

# City of Beacon Police Department

## Tow Agreement

This Tow Agreement (the "Agreement"), dated March 31, 2017, is made by and between Cervone Auto Body, Inc., a licensed towing service operator in the State of New York, with a principal place of business located at 326 Fishkill Ave, Beacon, NY 12508 (the "Towing Company"), and the City of Beacon, having offices at 1 Municipal Plaza Beacon, NY (the "City").

### Section 1: Operations

#### A. Term of Agreement

The term of this agreement shall be for three years.

#### B. Response to calls

The Towing Company will respond to scenes only at the direction of the City Police Department except in the case the motorist and/or motorist organization directly calls the Towing Company and that company is authorized to tow at the time. The City Police Department may direct special exceptions to this notice in the interest of public safety; inclement weather, natural/manmade disasters.

#### C. Response time

During regular business hours (9:00 a.m. to 5:00 p.m) the maximum response time from the time the Towing Company receives a call for service shall be twenty (20) minutes. Outside of regular business hours, maximum response time shall not exceed thirty (30) minutes.

#### D. Secured Storage Yard

The Towing Company shall have use of a secured storage yard or other facility located in Dutchess or Putnam County within a ten (10) mile radius of City Hall.

#### E. Towing of City Vehicles

The Towing Company shall tow City vehicles to the City's garage facilities or other designated location free of charge to the City, provided that said vehicle and garage facility or other designated location are located within fifteen (15) miles of City Hall at the time the call for service is made.

#### F. Calls for Service

Calls for service made by a Beacon Police Officer at the request of a vehicle owner, such as calls via AAA or special request to a particular tow service, shall not be considered a call for service by the City pursuant to this Agreement. In such instance, the Towing Company may charge its ordinary and customary rate.

#### G. Emergency Situations

Subject to circumstances as they unfold, the Police Department may, at their discretion, suspend all or part of this Agreement in the interest of public safety.

#### H. Debris and road cleanup

The Towing Company shall clean up all debris from any vehicle towed, including hazardous materials, if not otherwise directed by an enforcement authority at the scene. Such clean-up shall be conducted as part of the Towing Company's service at no charge to the City. Failure to complete clean-up may result in the Towing Company being cited for violating VTL Section 1219 and/or suspension or termination of this Towing Agreement for poor service.

#### I. Vehicles towed due to violation

A written release from the Beacon Police Department shall be a prerequisite for the Towing Company to release vehicles towed due to a violation that would prohibit the vehicle from being operated (suspended registration, uninsured, unregistered, equipment safety violation, etc.) or operated by a specific person (unlicensed, AUO, DWI, etc.)

#### J. Payment

The Towing Company must accept cash payment and at least (2) major credit cards. The only exceptions are that the Towing Company may charge cash only for impounds or abandoned vehicles.

#### K. Failure to respond

1. The Towing Company shall communicate to Police Dispatch any and all delays or missed responses they encounter while responding to a dispatched call which may prohibit them from arriving on scene within the required time. All communications will be made by phone to the Police Dispatch.
2. The following shall constitute delays or missed responses by the Towing Company
  - a. Failure or refusal to respond to a call for service
  - b. Physical incapability to tow a particular vehicle.
  - c. Failure to respond timely to a call for service.
3. Upon two (2) or more missed responses, the City shall have the option of suspending or terminating this Agreement, at the City's sole discretion.
4. The City shall have the option to suspend or terminate this Agreement in response to poor service or complaints by members of the Police Department or the public.

#### L. Availability

1. The Towing Company must be available 24 hours a day, 7 days a week, 365 days a year. They must maintain a 24 hour answering service or dedicated phone line staffed by live personnel to take calls for service. Multiple violations may result in the suspension or revocation of this Agreement.
2. The Towing Company shall permit access, during normal business hours, to an impounded or stored vehicle by the owner of that vehicle for the purpose of removing items of property in the nature of personal effects from the vehicle. Any lien on the vehicle to which the Tow Company is entitled shall not include such property.

#### M. Equipment Requirements

1. The Towing Company must have a minimum equipment of two (2) or more Tow Trucks in service at all times, at least (1) of which must be a flatbed. All tow trucks must be reasonably equipped as necessary to furnish emergency towing and road service. All Tow Trucks and Towing Services must be compliant with State and Federal regulations. Pickup trucks shall not be used in lieu of a Tow Truck.
2. The Towing Company shall keep and maintain towing equipment which is adequate and reasonable to perform such Towing Services in a workmanlike manner.

#### N. Call for assistance

1. In the event of a motor vehicle accident, disablement, impoundment or call to the Police Department for towing assistance, except in the case of a specific request by the owner or operator, the Police Department shall notify the Towing Company that a tow is requested.
2. The Chief of Police is authorized to develop such other rules and regulations as he deems appropriate to maintain and enforce effective and responsive towing services.

#### O. Disposal of Vehicles

1. If the City does not choose to exercise its right to take custody and ownership of an abandoned vehicle as prescribed by § 1224 of the New York State Vehicle and Traffic Law, the Towing Company may transfer such vehicle to a registered vehicle dismantler or itinerant vehicle collector if the vehicle has a wholesale value of \$1,250 or less, is 10 or more model years old and has been abandoned for at least one month. The Towing Company may also choose to salvage the vehicle after obtaining a New York State Salvage Certificate (MV-907A) from the New York State Department of Motor Vehicles with the full cooperation of the City of Beacon. In the event that the vehicle is less than 10 years old or if the vehicle dismantler or itinerant vehicle collector pays more than \$1,250, the Towing Company must obtain title or a transferable registration from the City as property owner of the abandoned vehicle. In no event shall the Towing Company require the City to pay the towing and service fees incurred by such vehicle after taking title.

In the event that there are no available registered vehicle dismantlers or itinerant vehicle collectors located within 15 miles of City Hall the parties agree to renegotiate in good faith

the expense born by the towing company for dismantling the vehicle. In the event that a new agreement is not reached, the Towing Company may cancel the Contract if more than 18 months remains on the Contract.

2. The Towing Company shall contact the City of Beacon Police Department to verify that the vehicle has not been reported as stolen prior to disposal of any unclaimed or abandoned vehicle.
  3. If the City exercises its right to take custody and ownership of an abandoned vehicle pursuant to Section 1224 of the Vehicle and Traffic Law, such vehicle shall be sold at public auction and the minimum bid shall be set to equal the towing and storage fees incurred by such vehicle. Funds obtained by the City for vehicles sold at public auction shall be the exclusive source of payment to the Towing Company to satisfy any lien on the vehicle and payment shall only be made upon submission of a proper voucher to the City. The City shall hold surplus funds so realized for one year from the date of sale for the benefit of the owner of the vehicle at the time of abandonment. If unclaimed by the owner within one year time period, such monies shall be paid into the General Fund of the City of Beacon.
  4. The Towing Company has the option to accept any bid below the minimum established bid as full satisfaction of towing and storage fees incurred by such vehicle or the Towing Company may choose to take possession to salvage and repair the vehicle or transfer the vehicle to a registered vehicle dismantler or itinerant vehicle collector..
  5. The Towing Company shall allow its premises to be used, without charge, by the City for purposes of conducting auctions where necessary to dispose of vehicles.
- P. Charges for service under this Agreement shall be as follows and will be all inclusive for each category (with no additional service charges to be added on):

Category	Description	Towing	Storage
1. City- Owned Vehicles and Light Trucks			
A	City-Owned Vehicles and light trucks	No Charge within 15 miles of City Hall	No Charge.
2. Personal Vehicles and Light Trucks			
A	Personal Vehicles and Light Trucks	\$125.00 tow fee to owner	\$50.00 storage fee to owner per day
B	4 X 4 Vehicles	\$150.00 tow fee to owner	\$50.00 storage fee to

			owner per day
3. Other Charges			
A	Police Impounded Vehicles for violations of Laws and ordinances.	No charge to City. \$150.00 to be a lien against the vehicle.	\$50.00
B	No key or wheel cocked charge	\$25.00	N/A
C	Snow Removal Charge	\$25.00	N/A
Winching	Minimum \$100 for first 25 feet of winching, plus \$75 for every additional 50 feet		

Fees for towing and storage of vehicles shall be borne exclusively by the owner of the vehicle, and the City shall have no obligation to advance or to ensure payment to the tow service provider or the owner/operator of the yard or facility where the vehicle is stored.

## Section 2: General Provisions

### A. Police Department Responsibilities

1. As determined by the Chief of Police, the City may implement an emergency action plan which would institute a temporary set of guidelines to establish a coordinated approach for dealing with an incident involving a large number of vehicles.
2. The City shall use reasonable efforts to block in all towed vehicles located in any unsecured storage area used by the Towing Company during City snow emergencies.
3. The Chief of Police may adopt Rules and Regulations with respect to the terms and conditions of this Agreement.

B. The Towing Company is prohibited from assigning, transferring, conveying subletting or otherwise disposing of this Agreement or any of its contents, or of any right, title or interest therein, or of the power to execute this Agreement, to any other person or corporation without the previous consent, in writing, of the City of Beacon, which shall not be unreasonably withheld.

### C. Minimum Insurance Requirements for Towing Contract

Prior to commencement of any services and for the duration of this Agreement, the Towing Company shall obtain and maintain, at its sole expense, the following insurance on its own behalf, and shall furnish to the City of Beacon Certificates of Insurance evidencing same and reflecting the effective date of such coverage as follows:

1. Worker's Compensation and Employers Liability Policy, covering operations in New York State.
  2. Commercial General Liability Policy, with limits of no less than \$1,000,000 Each Occurrence/ for Bodily Injury and Property Damage, and shall not exclude coverage for:
    - a. Products/ Completed Operations;
    - b. Independent Contractors;
    - c. City of Beacon and their assigns, officers, employees, representatives and agents should be named as an "additional Insured" on the policy and the Certificate of Insurance should show this applies to the General Liability coverage on the certificate.;
    - d. Each insurance policy shall be written on a primary and non-contributing coverage basis, including any self-insured retentions;
    - e. To the extent permitted by New York law, the Contractor/Provider waives all rights of subrogation or similar rights against the City of Beacon, assigns, officers, employees, representatives and agents;
    - f. Cross Liability coverage (Commercial General Liability and Business Automobile Liability policies only).
  3. Comprehensive Automobile Policy, with limits no less than \$1,000,000 Bodily Injury and Injury and Property Damage liability including coverage for owned, non-owned, and hired private passenger and commercial vehicles.
  4. Certificates shall provide that thirty (30) days written notice prior to cancellation or expiration be given to the City of Beacon. Policies that lapse and/or expire during term of work shall be recertified and received by the City of Beacon no less than thirty (30) days prior to expiration or cancellation.
  5. The Towing Company shall furnish to the City of Beacon Certificates of Insurance as evidenced by coverage prior to commencement of services, which shall name the City of Beacon as an Additional Insured **by separate endorsement**.
  6. All the carriers listed in the certificate of insurance shall be A.M. Best Rating of "A-" Class VII or better and be licensed in the State of New York.
- D. To the fullest extent permitted by law, the Towing Company shall defend, indemnify and hold the City and its agents and employees harmless from and against all claims, damages losses or expenses, including but not limited to attorney's fees, arising out of or resulting from the Towing Company's performances of any services to or on behalf of the City of Beacon, provided any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and (b) is caused in

whole or in part by any act or omission of gross negligence or violation of statutory duty or regulation by the Towing Company or anyone directly or indirectly employed by it, or anyone for whose acts it may be liable pursuant to the performance of the Agreement. The Towing Company's obligation to defend, indemnify and hold harmless pursuant to this paragraph shall not be limited in any manner by any limitation on the amount of insurance coverage or benefits, including worker's compensation or other employee benefit acts, held by the Towing Company.

- E. The Towing Company and all employees and agents thereof shall be independent contractors licensed by the City of Beacon and shall not claim or receive any benefit or privilege conferred to the City's employees. The City shall not be responsible for the Towing Company's compliance with any local, state or federal law, regulation or requirement and shall not withhold any taxes, including payroll or income taxes, for the Towing Company and any employee or agent thereof.
- F. Suspension or termination of this Towing Agreement shall be provided by written notice to the Towing Company served at least fourteen (14) days before such suspension or termination shall take effect.

**IN WITNESS WHEREOF**, the parties hereto have signed this instrument as of the date first written above.

**Cervone Auto Body, Inc**

**City of Beacon**

By:



Title:

President

By:



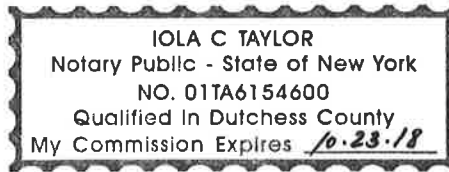
Title:

City Administrator

STATE OF NEW YORK )  
COUNTY OF DUTCHESS ) ss.:

On the 30<sup>th</sup> day of March, in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Anthony Ruggiero, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Iola C. Taylor  
Notary Public



STATE OF NEW YORK )  
COUNTY OF DUTCHESS ) ss.:

On the 31<sup>st</sup> day of March, in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Vincent Cervone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Elyse...  
Notary Public