any and all liability, including but not limited to claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and costs of actions including, but not limited to, attorneys' fees for trial and on appeal, and for the preparation of same arising out of the CONTRACTOR’s, its officers', agents', and employees' acts or omissions while performing services or actions associated with this Agreement. Provided, however, that CONTRACTOR shall not be required to indemnify CITY against liability for damages arising out of death or bodily injury to persons or damage to property caused solely by the negligence of CITY.

Article 12. Insurance

CONTRACTOR shall obtain at its own expense and maintain continuously in effect during the term of this Agreement the following minimum insurance:

1. Commercial General Liability Insurance on an “occurrence” policy form covering Bodily Injury and Property Damage, comprehensive general or commercial general liability policy. Such insurance shall be primary and non-contributory, and provide limits of at least $2,000,000 per Occurrence and a General Aggregate of at least $4,000,000. CONTRACTOR shall provide the City with a certificate of insurance and an endorsement thereto naming the City as an additional insured, providing that no acts on the part of the insured shall affect the coverage afforded to the above policy.
2. Commercial Automobile Liability Insurance for Bodily Injury and Property Damage covering owned, non-owned, rented, and hired autos.  Such insurance shall provide a combined single limit per accident of at least $1,000,000.

(3) Garage liability and garage keeper's legal liability meeting Garage keeper's legal liability (for care, custody and control) per occurrence in the amount of:

(i) Class A — $50,000;

(ii) Class B — $150,000;

(iii) Class C — $200,000;

(iv) Class D (Note: Class "D" equipment is not considered to be recovery tow vehicles):

1. Class D-A or Other Equipment under this classification — $50,000;

(II) Class D-B or Other Equipment under this classification — $75,000;

(III) Class D-C or Other Equipment under this classification — $200,000.

(A) Insurance to protect against vehicle damage including, but not limited to fire and theft, from the time a vehicle comes into custody and control of the tow business and is hooked onto, throughout the recovery, and until that vehicle is reclaimed or sold.

1. Workers Compensation Insurance meeting statutory requirements of Oregon Workers Compensation Law must be provided by CONTRACTOR (and any sub-contractor CONTRACTOR may use) for any subject workers, as well as Employers Liability Insurance with limit of at least $500,000.

If CONTRACTOR is statutorily exempt from the requirement to provide Workers Compensation Insurance, CONTRACTOR shall complete, sign, and submit the City’s form for ***Declaration of Exemption from Oregon Statutory Workers Compensation*** in lieu of Workers Compensations Insurance.

CONTRACTOR shall submit to CITY certificates of insurance for all policies listed above at time of this Agreement, and at each subsequent insurance renewal for the life of this Agreement.  Certificate Holder shall be shown as: City of Central Point, 140 S. 3rd Street, Central Point, OR 97502. *Any request for exemption from this requirement must be in writing and approved by the CITY’S Risk Manager.*

CONTRACTOR is responsible to assure that CITY receives a required thirty (30) days written notice prior to cancellation of, material change to, exhaustion of aggregate limits of, or intent not to renew any insurance policy for coverage required in this Agreement. Ten (10) days will be accepted for cancellation due to non-payment of premium. CONTRACTOR shall itself provide the written notice in the event that its insurance companies will not or do not provide such notice. Failure to maintain proper insurance and/or provide timely notification of a change in coverage is grounds for potential immediate termination of this contract.

Notwithstanding insurance requirements stated or any modifications made thereto, in no case shall the presence or absence of any insurance coverage, or any insurance policy limit, provision, term, or condition reduce the obligations of the CONTRACTOR for liability granted generally by law or specifically in the terms of this Agreement. In no case shall CITY be responsible for any amount of CONTRACTOR self-insurance, or any retention, deductible, or coinsurance amount required by CONTRACTOR’s insurance policies.

Article 13. Integration

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

Article 14. Jurisdiction

This Agreement shall be administered and interpreted under the laws of the State of Oregon. Jurisdiction of litigation arising from this Agreement shall be in that state. Any litigation arising from this Agreement shall commence in Jackson County, Oregon.

IN WITNESS WHEREOF, CITY and CONTRACTOR have caused this contract to be executed for and on their behalf by their duly authorized officer(s) on the day and year first above written.

CITY OF CENTRAL POINT, OREGON

 By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CONTRACTOR

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_