



The following *draft* Minutes of the meeting of the Toronto Police Services Board held on January 06, 2004 are subject to adoption at its next regularly scheduled meeting.

MINUTES OF THE PUBLIC MEETING of the Toronto Police Services Board held on **JANUARY 06, 2004** at 1:00 PM in the Auditorium, 40 College Street, Toronto, Ontario.

PRESENT:

- A. Milliken Heisey, Q.C.,** Chair
- Pam McConnell,** Councillor & Vice-Chair
- John Fillion,** Councillor & Member
- Benson Lau, M.D.,** Member
- Case Ootes,** Councillor & Member

ALSO PRESENT:

- Julian Fantino,** Chief of Police
- Albert Cohen,** City of Toronto - Legal Services Division
- Deirdre Williams,** Board Administrator

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON JANUARY 06, 2004**

#P1. ELECTION OF THE CHAIR AND VICE CHAIR

Election of the Chair, Toronto Police Services Board

In accordance with section 28 of the *Police Services Act*, which provides that the Board is required to elect a Chair at its first meeting in each year, the Board Administrator requested nominations for the position of Chair of the Toronto Police Services Board.

Councillor Case Ootes nominated Mr. Alan Heisey. There were no further nominations and Councillor Pam McConnell moved that nominations be closed.

The Board voted and, based upon one nomination for the office of Chair, Toronto Police Services Board, Mr. Alan Heisey was declared elected by acclamation Chair of the Board for the year 2004 and until his successor is appointed.

Election of the Vice-Chair, Toronto Police Services Board

In accordance with section 5 (4) of the Toronto Police Services Board Procedural By-Law No. 107 which provides that the Board shall elect a Vice-Chair at its first meeting in each year, the Board Administrator requested nominations for the position of Vice-Chair of the Board.

Councillor John Filion nominated Councillor Pam McConnell. Councillor Case Ootes nominated Dr. Benson Lau. Dr. Lau acknowledged Councillor Ootes' nomination but declined the nomination indicating that he would not be able to fulfil the additional obligations associated with the position due to his limited availability . There were no further nominations.

The Board voted and, based upon one nomination for the office of Vice-Chair, Toronto Police Services Board, Councillor Pam McConnell was declared elected by acclamation Vice-Chair of the Board for the year 2004 and until her successor is appointed.

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TORONTO POLICE SERVICES BOARD HELD ON JANUARY 06, 2004**

**#P2. NOTICE OF RESIGNATION – MR. ALLAN LEACH AND
COMPOSITION OF THE BOARD**

The Board was in receipt of a copy of correspondence, dated December 15, 2003, from Allan F. Leach, Board Member, to the Honourable Monte Kwinter, Minister of Community Safety and Correctional Services, regarding his decision to resign from the Toronto Police Services Board. A copy of the correspondence is appended to this Minute for information.

Chair Heisey advised the Board that Mr. Leach had indicated the resignation was effective December 31, 2003.

The Board received the foregoing and approved the following Motions:

- 1. THAT the Board receive the foregoing and send correspondence to the Minister of Community Safety and Correctional Services recommending that Mr. Leach's successor be appointed to the Board as quickly as possible; and**
- 2. THAT, given the number of complex issues for which the Toronto Police Services Board is responsible on an on-going basis and to ensure continuity in the manner in which those issues are resolved by the Board, the Board send a recommendation to the Minister of Community Safety and Correctional Services recommending that section 27 of the *Police Services Act* be amended by increasing the number of members on the Toronto Police Services Board from seven to nine and that the additional two members be composed of one provincially-appointed member and one municipally-appointed member.**

ALLAN F. LEACH
6 Garfield Ave. Toronto
M4T 1E7



Dec 15, 2003

Honourable Monte Kwinter
*Minister of Community Safety
& Correctional Services
Parliament Buildings
Queens Park
Toronto, Ontario*

Dear Minister:

*I would first like **congratulate** you on your election and appointment to Cabinet.*

*As you are aware I was **reappointed** to the **Toronto Police Services Board** in August 2003 for a three year term. I had **reservations** about accepting the reappointment because I was not sure I could **fulfill** the attendance requirements. I spend much of the winter in **Florida**. In previous years I returned to Canada to attend **meetings as required** at my own expense and **also** dealt with issues by phone, fax or e-mail. Although it works it is an unsatisfactory arrangement **from** my point of view.*

*I am therefore **resigning** from the **Police Services Board**. Please accept this letter as my **official** notification.*

*I would like to **provided** you with my thoughts about the future composition of the Police Services Board. As a **result** of the **Municipal** elections **the Police Services Board** is under **going** substantial membership changes. This will include the election of a new Chair in January 2004.*

*The **Board** currently has seven members, **three** appointed by **the** Province and four **appointed** by the City. The Chair of the Board is elected **from** among **the Board** members for a one year **period**.*

***This** does not work.*

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Minister, I would strongly recommend that the Province designate one of its appointees to be the Chair. The appointment should be for a minimum three year term. The reasons are fairly obvious. The Toronto Police Service is a large complex organization. It requires a Chair that has an strong understanding of finance and administration. Someone that can deal with the complex problems of big budgets and pension issues. Someone that can deal with the many controversial issues that are constant/y before the Board as we// as being the public spokesman for the organization. Someone that would have the respect of the Chief and a// the members of the Service as we// as the respect of the Public.

The learning curve is longer than one year. Now more than ever before the Police Services Board needs leadership. Not someone that maybe appointed because they are perceived as politically or socially correct.

Should the Province appoint the Chair, the city would still have the majority of the members.

I strongly suggest that the Province appoint an interim Chair in January and then take some time to recruit the right person to take the position for the longer term.

I have enjoyed my time with the Police Services Board. The Police Service is an extremely competent organization with very dedicated staff at all leve/s. It was a privilege to be associated with them.

Minister, if I can be of any help or provide any additional information I would be more than pleased to do so.

Yours truly,



Al Leach

**Cc: Police services Board
Chief Julian Fantino
Mayor David Miller**

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON JANUARY 06, 2004**

**#P3. TORONTO POLICE SERVICE TOWING AND POUND SERVICES
CONTRACTS – 2004-2007**

At its meeting on December 11, 2003 the Board was in receipt of a report, dated November 07, 2003, from Julian Fantino, Chief of Police, regarding police towing contracts for the years 2004-2007. The Board deferred the report to the January 06, 2004 meeting and requested, in the interim, the following additional information:

- options on how the Service can develop a more competitive process for awarding towing contracts and any implications that may be associated with those options; and
- the feasibility of increasing the limit of towing contracts that can be awarded from one per towing operator to a maximum of two per towing operator.

(Min. No. P341/03 refers)

At its meeting on January 06, 2003 the Board was in receipt of the original report, dated November 07, 2003, and a report dated December 29, 2003 containing the additional information requested by the Board.

Following consideration of the foregoing, the Board approved both the November 07, 2003 and December 29, 2003 reports. Copies of the reports are appended to this Minute for information.

Copy of the report, dated November 07, 2003, from Julian Fantino, Chief of Police:

Subject: POLICE TOWING CONTRACTS

Recommendation:

It is recommended that the Board approve the issuance of the Towing and Pound Services Quotation Request for the years 2004 to 2007 towing contracts on the same terms and conditions as those contained in the 2000 Quotation Request, subject to the following changes:

- (a) No bid shall exceed a total price of \$150.00 including towing costs and one day of storage, but excluding applicable taxes.
- (b) Increase the cost recovery fee established in the 2000 towing contracts from \$ 465,159.00 to \$ 619,383.00 annually.
- (c) Upon early termination of the contract, or the bankruptcy or insolvency of a towing operator, the Unit Commander of Traffic Services shall be authorized to temporarily expand the boundaries of the towing districts of adjacent towing operators until such time as a new contract for the affected towing district can be awarded in the Board's sole discretion. Any such expansion of adjacent districts would be apportioned based on the respective towing and storage capacity of the adjacent operators.
- (d) The office of the towing operator must be within 100 metres of the main entrance of the pound and have a clear and unobstructed view of the entrance.
- (e) In the event a towing operator is the lowest bidder in more than one district, the Board shall determine which award of the two low bids will result in the lowest individual tow and storage cost to a member of the public.

Background:

To ensure the safe and efficient flow of traffic in the City and the security of vehicles, towing and pound services are required. Historically, the Service tows approximately 65,000 to 70,000 vehicles annually, for contraventions of the Criminal Code, the Highway Traffic Act, Municipal By-laws and Service Procedures. When a member locates a vehicle that is required to be towed, a tow operator under contract with the Board will attend the location, tow the vehicle and subsequently store the vehicle in their secured pound. Towing and storage fees are apportioned based on the awarded contracts in each district.

The current six towing and pound services contracts expire on May 31, 2004. In keeping with the length of the term of the current contract, it is proposed that the term for the next contract awarded by the Board be from June 1, 2004 to May 31, 2007, with the provision for a one (1) year extension to May 31, 2008 at the sole option of the Board.

Traditionally, the Service, through its Traffic Services Unit (TSV), prepares the terms and conditions for the Board's towing and pound services contracts. This process involves the participation of staff from the City of Toronto Legal, Audit and Purchasing Divisions. Once the terms and conditions for the contracts have been determined, the Unit Commander of Traffic Services oversees the tendering and bidding processes through the City's Purchasing Department. This process concludes with a report to the Board containing recommendations for the awarding of contracts in each of the six towing districts. It is anticipated that a report with recommendations regarding the award of the towing and pound services contracts will be submitted no later than the April Board meeting.

The proposed changes to the 2004 Quotation Request from the 2000 Quotation Request are as follows (2000 Quotation Request attached as Appendix A):

- (a) No bid shall exceed a total price of \$150.00 including towing costs and one day of storage, but excluding applicable taxes.**

Current Practice:

The previous quotation request issued in 2000 did not consider bids exceeding a total price of \$105.00 including towing costs and one day storage, but excluding applicable taxes. The resulting contracts contained no provision for any increases in the prices during the term of the contract.

Rationale:

- (i) A price cap is required in order to prevent excessively high bids in the event that one tow operator is the lone bidder on a single district. Frequently in the past a single tow operator has been the lone bidder in a district.
- (ii) Based on information received from Toronto Police Financial Management, the cost of living has increased approximately 13.4 % since 1999.
- (iii) Based on information from insurance brokers familiar with the towing industry, the average cost to insure a tow vehicle and related equipment has increased by 125% in the past 2 years. (The approximate cost of insurance per vehicle has increased from \$2,500 to \$7,500 since the year 2000.)
- (iv) In order to reduce rapidly increasing premiums, tow operators have had to raise their deductible limits for property damage from \$1,000 to \$5,000 with some operators reporting deductible limits reaching up to \$10,000.
- (v) Vehicles involved in a collision that require a tow truck may be sent to a Collision Reporting Centre. The City of Toronto Municipal Code Chapter 545 requires towed vehicles to be taken directly to the Collision Reporting Centre and has set the fee for this service at \$150.00, excluding applicable taxes. This fee does not include storage costs.

(vi) Towing and storage fees in other GTA areas and Ontario cities are comparable:

Kingston Police	\$160.00
Durham Region	\$90.00
Ottawa Police	\$127.50
Halton Region	\$135.00
Hamilton - Wentworth	\$150.00

(vii) The towing operators must incorporate the cost recovery fee into their bid. In light of the recommended increase in the cost recovery fee, discussed below, it is recommended that there be some allowance for a fee increase.

(b) Increase the cost recovery fee established in the 2000 towing contracts from \$ 465,159.00 to \$ 619,383.00 annually.

Current Practice:

Up until 2000, the Board bore the costs of administering the police towing pound contracts through its annual operating budget. The cost recovery fee was included for the first time in the 2000 towing contracts as a method for the Board to recover from the contract holders the Service's costs attributable to administering the contracts.

Rationale:

The cost recovery fee is apportioned to each contract holder based on the number of towed vehicles released by each towing operator in a three-month period. Included in the cost recovery formula are costs paid by the Service for officer salaries, benefits and equipment. The overall cost is based on the 2004 salary rates for one sergeant, four constables and one administrative clerk. An additional 55% is added to cover the cost of benefits, four police vehicles, 12 computers and requisite training.

Since the inception of the cost recovery fee in 2000, the Board has recovered all expenses required to administer the contracts with the exception of the increase in those costs over the term of the current contract. It is recommended that the salary increases over the past four years be recognized in the amount of the cost recovery obtained by the Board under the 2004 towing contract.

(c) Upon early termination of the contract, or the bankruptcy or insolvency of a towing operator, the Unit Commander of Traffic Services shall be authorized to temporarily expand the boundaries of the towing districts of adjacent towing operators until such time as a new contract for the affected towing district can be awarded in the Board's sole discretion. Any such expansion of adjacent districts would be apportioned based on the respective towing and storage capacity of the adjacent operators.

Current Practice:

There is no process in place to address any circumstances where a tow operator, who has been awarded a contract in any of the districts, is no longer able to fulfil the requirements of the awarded contract.

The present towing districts have been established based on the current divisional boundaries as listed below:

Central Field:	1 District	(Divisions 11,12,13,14)
	5 District	(Divisions 53,54,55)
	6 District	(Divisions 51,52)

Area Field:	2 District	(Divisions 22,23)
	3 District	(Divisions 31,32,33)
	4 Districts	(Divisions 41,42)

Rationale:

In the event an operator's contract is terminated, or the operator becomes bankrupt or insolvent, towing and pound storage services must continue within the affected towing district. To ensure the uninterrupted provision of towing and storage services, the Service recommends an equitable area re-allocation of the affected district among the adjacent towing operators.

- (d) The office of the towing operator must be within 100 metres of the main entrance of the pound and have a clear and unobstructed view of the entrance.**

Current Practice:

There is no restriction on the location of the pound office in relation to the towing compound.

Rationale:

There is currently no requirement that the operators ensure the proximity of the office to the pound and they may have the option to maintain an office away from the actual enclosed pound site. Because the pound is a secured compound for the storage of towed vehicles, the office must provide a clear view of the main gate to ensure that only authorized personnel have access.

- (e) In the event a towing operator is the lowest bidder in more than one district, the Board shall determine which award of the two low bids will result in the lowest individual tow and storage cost to a member of the public.**

Current Practice:

The Board has an established practice of not awarding more than one district to one bidder. Historically, the Board has awarded the contract to the operator with the lowest bid, provided the operator has complied with the requirements of the Towing and Pound Services Quotation. Presently, there is no process in place that would allow the Board to award the contract to a bidder who submits the lowest bid in more than one district.

Rationale:

When a vehicle is towed as a result of a contravention of the Criminal Code, the Highway Traffic Act, Municipal By-laws and Service Procedures, the cost relating to the towing and subsequent storage is the responsibility of the person claiming the vehicle.

The awarding of the contract based on the bid that will result in the lowest towing and storage cost, is both a fair business practice and is in the best interest of the public.

Conclusion:

It is recommended that the Board approve the issuance of the Towing and Pound Services Quotation Request for the years 2004 to 2007 towing contracts on the same terms and conditions as those contained in the 2000 Quotation Request subject to the changes detailed in this report.

Mr. Karl Druckman of Toronto City Legal has reviewed and approved the recommendations contained in this board letter.

Acting Deputy Chief David Dicks, Policing Support Command, will be in attendance at the Board meeting to answer questions with respect to this report.

APPENDIX A

2000

TOWING AND POUND SERVICES QUOTATION

BONDING

Every quotation must be accompanied by the following security documentation:

BID BOND:

A bid bond in the form provided executed by the bidder and a guarantee surety company authorized by law to carry on business in the Province of Ontario, having an office in the City of Toronto and in all other respects acceptable to the Unit Commander of Traffic Services, in the amount of \$10,000.00 (\$50,000.00 if proposing to add to vehicle fleet or to increase size of pound area), valid for a period of not less than ninety (90) days from the date of the closing of this bid, or a certified cheque or a letter of credit (as discussed below) in favour of the Toronto Police Services Board in lieu thereof. If a quotation is accepted and the bidder fails when required to execute a contract for the work, or fails to meet the criteria as outlined in this Quotation Request upon the intended commencement date of the contract, the bid security will be exercised and forfeited.

(ii) LETTER OF CREDIT:

As a substitute for the bid bond, or certified cheque, a letter of credit is acceptable providing it is in a form satisfactory to the Unit Commander of Traffic Services. The following conditions must be incorporated in any letter of credit:

1. It must be issued by a Canadian chartered bank listed in Schedule A or B to the Bank Act (Canada);
2. It must be in a sufficient dollar amount (i.e. equivalent to the value of the bond for which it is substituting);
3. It must be irrevocable;
4. It must be unconditional;
5. It must be automatically renewable, unless the Unit Commander of Traffic Services is advised by written notice thirty (30) days proceeding the expiry date or dates, that the letter of credit will not be renewed; and
6. The Toronto Police Services Board must be able to draw on it at will.

NOTE:

An undertaking from a bank to issue a letter of credit is not acceptable.

Any bid received that does not satisfy the requirements of the bid bond will be declared informal and will not be considered.

BID BOND

Bond No. _____

Amount _____

KNOW ALL PERSONS BY THESE PRESENTS, that

as Principal,(hereinafter called the Principal), and

as Surety, hereinafter called the Surety, are held and firmly bound unto the Toronto Police Services Board as Oblige, in the amount of _____ of lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal submitted a written Quotation (hereinafter called “the Quotation”) to the Oblige dated the _____ day of _____, 2000, for provision to the Oblige of a towing and pound service in the City of Toronto (hereinafter called “the Undertaking”),

NOW THEREFORE THE CONDITION OF THIS OBLIGATION is such that if, on acceptance of the Quotation in accordance with its terms and conditions, within 90 days from the closing date for submission of Quotations for the Undertaking, the Principal shall, within the time required, enter into a formal contract, then this obligation shall be null and void; otherwise the Principal and Surety will pay unto the Oblige:

the sum of _____ as liquidated damages for the cost of time, effort and expenses thrown away by the Oblige in consideration and analysis of the Quotation and in any negotiations with the Principal in connection therewith, it being acknowledged and agreed by the parties to this bond that such sum is not a penalty but rather a means of overcoming, through binding predetermination, the difficulties of precise ascertainment of the damage that will have been suffered by the Oblige as a result of such throwing away.

The Surety shall not be liable for a greater sum than the specified penalty of this bond. Any suit under this bond must be instituted before the expiration of twelve (12) months from the date of this bond.

AND IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable as Principal and that nothing of any kind or matter whatsoever that will not discharge the Principal, shall operate as a discharge or release of liability of the Surety, any law or usage relating to the liability of sureties to the contrary notwithstanding.

IN TESTIMONY WHEREOF, the Principal and Surety have caused these presents to be sealed with their respective corporate seals duly attested by the signatures of their duly authorized respective officers in that behalf, this _____ day of _____, A.D. 2000.

SIGNED, SEALED AND)
DELIVERED)
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per:

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**
per:

* Type or print name of Principal here
** Type or print name of Surety here

TOWING QUOTATION SUMMARY SHEET

District Bid: _____

Corporate Name of Bidder: _____

Corporate Address Street and No. _____

Unit No. _____

City/Borough/Province _____

Postal Code _____

Contact Person: _____

Contact Telephone Number: _____

Pound Address: _____

Size in Acres: _____

Number of Standard Tow Trucks _____
(All standard tow trucks in fleet)

All heavy tow trucks in fleet _____

Bid Price: _____
(Copy from Schedule "B")

TOWING AND POUND SERVICES QUOTATION

TERMS AND CONDITIONS

Quotations are invited from qualified bidders for the operation of vehicle towing and pound services for use by the Toronto Police Service in Towing Districts No. 1, 2, 3, 4, 5, and 6, all within the boundaries of the City of Toronto.

1. GENERAL INFORMATION:

- a) For the purposes of this quotation request, any reference to the "Municipality" includes the Toronto Police Services Board.
- b) All references to the Board are references to the Toronto Police Services Board.
- c) The period of the contracts will be from a commencement date fixed by the Board. The anticipated commencement date of the contracts is June 1, 2000 to May 31, 2003, with provision for an extension of a maximum of one year at the sole option of the Board.
- d) The Board may accept any quotation in whole or in part, whether the price or prices are the lowest or
and may reject any or all quotations, as it considers appropriate.

Without limiting the generality of the foregoing paragraph, the Board may award a contract for all or some of the Towing Districts and the award of a contract for a Towing District or Districts does not oblige the Board to award a contract for any other District.

In the event there are no formal compliant quotations for one or more of the Towing Districts, the Board will issue a further quotation request for such District or Districts, either separately or collectively in the Board's discretion. Any such further quotation request will be on such terms and conditions as the Board, in its sole discretion, considers necessary and/or appropriate and which may differ from the terms and conditions contained in this Quotation Request. In addition, the Board, in its sole discretion, may choose to restrict the receipt of quotations on such further quotation request, as it considers appropriate.

If the Board issues such further quotation request for any Towing District or Districts, the Board may make arrangements for towing services for the relevant District or Districts in any manner it considers necessary and/or appropriate pending the award and the entering into of any contract under such quotation request. Such arrangements may include, but are not limited to, allowing a towing operator or operators to temporarily provide towing and storage services for the District or Districts without the issuance of any quotation request or tender.

- e) The contract for District 6 requires the successful bidder to enter into a contract to operate out of a property at 10 York Street, owned by the City Of Toronto, to facilitate the rush-hour towing program, otherwise known as the Downtown Tow Away Programme. The operation of the pound at 10 York Street will be pursuant to the form of contract attached to this Quotation Request as Schedule “J”.

In the event bidders in a Towing District bid the same fee, and those bidders are otherwise compliant with the requirements of this Quotation Request, the tie shall be broken and the successful bidder selected by lot conducted by the City of Toronto, Finance Department, Purchasing and Materials Management . For the purpose of this Quotation Request, selecting by lot means placing the names of the tied bidders on equal size pieces of paper in a box and one name being drawn by the City of Toronto, Finance Department, Purchasing and Materials Management.

2. GENERAL CONDITIONS AND REQUIREMENTS:

- a) The draft agreement attached as Schedule “I“ to this Quotation Request contains various conditions governing the towing and storage services which are to be rendered, and it is a condition of this quotation that the successful bidder shall execute an agreement containing substantively similar conditions.
- b) The bidder must own a towing operation with an office, trucks, and other necessary equipment that can be inspected.
- c) All vehicles, equipment or facilities that are owned or leased and are to be utilized in providing service under the contract must be in the name of the bidder and remain so throughout the term of the contract or any extension thereof. Only the names of the individual, partnership or corporation making the bid should be reflected in the relevant documentation. All partnership names must be registered under applicable provincial legislation and proof of such registration, satisfactory to the Board in its sole discretion, must be submitted with the Quotation.

Any leasing arrangement for vehicles or facilities is acceptable provided that the bidder meets the requirements of the Quotation Request. For example, a sub-lease of vehicles by the bidder from another person is acceptable provided the sub-lease is exclusively in the name of the bidder.

The bidder must supply copies of vehicle lease agreements and lien searches on all tow trucks used to service the contract.

- d) Bidders must have, and must continue to maintain throughout the term of the contract, a record in good standing with the Toronto Licensing Commission.

- e) Sub-letting work to be performed under the contract is only permitted in limited circumstances and on the conditions set out in the contract attached as Schedule "I" to the quotation.
- f) Bidders must produce a worker's compensation clearance certificate showing an endorsement for towing services.
- g) Bidders must promptly pay, throughout the term of the contract, all applicable federal, provincial and municipal taxes arising from the operation of their towing or pound services.
- h) Bidders must comply with all quotation requirements, conditions, schedules, the attached copy of the worker's rights' policy and all other policies attached to this Quotation Request.
- i) The contracts executed between the Board and the successful bidders will be expressly subject to all laws, statutes and regulations, including municipal by-laws. The operators will expressly acknowledge that Schedule 37 of By-law No. 20-85 of the former Municipality of Metropolitan Toronto respecting licensing requirements as they relate to owners and drivers of tow trucks, may be amended from time to time. The operators will further acknowledge that the said by-law may be amended so as to set rates for the provision of towing services in the City of Toronto, in which case operators will abide by such rates, if legally required, notwithstanding the rates quoted by the operators pursuant to this quotation.
- j) A bid bond in the amount of \$10,000.00, or \$50,000.00 in the case of a bidder proposing to add to the vehicle fleet or to expand the area of a pound, must be posted and included with the response to this Quotation Request. A single bid bond per bidder is sufficient regardless of the number of contracts being bid upon. The bid bond will be payable and forfeited to the Board in the event that a bid is accepted and the bidder fails to enter into a contract, fails to meet all of the conditions of this Quotation Request on the date the contract is to commence or fails to have the proposed standard tow trucks or pound space available on the date the contract is to commence.
- k) All facilities, equipment and pounds as required by this Quotation Request will be subject to inspection after the closing date for bids and, in the case of successful bidders, in the week prior to the intended commencement of the contract.
- l) Members of the Toronto Police Service will conduct random audits and site inspections on all issues of contract compliance throughout the term of a contract. Upon request, operators must make immediately available all records, forms, documents, vehicles or equipment as directed.
- m) Sanitary and suitable office facilities and equipment must be made available in the office building or trailer at the pound for the use of Toronto Police Service personnel, in accordance with Schedule "E".
- n) Pound operators must be registered with the Ministry of Consumer and Commercial Relations pursuant to the Motor Vehicle Dealer's Act and provide proof thereof.

- o) Operators must use invoice forms for police contract tows containing the information as set out in the attached draft agreement and in Schedule "F".
- p) Operators are prohibited from direct or indirect affiliation with an auto body repair shop, a company engaged in providing municipal law enforcement services to private property owners in the City of Toronto or operators of collision reporting centres. The attached statutory declarations require the operator to attest to the absence of such affiliation.
- q) The attached summary sheet, statutory declarations, letters of disclosure and all Schedules must be completed by the operator and submitted with the response to the Quotation Request.
- r) The operator must have the minimum number of standard and heavy tow trucks specified in Schedule "C" and each tow truck used by the operator must be equipped to perform damage free towing as specified.
- s) The operator must agree to provide, in each tow truck and at the pound, facilities to permit members of the public to pay for services rendered in Canadian and American currency (at the then current rate of exchange), and by Master Card, Visa or American Express credit cards.
- t) The operator must agree to staff and use computer systems provided by the Toronto Police Service. The police will train pound staff in the use of the system at no cost to the operator. All persons having access to and being trained in the operation of the system must be approved by the police. Any person not approved will be denied access to the system and will not be permitted to service police impounds.
- u) Operators will be required to notify the Unit Commander in writing of any changes to their corporate personnel from those listed in Schedule "D" of their original quotation. Such proposed changes shall include a signed authorization in the form found in Schedule "D". Changes must have the prior approval of the Unit Commander of Traffic Services.
- v) The Toronto Police Service must maintain a professional image in the eyes of the public. Operators must assist in upholding this standard by keeping their trucks, pounds and personnel clean and tidy at all times. Operators will be bound by complaint investigation procedures developed by Traffic Services from time to time and will cooperate in every way in the resolution of complaints.
- w) In addition to information to be completed on the Schedules included in this quotation, the following must also be submitted with the Quotation:
 - (i) Copy of the bidder's Toronto Licensing Commission Public Garage Licence with storage endorsement for over 10 cars.
 - (ii) A current and certified survey plan of the pound property done by a qualified Ontario Land Surveyor, indicating the dimensions of the pound and all structures, including fences, currently or proposed on the property. The area of the pound for the storage of

police impounds towed under this contract must be highlighted and the square feet that is available.

- (iii) Copy of executed certificates of insurance in the forms set out in Schedule "G" and in compliance with the attached draft agreement.
- (iv) A letter from a Canadian financial institution showing a line of credit of not less than \$100,000.00 for the bidder.
- (v) Copies of all forms used by the bidder to record the towing and storage of vehicles and the amounts charged.
- (vi) Copies of all schedules of rates for towing and storage filed with the Toronto Licensing Commission, showing the dates these rates were filed.

3. POUND REQUIREMENTS:

Bidders must own or lease, or have an option to own or lease, an existing pound operation. Bidders must produce proof that, as of June 1, 2000 they will have an unrestricted right to occupy and lawfully operate the specified pound at the designated location for the full period of the contract. Such proof may take the form of an executed agreement of purchase and sale, a lease or option to lease, the only condition of which may be awarding of the contract. These agreements must be irrevocable under all other conditions.

4. ADDITIONAL CONDITIONS - DISTRICT 6

- a) The successful bidder on the District 6 contract must agree to compensate the City of Toronto for the realty taxes assessed in relation to the premises at No. 10 York Street for the period covered by the contract.
- b) The successful bidder on this contract must also agree to pay for all hydro costs of the premises and for all maintenance and repairs at the premises, except for repairs to the pavement. The operator will be required to undertake such repairs as are directed by the Unit Commander of Traffic Services.
- c) In the case of operators bidding on the contract for District 6, their pound must be located within either District 5 or District 6.

5. PROPOSED ADDITIONAL STANDARD TOW TRUCKS OR POUND SPACE:

The Board will accept responses from bidders proposing to provide towing equipment to a maximum of contract period. Bidders may also propose to expand the area of an existing pound by one-third of the required pound space. In either case bidders must submit proof that they will have the required equipment and pound space on the day of commencement of the contract.

The following conditions must be met where applicable:

- a) The bidder must provide proof that the existing pound space can and will be expanded to meet the conditions as outlined in this Quotation Request.

- b) Proof that a fence, not less than 6' (six feet) in height, adequate lighting, a fence alarm or video surveillance system, will be installed around the additional pound space.
- c) Proof that the expanded pound space will be permitted by the applicable zoning bylaw and that a Public Garage Licence (car storage over 10) will be issued.
- d) Proof that the bidder will have the specified number of standard tow trucks on the date of commencement of the contract. Such proof may be in the form of an executed agreement to purchase or lease to a maximum of one-third of the number of standard tow trucks specified in Schedule "C" for the area bid. It should be noted that trucks must be fully licensed, insured and operational on the date of commencement of the contract. All agreements must be irrevocable in all matters except the awarding of this contract.
- e) The bidder must submit a bid bond in the amount of \$50,000.00

All proof must be satisfactory to the Board, in its sole discretion.

6. FEES AND CHARGES

- (a) The Board will only consider quotations where the total fee identified in Schedule "B", being the combination of the towing fee and storage fee, is less than \$105.00, excluding any applicable taxes. While the Board will not consider quotations where the total fee exceeds that amount, bidders are not precluded in any way from submitting bids where the total fee is lower than that amount.
- (b) As part of the consideration for entering into the agreement with the Board respecting towing, the successful bidder in each Towing District will be required quarterly to remit to the Board an amount representing its District's share of the costs incurred by the Toronto Police Service in administering the agreements based on an analysis of relevant costs and expenses for the 1999 budget year, plus any applicable taxes. The costs on which the calculation will be based will remain constant for the duration of the term of the agreements or any extensions thereof.

The share of costs for each Towing District will be calculated quarterly based on the number of vehicles towed in each District and released to a person claiming such vehicles and for vehicles released on scene. Vehicles that are not released will not be included in the calculation of an operator's share of the recoverable administrative costs.

The Board will provide a quarterly invoice to each operator for its share of the costs based on a review of the figures for released vehicles released in the previous quarter. Operators will be required to remit the amount identified in the invoice within 30 days of the date of the invoice.

7. ONE BIDDER RULE AND STATUTORY DECLARATIONS:

- a) Responses to this Quotation Request may be submitted by individuals, partnerships or corporations carrying on business as a towing operator. Each such towing operator may submit a response in respect to any or all of the towing districts; however, the Board will not award contracts for more than one district to the same towing operator.
- b) Bidders will be required to submit statutory declarations in the forms set out in Schedule "H" of this Quotation Request. Successful bidders will be required to submit supplementary statutory declarations as circumstances may require. The Board reserves the right to terminate the contract or contracts awarded pursuant to this Quotation Request where upon application of the principles set out below two or more towing operators under contract to the Board for towing and pound services are determined to be one "bidder".
- c) At the direction of the Unit Commander of Traffic Services, enquiries may be undertaken to confirm statements made in the statutory declarations.
- d) All statutory declarations submitted in respect of a response to this Quotation Request may, at the discretion of the Unit Commander of Traffic Services, be made available to members of the public and, therefore, should not contain proprietary commercial information or trade secrets nor the personal information of any third parties.
- e) For the purposes of the following principles and the related statutory declaration, the following definitions apply:

“control” includes, but is not limited to:

- a) being a Senior Officer of a corporation or a member of a partnership that directly or indirectly controls or has a direct or indirect pecuniary interest in a Towing Operator; and
- b) the interest a person has in a corporation when the person beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10% of the voting rights attached to all equity shares in the corporation for the time being outstanding;

“pecuniary interest” does not include a direct or indirect pecuniary interest an individual may have merely by virtue of being related to another individual nor does it include any arm’s length transaction for the provision of towing services to another Towing Operator or for the sale or purchase of tow trucks to or from another Towing Operator;

“person” includes a corporation;

“Principal” means an individual carrying on business as a Towing Operator or a member of a partnership carrying on business as a Towing Operator;

“related” means a relationship between two people where one is the sibling, spouse of a sibling, parent, grandparent, child, spouse of a child, spouse, parent of a spouse, grandparent of a spouse, sibling of a spouse, spouse of a sibling of a spouse or grandchild of the other;

“Senior Officer” means any member of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;

“Towing Operator” means an individual, partnership or corporation which has submitted a response to this Quotation Request.

Two Towing Operators will be presumed to be a single bidder when:

- a) any person directly or indirectly controls or has a direct or indirect pecuniary interest in both Towing Operators; and
- b) any individual who directly or indirectly controls or has a direct or indirect pecuniary interest in one of the Towing Operators is related to any individual who directly or indirectly controls or has a direct or indirect pecuniary interest in the other Towing Operator. This presumption can be rebutted by provision of proof to the contrary to the Board, including statutory declarations in the form set out in this Quotation Request.

8. ENQUIRIES AND INTERESTED BIDDERS INFORMATION MEETING:

All enquiries concerning this Quotation must be directed to:

Staff Sergeant Fergus Reynolds
Toronto Police Service
Traffic Services
45 Strachan Avenue
Toronto, Ontario
M6K 1W7
Telephone Number (416) 808-1918
Fax (416) 808-1922

A meeting for all interested bidders to discuss the requirements of this Quotation Request will be held:

Traffic Services Unit
Friday March 10, 2000
10:00a.m.
2nd Floor
35 Strachan Ave. Toronto.
(enter from the west side of building)

SCHEDULE "A"

POUNDS

DISTRICT AREAS:

Noted below are the descriptions of the approximate boundaries of each District.

DISTRICT NO. 1

- North** Lawrence Avenue
East Bathurst Street south to Eglinton Avenue. East on Eglinton Avenue to Spadina Avenue;
South on Spadina Avenue to Spadina Road to the Lake Ontario Shoreline.
West Humber River
South Lake Ontario Shoreline (Toronto Islands Excluded)

DISTRICT NO. 2

- North** Steeles Avenue West
East Humber River
South Lake Ontario Shoreline
West 427 Highway, Eglinton Avenue West to Etobicoke Creek

DISTRICT NO. 3

- North** Steeles Avenue from the Humber River to Victoria Park Avenue
East Victoria Park Avenue from Eglinton Avenue East to Steeles Avenue East
West Humber River from Lawrence Avenue West to Steeles Avenue West
South Eglinton Avenue East from Victoria Park Avenue to Sunnybrook Park (west of Leslie Street), north along the branch of Don River to Lawrence Avenue from Bayview Avenue to the Humber River

DISTRICT NO. 4

- North** Steeles Avenue East
East Pickering Town Line to the Little Rouge River
West Victoria Park Avenue
South Lake Ontario Shoreline

DISTRICT NO. 5

- North** Lawrence Avenue East and West, Eglinton Avenue East
East Victoria Park Avenue
West Spadina Road, Eglinton Avenue, Bathurst Street, Bayview Extension
South Canadian Pacific Railway Tracks, Lake Ontario Shoreline (Toronto Islands Excluded)

DISTRICT NO. 6

North Canadian Pacific Railway tracks

East Bayview Avenue Extension, Pottery Road, Don River and its extension southerly to the shoreline of Lake Ontario.

West Spadina Avenue and Spadina Road

South Lake Ontario Shoreline (Toronto Islands Included)

POUND REQUIREMENTS:

The pound must be located within the noted District boundaries, with the exception that the District 6 contract pound may be located in District 5.

Pounds must meet the minimum space specifications set out in the following chart. The minimum area refers to the area of the pound intended for the exclusive storage of vehicles towed pursuant to this contract. Areas devoted to buildings or landscaping features, or space where non-contract towed vehicles are stored, will not be included in the calculation of this area.

TOW DISTRICT	SPACE REQUIRED IN POUND
1	105,000 sq. ft.
2	90,000 sq. ft.
3	105,000 sq. ft.
4	90,000 sq. ft.
5	90,000 sq. ft.
6 (excluding 10 York Street)	45,000 sq. ft.

- a) The operator must agree to use only pounds for which the contract was awarded unless otherwise authorized by the Unit Commander, Traffic Services.
- b) The operator shall be responsible for keeping the public and police facilities located within the pound clean. Walls shall be painted and worn carpeting or tiles shall be replaced upon direction of the Unit Commander, Traffic Services.
- c) The area used for police impounds must be fenced with chain link or other suitable fencing to a minimum height of six feet. A gate must be provided and kept closed, except when authorized vehicles are entering and leaving the pound.

- d) Any pound area not utilized in conjunction with servicing this contract must be clearly identified by signs or markings, and must be separated from the police pound by means of a chain link or other suitable fencing to a minimum height of six feet. No direct access to the police pound can be gained by persons or vehicles other than through the driveway or area of the premise actually occupied and used by the bidder for a towing and pound operation.
- e) The pound area must be lit at night to allow persons to have a clear view of all vehicles in the pound.
- f) The pound area must be under the protection of a fence alarm or under video surveillance to a monitoring station in the pound office at all times.
- g) The pound office must be accessible to members of the public and staff with disabilities. Not less than one disabled person reserved parking spot must be maintained free of ice and snow at all times. This parking spot must be not less than 300 square feet with a paved asphalt, concrete or interlocking paving stone surface. The office will be accessible to persons requiring assistive devices directly from the parking spot and the gradient must comply with any applicable municipal requirements.
- h) The pound office must be open to members of the public 24 hours per day, 7 days per week, so that members of the public may retrieve vehicles authorized for release by police personnel. Three parking spaces must be kept available for members of the public where on-street parking is not permitted.
- i) The pound surface must be covered with crushed stone, concrete or asphalt. Mud surfaces are not acceptable.
- j) All pounds must have the necessary equipment installed to audio and video record all transactions involving police impounds. Recorded tapes must be retained for 90 days by the operator and shall be surrendered to the Unit Commander, Traffic Services, upon demand.
- k) The pound office must be directly accessible from the street with no gates or fences at the point of pedestrian access. The area must be fully lit and monitored to ensure the safety of all persons.
- l) Subject to the right of a bidder to propose to add, after the date of closing, up to one-third of the pound space required by the Quotation Request, as of the date of closing for the Quotation Request, the existing pound operation must meet the requirements for pounds as identified in items c) and i) in this section, i.e. fencing and surfacing.

As well, the pound office, referred to in various items in this section, must exist, although the specific requirements for the pound office, identified in those items and in Schedule "E" to the Quotation Request, need not be in place as of the aforementioned date of closing.

Despite the foregoing, all the requirements for pounds set out in this section and in Schedule “E” of the Quotation Request, must be met no later than the date of commencement of the contract, currently anticipated to be June 1, 2000. However, as of the date of closing, bidders must provide proof, satisfactory to the Board in its sole discretion, that all the requirements for pounds set out in the Quotation Request will be met as of the date of commencement of the contract. Such proof may be in the form of executed agreements for the supply of the goods and services required for compliance with the pound requirements. All agreements should be binding, subject only to the awarding of the contract contemplated by this Quotation Request.

SPECIAL REQUIREMENTS - DISTRICT 6

The operator must agree to the special conditions governing the Downtown Tow Away Programme as contained in the draft agreement attached as Schedule “J” to this Quotation Request. The boundaries of the designated Downtown Tow Away Programme are: Bloor Street to Front Street, Jarvis Street, to University Avenue/Queen's Park Crescent/Avenue Road. Additional areas within the District are serviced during the rush hour as necessary.

In addition to the Downtown Tow Away Programme pound located at No. 10 York Street, a pound area for contract vehicle impound storage must be provided.(45,000 sq. ft.)

SCHEDULE "B"

SCHEDULE OF CHARGES

The contract for police towing is for the towing of vehicles ordered impounded by members of the Police Service. Towing from collision scenes at the request of the owner of the vehicle is not a police ordered impound.

Bidders are directed to indicate a single flat rate charge for towing. The total bid price will include all costs, including administration costs, relating to the towing, storage, disposal or release of an impounded vehicle. The Board will not consider any bids where the total bid price exceeds \$105.00, exclusive of taxes. No additional fees of any kind are permitted except as noted in the following paragraph.

Fees apply to all police authorized impounds of vehicles with a gross vehicle weight of less than 5000 kg., located within the road allowance or where the tow truck can be driven to the vehicle to be towed. Winching and off-road recovery costs are permitted to be charged in addition to the flat rate.

Company Name _____ Pound Area Bid on _____

TOWING FEE (Standard tow)
(includes dollies, kilometrage, time charges, and all costs of any kind)

\$ _____

STORAGE (per 24 hour period)

(The storage day is 24 hours from the time the vehicle arrives at the pound. A time-clock stamp shall be used to record the time of arrival. Twenty-five per cent (25%) of the 24 hour storage fee is chargeable for each hour of the first 4 hours, which shall include any part of an hour. One hour is payable as soon as the vehicle arrives at the pound. The hourly rate and minimum rate will reapply at the conclusion of each 24 hour period.)

\$ _____

Contract Price for comparison to determine lowest price (not including applicable taxes):

Towing Fee \$ _____

+

Storage Fee \$ _____

=

Total \$ _____ (Record this amount on the Summary Sheet)

RELEASE ON SCENE

50% of Towing Fee \$ _____

(Vehicle must be in the towing position, ready to be lawfully towed. All others will be released to the owner at no charge if claimed before leaving the scene)

With respect to the successful bidder, a copy of this Schedule will be filed with the Toronto Licensing Commission as a separate contract rate card. For the term of the contract, rates for all other services, including towing of vehicles having a gross vehicle weight of more than 5,000 kg., will be those rates filed by the operator with the Toronto Licensing Commission and submitted with this Quotation.

SCHEDULE "C"

TOWING EQUIPMENT

The following chart specifies the minimum number of tow trucks required for each district:

DISTRICT	STANDARD TOW TRUCKS	HEAVY TOW TRUCKS
1	35	2
2	15	1
3	20	2
4	15	1
5	20	1
6	35	2

Towing equipment is to be listed on the following pages.

Attach copies of: provincial registration certificates showing validation, Toronto Licensing Commission licences, vehicle ownerships, lease agreements and lien searches for each truck to be used to service the contract.

DEFINITIONS:

1. **Standard Tow Truck** A standard tow truck will be capable of towing vehicles with a gross vehicle weight of up to 5,000 kg. The truck will be a dual rear wheel configuration on a frame rated at not less than one ton. Modified pickup trucks are not acceptable. Towing equipment will be permanently mounted and capable of performing damage free towing such as wheel-lift or flat bed trucks. The use of slings and other outmoded equipment is prohibited.
2. **Heavy Tow Truck** A heavy duty truck will be capable of towing vehicles having a gross vehicle weight of 15,000 kg. Must also be capable of performing damage free towing with appropriate equipment installed.

TOWING SAFETY REQUIREMENTS:

All tow trucks used to service the contract must be equipped with back-up lights and an audible warning device, which shall at all times be kept in good working order and which, combined with a flashing amber roof light, shall be activated prior to the tow truck commencing a reversing action in order to hook-up to a vehicle that is to be impounded.

Tow booms on tow trucks owned by the operator are to be kept lowered at all times when a tow truck is in motion (including reversing up to a vehicle which is to be impounded) other than when a vehicle has been, or is actually being, hooked-up to a tow truck.

When not in use, dollies are to be affixed to the tow truck in such a manner so as to afford maximum visibility to the rear of the vehicle by the driver of the tow truck.

SCHEDULE "D"

CORPORATE OFFICERS AND DIRECTORS

PLEASE TYPE ALL INFORMATION.

Legal Name of Company _____

Usual Business Name _____

Address _____

Telephone Number _____

CVOR Number _____

Each officer and director of the corporation must be listed and sign this document.

NOTICE

By affixing his/her signature(s) to this document, each officer and director hereby authorizes the Toronto Police Service to make enquiries of all police systems, the Workplace Safety and Insurance Board, the Better Business Bureau, the Credit Bureau, Dunn and Bradstreet, the Toronto Licensing Commission, the Ministry of Consumer and Corporate Relations and any other source deemed appropriate to determine his/her good character, creditworthiness and business history. By affixing his/her signature following his/her name, each person authorizes release of information to the Toronto Police Service upon presentation of a copy of this document. Each individual authorizes the release of personal and financial information to a member of the Toronto Police Service upon presentation of a copy of this document.

Full Name Surname, Given name(s)	Position	Date of Birth YY/MM/DD	Signature

(photocopy additional pages as required)

SCHEDULE "E"

POLICE FACILITIES

The following shall be the minimum facilities provided at the pound for the use of the Toronto Police Service pound officer, such facilities to be maintained to the satisfaction of the Unit Commander, Traffic Services:

1. A separate office or partitioned area of not less than 80 square feet, to which access is restricted to police personnel.
2. A telephone with a separate line capable of calling 411 and long distance.
3. A separate telephone line for computer access.
4. A desk that can be secured.
5. A typewriter.
6. An office chair.
7. A waste paper basket.
8. A six drawer file cabinet which can be secured.
9. Access to a proper washroom.
10. A full length metal locker which can be secured.
11. Access to and the use of a photocopier and fax machine at no cost to the police.

Repair and maintenance of all office furniture and equipment and the cost of the separate telephone lines will be at the expense of the Operator.

All police and public facilities shall be kept clean by the Operator. Walls shall be painted and worn carpets and tiles replaced at the direction of the Unit Commander, Traffic Services.

SCHEDULE "F"

INVOICES FOR POLICE TOWS

Invoice forms shall include the following words printed in sufficient size and located on the invoice forms so as to be boldly visible:

Invoice for Police Contract Tows Only

Contract Rates:

Tow: \$

Storage: \$

Release on Scene: \$

Invoices for non-contract tows shall not contain any reference to the Board or the Toronto Police Service.

All invoice forms shall be approved by the Unit Commander, Traffic Services.

SCHEDULE "G" - (CERTIFICATES OF INSURANCE)

CERTIFICATES OF INSURANCE

- (iii) no Senior Officer of the Operator directly or indirectly controls any other Towing Operator by any means whatsoever;
 - (iv) no individual or partner in a partnership, or Senior Officer in any Corporation, controls the Operator, other than as disclosed herein; and
 - (v) no individual or partner in a partnership, or Senior Officer in any Corporation, has a direct or indirect pecuniary interest in the Operator, other than as disclosed herein.
7. To the best of my knowledge and belief, no individual who directly or indirectly controls or has a direct or indirect pecuniary interest in the Operator is related to any individual who directly or indirectly controls or has a direct or indirect pecuniary interest in another Towing Operator

OR

7. The following individuals who directly or indirectly control or have a direct or indirect pecuniary interest in another Towing Operator are related to an individual who directly or indirectly controls or has a direct or indirect pecuniary interest in the Operator:

each of whom has sworn a statutory declaration in the form set out in the Quotation Request.

8. To the best of my knowledge and belief, no Senior Officer of the Operator, and no corporation affiliated with the Operator or its Senior Officers have any direct or indirect interest in or control over any entity which operates or controls an auto body repair business and no such person will have any direct or indirect interest in or control over any such entity during the term of any agreement between the Operator and the Toronto Police Services Board to provide towing services to the Board.
9. To the best of my knowledge and belief, no Senior Officer of the Operator, and no corporation affiliated with the Operator or its Senior Officers, have any direct or indirect interest in or control over any entity which operates or provides municipal law enforcement services in the City of Toronto and no such person will have any direct or indirect interest in or control over any such entity during the term of any agreement between the Operator and the Toronto Police Services Board to provide towing services to the Board
10. To the best of my knowledge and belief, no Senior Officer of the Operator, and no corporation affiliated with the Operator or its Senior Officers, have any direct or indirect interest in or control over any entity which operates or provides a collision reporting centre in the City of Toronto and no such person will have any direct or indirect interest in or control over any such entity during the term of any agreement between the Operator and the Toronto Police Services Board to provide towing services to the Board.

And I make this solemn Declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at the)
)
 of)
)
 in the)
)
 this day of)
)
 A.D. 2000.)

A Commissioner, etc.

CANADA) IN THE MATTER OF a quotation for
) the operation of vehicle towing and pound
) services under contract with the Toronto
) Police Services Board, dated
) , 2000, made by
PROVINCE OF ONTARIO)
))
))
CITY OF TORONTO) (hereinafter called the "Operator")
))
))

I, _____ of the
of _____ in the
_____, do solemnly declare as follows:

1. That I am _____ (state position or interest in Operator) _____, and as such have knowledge of the matters hereinafter declared to.
2. The Operator has submitted a response to Quotation Request No. _____ of the City of Toronto (the "Quotation Request").
3. In making this declaration, I am incorporating the definitions for "Senior Officer", "control", "Towing Operator", "Principal", "related", "person" and "pecuniary interest", which are set out in the Quotation Request.
4. I am related to the following individuals (state relationship to each) and as a result the Operator and _____ (state name of other Towing Operator) _____ are presumed to be a single bidder pursuant to the terms of the Quotation Request:

Person	Relationship
--------	--------------

5. I rebut the presumption that the Operator and _____ (state name of other Towing Operator) _____ are a single bidder for the following reasons:

6. In particular, the following statements apply in respect of the relationship between the related individuals listed in paragraph 4 and myself:

- (i) we keep confidential from each other all matters pertaining to the preparation and submission of bids, quotations or tenders for the provision of towing services;
- (ii) we keep confidential from each other all proprietary information concerning our respective Towing Operators;
- (iii) we keep confidential from each other all legal advice given to our respective Towing Operators;
- (iv) we keep confidential from each other the financial records of our respective Towing Operators;
- (v) our advisors, including our financial and legal advisors, keep confidential from each other all information concerning our respective Towing Operators;
- (vi) the commercial relationship between our respective Towing Operators is consistent with the competitive business practices amongst other towing operators in our industry; and
- (vii) the revenues from our respective Towing Operators are not in any way commingled or used to subsidize or finance the operations of each other's Towing Operator.

And I make this solemn Declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at the)
)
 of)
 in the)
)
)
 this day of)
)
 A.D. 2000)

A Commissioner, etc.

Schedule "I"

DRAFT

THIS AGREEMENT made in quadruplicate this 1st day of June, 2000

BETWEEN:

(hereinafter referred to as "the Operator")

OF THE FIRST PART

- and -

TORONTO POLICE SERVICES BOARD

(hereinafter referred to as "the Board")

OF THE SECOND PART

WHEREAS the Board, in connection with the discharge of its responsibilities under the *Highway Traffic Act* as amended, and the *Police Services Act*, as amended, (hereinafter referred to as "the Acts") requires a vehicle towing and a pound service to serve the towing district identified in Article 1;

AND WHEREAS the Operator has submitted the Quotation identified in Article 1, which Quotation is by reference incorporated into and made part of this Agreement and forms Appendix "1" to this Agreement;

AND WHEREAS the Board has accepted the said Quotation on the terms and conditions hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that for and in consideration of the premises and of the covenants and agreements hereinafter contained, the parties hereto covenant and agree, each with the other, as follows:

DEFINITIONS

In this Agreement:

- (a) "Deserted Vehicle" means a vehicle that has been left unattended without lawful authority and that appears by reason of its age, appearance, mechanical condition, lack of number plates, or invalid plates, to be deserted;

- (b) "District" means Towing District Number _____;
- (c) "Hook-up or Hooked-up" means the attachment of a Vehicle to a tow truck such that the front or rear of the Vehicle has been raised and the Vehicle is otherwise ready to be towed but is not yet in motion en-route to the Operator's Pound or other authorized place;
- (d) "Private Property" means land used for or in association with private business concerns or for residential purposes;
- (e) "Quarterly Charge" means an amount calculated by the Board in each quarter of the Term by:
 - (i) dividing the amount of \$116,289.00 by the total number of towed Vehicles released in such quarter of the Term to persons claiming such Vehicles by all towing and pound services operators under contract with the Board, which includes vehicles released on scene; and
 - (ii) multiplying the figure obtained by the calculation identified in (i) by the number of Vehicles towed and released by the Operator in the District in such quarter of the term;
- (f) "Quotation" means Quotation Sheet No. _____;
- (g) "Release Fee" means the fee so specified in Schedule "B" of the Quotation;
- (h) "Service" means the Toronto Police Service;
- (i) "Term" means the period from June 1, 2000 up to and including May 31, 2003;
- (j) "Towing" shall be deemed to have occurred once a Vehicle which has been Hooked-up is in motion en-route to the Operator's Pound or other place designated by a police officer or other member of the Service;
- (k) "Unit Commander" means the Unit Commander of the Traffic Services Unit of the Service or his or her representatives; and
- (l) "Vehicle" shall include trailers and motor vehicles or any parts thereof.

OPERATOR'S SERVICES AND PAYMENT

2. The Operator will provide for the use of the Service, at no cost to the Board, during the Term or any permitted extension thereof, and in accordance with the requirements of the Quotation, the following:

- (a) a Vehicle pound within the District (herein referred to as the "Operator's Pound") to be situated at the location described on the appropriate Schedule of the Quotation, with the portion so designated on the said Schedule to be used exclusively for the storage of Vehicles caused to be moved or taken thereto by a police officer or other member of the Service; and
 - (b) a towing service to tow Vehicles, including Deserted Vehicles, to the Operator's Pound or to such other place which a police officer or other member of the Service may order from within the District, including from Private Property and including any and all other services (including snow and ice removal) required to effect the said towing service (the "District Towing Service").
- 3. The Operator's Pound and the District Towing Service shall be available to the Service on a twenty-four (24) hour, seven (7) day a week basis and the Operator shall provide sufficient staff at its own expense at the Operator's Pound to permit the towing, storage and removal of Vehicles at all times.
- 4. The Operator shall maintain a reasonable response time to calls for service, consistent with weather, traffic conditions, and the size of the District, and shall have available such minimum number of tow trucks as may be required to maintain such reasonable response time, or as may be directed from time to time by the Unit Commander.
- 5. No Vehicle shall be released from the Operator's Pound without the direction in writing of a responsible member of the Service authorized to so release the Vehicle.
- 6. Subject to the right of termination and extension as provided for in this Agreement, the Operator shall have the exclusive right, during the Term, to provide the services described in this Agreement.
- 7. The Operator shall remit to the Board the Quarterly Charge and any applicable taxes on such charge within thirty (30) days of the date of an invoice submitted by the Board to the Operator following each quarter of the Term or any extension thereof. The obligation to remit the Quarterly Charge shall survive the termination of the Agreement or any extension thereof.
- 8. If the Operator fails to remit the Quarterly Charge in accordance with section 7, such unpaid amount(s) will bear interest at the rate of interest charged by the Royal Bank of Canada from time to time at Toronto for loans in Canadian Dollars to prime commercial borrower plus two per cent (2%) calculated and compounded monthly from the due date to the date of full payment.

ADVERTISING AND INFORMATION

9. The prior written approval of the Unit Commander shall be obtained for any wording or advertising appearing on any equipment, facilities or in any other form concerning the Agreement having been entered into between the Operator and the Board.
10. The Operator shall display the following message on each front door of each tow truck utilized by the Operator in fulfilling this Agreement, in letters of at least 3 cm in height, and in such a manner as to promote easy visibility:

Release Fee may apply. Request rate card for rate information.

11. Subject to Articles 9 and 10, the Operator shall not in or on any truck, vehicle or other equipment used for the purposes of this Agreement, or in any advertising material connected with the operation of the pound and towing service, use any wording, lettering or colour scheme which is designed to convey to the public, or may have the effect of conveying to the public, the impression that the pound and towing service is identified as a part of, or is a division of or in any way associated with the Service or the Board.
12. Without limiting the generality of Article 11, the Operator shall not refer to the Service or the Board on any invoices utilized by the Operator and shall take all reasonable precautions to ensure that no member of the public is led to believe that a Vehicle was towed and stored pursuant to this Agreement when such is not the case.
13. The Operator must prominently display signage at the Operator's Pound that clearly indicates the towing and storage rates for Vehicles other than those towed or stored pursuant to this Agreement.

FEES AND RATES

14. The Operator may charge the owners of Vehicles for the provision of towing and related services, including Release Fee, storage and other allowable charges, amounts not exceeding the rates identified in Schedule "B" of the Quotation, and such rates are to be posted on a notice located in a conspicuous place in the Pound visible to said owners, such notice indicating that the said charges have been registered with the Board. No other charges of any sort except those identified in Schedule "B" are permitted.
15. The Operator shall not charge any fee other than a Release Fee in circumstances where the owner or person responsible for a Hooked-up Vehicle arrives at the Vehicle prior to Towing and pays the Release Fee.
16. Where the Vehicle towed (or if not yet towed, Hooked-up) has a gross vehicle weight of greater than 5,000 kilograms, the Operator may charge the owner of such Vehicle for the services necessarily provided, in accordance with the rates filed by the Operator with the Toronto Licensing Commission as of the date the Quotation was submitted to the Board, which rates form part of the said Quotation attached to this Agreement. The Operator shall

not charge a fee for hooking-up the Vehicle once a towing fee becomes applicable.

17. The Operator shall, upon the direction of a police officer or other member of the Service, attend on Private Property for the purpose of towing Vehicles, including Deserted Vehicles, to the Operator's Pound, provided that the owner or manager of the Private Property first agrees to pay to the Operator the amounts set out in Schedule "B" of the Quotation respecting Towing charges.
18. The Operator shall only charge for its services in accordance with the rates set out in Schedule "B" of the Quotation, and shall collect all charges prior to releasing any Vehicle. The Operator shall provide in each truck, a plasticized rate card in the form described in the said Schedule "B", and shall display such card to every owner or person responsible for a Vehicle who arrives at said Vehicle prior to it being towed. The card must clearly set out the following words:

The Operator may charge the Release Fee plus any applicable federal or provincial taxes on the service provided, but may charge no other fee, for any Vehicle which has been raised into towing position and is otherwise ready to be towed. The Operator must release the Vehicle upon payment of the Release Fee.

19. The Board, its agents, employees and members of the Service, shall not be responsible for or liable to pay any charges for services rendered pursuant to this Agreement.

PROBLEM RESOLUTION

20. If requested by the Unit Commander from time to time, a representative of the Operator shall attend a meeting convened by the Unit Commander for the purpose of attempting to resolve any problem identified by the Unit Commander with respect to the operation of the towing and pound service or the administration of this Agreement, and the Operator shall, in good faith, cooperate with the Unit Commander in attempting to achieve such resolution.
21. The Unit Commander is not required to undertake the problem resolution process identified in Article 20 prior to the Board initiating the process for termination of the Agreement set out in Article 22.

TERMINATION

22. If at any time during the Term of this Agreement, or any extension thereof, the Operator fails to operate the towing and pound service and maintain the appurtenant facilities or any of them in a manner satisfactory to the Unit Commander or the Board, or breaches this Agreement in any manner whatsoever irrespective of the magnitude of the breach, the Board may, in its sole discretion, terminate this Agreement by giving to the Operator seven (7) days' notice in writing of such termination.

23. Upon the termination of this Agreement, whether by the passage of time or otherwise, all Vehicles then at the Operator's Pound shall continue to be the responsibility of the Operator, provided that Article 5 hereof shall continue to apply to all such Vehicles notwithstanding anything to the contrary contained in this Agreement.

INSURANCE AND INDEMNITY

24. The Operator shall obtain, at its own expense, insurance policies in form, content and amount satisfactory to the Board and the City of Toronto and through an insurer licensed to sell insurance in the Province of Ontario.

25. Without limiting the generality of Article 24, the Operator shall obtain:

- (a) in the name of the Operator, a Standard Garage Automobile Policy (S.P.F. No. 4) with a section "A" Limit of Liability of not less than \$2,000,000.00 per accident covering all vehicles utilized by the Operator in fulfilling this contract. The Policy shall cover section "E", subsection "1" for a minimum of \$50,000.00 per customer's automobile and shall be endorsed to cover Legal Liability for Comprehensive Damage to Customers' Automobiles - including Open Lot Pilferage (S.E.F.No.77). The Endorsement shall specify the minimum capacity as outlined in the appropriate Schedule of the Quotation, attached to this Agreement, and shall provide a section "E" subsection "2" Limit of Liability of not less than \$500,000.00 per occurrence.
- (b) in the name of the Board and the City of Toronto, a Non-Owned Auto Policy (S.P.F. No. 6) with a Limit of Liability of not less than \$2,000,000.00 per occurrence covering legal liability for bodily injury, death or property damage arising out of the use or operation on behalf of the Board and/or the City of Toronto of any of the vehicles utilized by the Operator in fulfilling the Agreement; and
- (c) in the name of the Operator, a liability policy with a Limit of Liability of not less than \$2,000,000.00 per occurrence covering claims for bodily injury, death, personal injury or property damage from others arising out of the Operator's premises and operations and shall state that the policy is primary before any other insurance or self-insurance available to the Board or the City of Toronto. The policy shall contain a cross-liability clause of standard wording.

26. An insurance certificate in the form set out in Schedule "G" of the Quotation, and any other evidence requested by the Unit Commander that the aforementioned policies are in full force and effect, shall be provided to the Board and the City of Toronto upon inception of this Agreement and at any time during the term of this Agreement, upon written request of the Unit Commander. The certificate of insurance shall also provide for not less than thirty days prior written notice to the Board and the City of Toronto by the insurer in the event of cancellation or material change in coverage.

27. The Operator will, from time to time and at all times hereafter, well and truly save, defend and keep harmless and fully indemnify the Board and the City of Toronto and each of its officers, employees and agents and members of the Service of, from and against all actions, suits, claims, executions and demands which may be brought against or made upon them or their officers, employees, and agents, and members of the Service, or any of them, save and except any action or claim for wrongful or unlawful seizure of any Vehicle arising out of an order by a member of the Service for the removal and storage of such Vehicle pursuant to the Acts, and of, from and against all costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Board or the City of Toronto, their officers, employees and agents and members of the Service or any of them by reason of or on account of the Operator's provision of the services under this Agreement, including the provision of services through independent contractors.

CONDITION OF EQUIPMENT AND FACILITIES AND CONDUCT OF PERSONNEL

28. The Operator warrants and represents that it has available, and will keep and maintain in good working condition and make available for the purposes of carrying out the provisions of this Agreement, the towing and other equipment identified in Schedule "C" of the Quotation and the pound and pound capacity identified in Schedule "A" of the Quotation, and agrees to maintain such pound and towing and other equipment in a clean and tidy condition to the satisfaction of the Unit Commander.

29. The Operator, its employees and agents shall at all times conduct themselves in a professional and courteous manner, and without limiting the generality of the foregoing, shall keep all trucks, personnel, facilities and premises utilized in furtherance of this Agreement in a clean and tidy condition.

30. The Operator shall ensure that none of its employees or agents wears any form of clothing, uniform or accessories that suggest that such employees or agents represent or are affiliated with the Service.

31. The Operator shall maintain all trucks, vehicles and other equipment and facilities used for the purpose of this Agreement in such condition so as to comply with all standards for operation set out in the *Highway Traffic Act*, as amended, and all by-laws of the City of Toronto. If at any time the Unit Commander, in his or her sole discretion, determines that the said standards have been violated, the Unit Commander may, by written notice to the Operator, direct that the condition of said trucks, vehicles and other equipment and facilities be altered so as to comply with the said Act and by-laws, and the Operator shall comply with such direction.

32. The Unit Commander may conduct inspections of the Operator's facilities at the Operator's Pound at any time without notice.

USE OF COMPUTER

33. The Operator shall use the computer system supplied by the Board for the purposes of this Agreement and shall, at its own expense, make such alterations to the Operator's Pound and supply such utilities as are required to install and use such computer system.
34. Members of the Service will train staff at the Operator's Pound in the use of the computer system, at no cost to the Operator, provided that any of the Operator's staff's access to such computer system shall be approved by the Unit Commander.
35. The Operator shall ensure that the arrival to, and release from, the Operator's Pound of all Vehicles towed and stored pursuant to this Agreement shall be recorded forthwith on the computer system and in written form, both upon such arrival and release.

INVOICES

36. The Operator shall, upon the release of any Vehicle, give to the owner thereof or his or her agent an invoice itemizing each service provided and the cost thereof, and agrees to abide by such procedures as may be determined by the Unit Commander from time to time relating to bookkeeping, accounting, and retention and inspection of records with respect to all transactions covered by this Agreement.
37. Invoice forms for tows conducted pursuant to this Agreement shall be light blue in colour to distinguish them from any other invoice forms used by the Operator. The invoices shall comply with the requirements set out in Schedule "F" of the Quotation.
38. The Operator shall, upon payment of a Release Fee and the release of any Vehicle, give to the owner thereof or his agent, an invoice setting forth the Release Fee and any applicable federal or provincial taxes.

STATUS OF OPERATOR

39. The Operator covenants that there is no relationship between the Operator and any other towing operator currently under contract to the Board for the provision of towing and pound services to such an extent as would have prevented, under the terms of the Quotation, both the Operator and the other towing operator in the opinion of the Board from being awarded contracts at the time such contracts were awarded, and the Operator acknowledges that if, in the opinion of the Unit Commander or the Board, there should develop a relationship between the Operator and another towing operator under contract to the Board of a type that would have prevented both the Operator and the other towing operator, under the provisions of the Quotation, from each being awarded contracts, the Board has the absolute discretion to terminate this Agreement in accordance with the provisions of Article 22 hereof.

40. It is acknowledged and agreed that the relationship between the parties is based upon a special trust and confidence reposed by the Board in the Operator personally. The Operator shall not assign or transfer its interest in this Agreement without the prior written consent of the Board, and the Board may refuse its consent without giving reasons; provided further that if the Operator is a partnership or a corporation there shall be no further sale, issue or transfer of shares, nor change in control, directorship, officers or beneficial interest in the said partnership or corporation without the prior written consent of the Board and the Board may refuse its consent without giving reasons. Where the Board has approved a change in the officers or directors of the Operator, the Operator shall submit an amended Schedule "D" to the Quotation, upon which is to be recorded an up-to-date list of all officers and directors. Should the Unit Commander or the Board, in their sole discretion, decide that there has been a violation of this Article, the Board may terminate this Agreement in accordance with the provisions of Article 22 hereof.

NOTICE

41. Any notice required or allowed to be given hereunder shall be good and sufficiently given to the other party if delivered in person or mailed by prepaid registered post addressed as follows:

(a) in the case of notice to the Operator, to

or by personal delivery to the Operator, any of its servants, employees or agents at the Operator's Pound or left at the Operator's last known address;

(b) in the case of notice to the Board, to

Toronto Police Services Board
40 College Street
Toronto, Ontario
M5G 2J3

Attention: Executive Director

or to such other address as either party may notify the other in writing, and in the case of mailing as aforesaid, and in the absence of a major interruption in postal service affecting the handling/delivery thereof, any such notice shall be deemed to have been received on the fourth business day next following such mailing.

CHANGE OF POUND LOCATION

42. The Operator shall provide ninety (90) days' advance notice in writing to the Unit Commander of its intention to change the location of the Operator's Pound, which change in location shall only be permitted upon approval of the Board.

OTHER COVENANTS

43. The Operator further covenants and agrees as follows:

- (a) the Operator shall not demand or receive payment in advance for any service provided hereunder, except as provided for in this Agreement;
- (b) the Operator shall only use the equipment necessary for towing the Vehicle in question, and shall charge therefor only in accordance with this Agreement;
- (c) the Operator will provide, in each tow truck and at the Operator's Pound, facilities to permit members of the public to pay for services rendered by "Master Card", "Visa" and "American Express" credit card; and
- (d) the Operator will provide, in each tow truck and at the Operator's Pound, facilities to permit members of the public to pay for services rendered in U.S. dollars, at an exchange rate commensurate with the exchange rates then in effect at commercial institutions in the City of Toronto.

COMPLIANCE WITH LAWS

44. This Agreement is expressly made subject to all laws, statutes and regulations of Canada and the Province of Ontario and all by-laws of the City of Toronto. The Operator hereby expressly acknowledges that Schedule 37 of By-law No. 20-85 of the former Municipality of Metropolitan Toronto, as amended, or any successor by-law respecting licensing requirements as they relate to the owners and drivers of tow trucks, may be amended from time to time. The Operator further acknowledges that the said by-law(s) may be amended so as to set rates for the provision of towing services in the City of Toronto, in which case the Operator will be abide by such rates, if required, notwithstanding anything in this Agreement.

45. In providing the services under this Agreement, the Operator shall comply with all applicable laws, statutes and regulations of Canada and the Province of Ontario and all applicable by-laws of the City of Toronto. Without limiting the generality of the foregoing, throughout the Term and any extensions thereof, the Operator shall maintain a record in good standing with the Toronto Licensing Commission and will pay all federal, provincial and municipal taxes and assessments on a timely basis, as required.

ACCESSIBILITY OF POUND

46. The Operator shall ensure that the pound office is accessible by wheelchair, and where trailers are used to house such offices, the Operator shall be required to provide a ramp with railings to permit access. The Operator shall further be required to provide all reasonable assistance to disabled persons whose Vehicles have been impounded hereunder.

SUB-CONTRACTING

47. Subject to Article 48, all Vehicles, equipment and facilities that are used for providing the services, must be owned, leased or otherwise held in the name of the Operator, and the Operator shall supply copies to the Unit Commander and the Board of all agreements and other documentation relating to the ownership, leasing or holding of such Vehicles, equipment and facilities when requested so to do.
48. In circumstances where the Operator's own equipment and vehicles are insufficient to meet the towing needs arising under special circumstances, such as special events or emergencies, the Operator shall be permitted to obtain assistance from other towing operators, provided that:
- (a) the other towing operator is also under contract with the Board for the provision of towing and pound services;
 - (b) only the charges set out in Schedule "B" of the Quotation are charged;
 - (c) each tow truck shall contain the appropriate rate card for the District; and
 - (d) Vehicles may only be towed to the Operator's Pound, unless otherwise directed by a police officer or other member of the Service in accordance with Article 2(b) hereof.
49. Provided the Operator complies with Article 47, the Operator may utilize the services of independent contractors to perform any portion of the services to be provided under this Agreement.
50. The Operator shall be solely responsible for payment of any independent contractor employed, engaged or retained by it for the purpose of discharging its obligations under this Agreement and the Operator shall be solely liable for any costs or damages arising from acts or omissions of any such independent contractors.
51. The Operator shall ensure that any independent contractor utilized by the Operator for the purpose of this Agreement complies fully with all applicable requirements of this Agreement with respect to the provision of towing and pound services. The failure of any independent contractor to comply with any such requirements may constitute a basis for termination of this Agreement as if the failure were that of the Operator itself.

TOWING GUIDELINES

52. Should the Service at any time adopt towing guidelines governing any aspects of the service provided by the Operator hereunder, including, but not limited to, speed, parking, stopping and conduct, the Operator agrees to distribute and review such guidelines with its personnel and to obtain an "Acceptance and Understood" form, in the form supplied by the Unit Commander, from its personnel, which forms, once completed, shall be filed with the pound officer.

POUND OFFICE

53. The Operator shall provide and maintain for the use of the Service, at no cost to the Board, a fully equipped office at the pound, and, without restricting the generality of the foregoing, provide and maintain the equipment and facilities as described in Schedule "E" of the Quotation.

OPERATOR'S LIENS

54. No Vehicles impounded pursuant to this Agreement shall be disposed of by the Operator, except in accordance with the *Repair and Storage Liens Act* and/or the *Police Services Act*, or any successor legislation thereto, and no public sale may take place without 15 days' notice in writing to the Unit Commander of the Operator's intention to hold such public sale. The Operator shall, at its own expense, conduct searches for existing liens or security registered against Vehicles intended to be sold and deliver all notices as required to be given by the *Repair and Storage Liens Act* or any successor legislation thereto.

FINANCIAL SOLVENCY

55. During the Term of this Agreement or any extension thereof, the Operator shall notify the Unit Commander forthwith of the occurrence of any of the following events:

- (a) the bankruptcy or insolvency of the Operator; the filing against the Operator of a petition in bankruptcy; the making of an authorized assignment or proposal for the benefit of creditors by the Operator; the appointment of a receiver or trustee for the Operator or for any assets of the Operator; or the institution by or against the Operator of any other type of insolvency proceeding under the *Bankruptcy Act* or otherwise;
- (b) the institution by or against the Operator of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of the Operator;
- (c) if the Operator ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with applicable law or commits or threatens to commit an act of bankruptcy;

- (d) if any execution, sequestration, extent or other process of any court becomes enforceable against the Operator or if a distress or analogous process is levied upon the assets of the Operator or any part thereof.

56. During the Term of this Agreement or any extension thereof, the Operator shall annually provide the Unit Commander with a statutory declaration, in a form acceptable to the Unit Commander, declared by a chartered accountant and attesting to the review of the financial books and records of the Operator and the financial solvency of the Operator.

57. The Board may terminate this Agreement in accordance with the provisions of section 22 if, in its sole discretion, it is of the opinion that the Operator is, or may become, financially insolvent, or that any of the events identified in Article 55 has occurred or is likely to occur.

EXTENSION OF AGREEMENT

58. The Board may at its sole option extend the Term of this Agreement for a maximum of one year from the date fixed for completion in Article 1(i) hereof.

GENERAL

59. The Board may grant any such extension of time under this Agreement, as it may in its sole discretion deem warranted, which extension shall not be deemed to be a waiver of any of its rights hereunder.

60. No condonation, excusing or overlooking by the Board of any default, breach or non-observance of any of the Operator's obligations under this Agreement at any time or times shall affect the Board's remedies with respect to any subsequent (even if by way of continuation) default or breach.

61. No waiver shall be inferred from or implied by anything done or omitted to be done by the Board.

62. This Agreement and everything contained herein, shall be binding upon and enure to the benefit of the Board and the Operator, and their respective heirs, successors, executors, administrators and assigns.

63. The parties covenant and agree that the provisions and schedules contained in the Quotation shall be construed as forming part of the Agreement, provided that if there is a conflict between the Quotation and this Agreement, the provisions contained in this Agreement shall prevail.

64. The provisions of Articles 7, 8, 23 and 27 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested to by the hands of their respective officers duly authorized in that behalf.

SIGNED, SEALED & DELIVERED

) **TORONTO POLICE SERVICES BOARD**
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) Chair c/s
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) **(OPERATOR)**
) Per:
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) Per:
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) c/s

DATED this 1st day of June, 2000

- and -

TORONTO POLICE SERVICES BOARD

AGREEMENT
No. District,

H.W.O. Doyle
City Solicitor
Station 1260, 26th Floor
Metro Hall, 55 John Street
Toronto, Ontario M5V 3C6
Attn: Karl Druckman

Schedule "J"

DRAFT AGREEMENT

THIS AGREEMENT made in quadruplicate this 1st day of June, 2000

B E T W E E N:

(hereinafter referred to as "the Operator")

OF THE FIRST PART

- and -

TORONTO POLICE SERVICES BOARD

(hereinafter referred to as "the Board")

OF THE SECOND PART

WHEREAS the Board, in connection with the discharge of its responsibilities under the *Highway Traffic Act*, as amended, and the *Police Services Act*, as amended, (the "Acts") has established a vehicle pound on premises owned by the City of Toronto on the west side of York Street, south of Lake Shore Boulevard West, known municipally as No. 10 York Street, Toronto (the "Pound"), in conjunction with the institution of its Downtown Tow-Away Programme (the "Programme") in the area presently bounded by Bloor Street/Davenport Road, Church Street, Jarvis Street, Front Street, University Avenue/Queen's Park Crescent/Avenue Road and Dundas Street between University Avenue and Spadina Avenue;

AND WHEREAS the Operator has agreed to provide certain services to the Board in conjunction with the Programme on the terms and conditions hereinafter set forth;

AND WHEREAS by virtue of an agreement of even date herewith (hereinafter referred to as "the District Pound Agreement") the Operator has agreed to provide and operate a vehicle towing and pound service to service Police Towing District No. 6;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that for and in consideration of the premises and of the covenants and agreements hereinafter contained, the parties hereto covenant and agree, each with the other, as follows:

1. (1) The Operator will provide for the use of the Toronto Police Service (the "Service"), at no cost to the Board for the period from June 1, 2000 up to and including May 31, 2003, or any extensions thereof, in connection with the operation of the Programme:
 - (a) staffing and supervision of the Pound, (including staffing of the Pound office by at least two employees of the Operator, who shall be available to serve the public), on a 17-hour-a-day basis from 7:00 a.m. to 12:00 midnight, Monday to Friday of each week, and as may be directed by the Unit Commander of the Traffic Services Unit of the Service (the "Unit Commander") on Saturday and Sunday of each week;
 - (b) at the times listed below, at least the number of tow trucks identified, opposite the listed time, capable of towing vehicles with a maximum gross vehicle weight of at least 5000 kilograms, and at least one of such type of truck at all other times:

(i) 7:30 a.m. to 9:30 a.m.	FOUR (4) tow trucks
(ii) 11:30 a.m. to 1:30 p.m.	TEN (10) tow trucks
(iii) 3:30 p.m. to 6:30 p.m.	SIXTEEN (16) tow trucks;
 - (c) at least one heavy-duty tow truck capable of towing vehicles with a maximum gross vehicle weight of at least 15,000 kilograms, available at all times;
 - (d) such further or additional tow trucks as may, in the opinion of the Unit Commander, be required from time to time;
 - (e) maintenance of a record of all vehicles towed and stored under the Programme, on the same basis as provided by the Operator to the Board under the District Pound Agreement;
 - (f) a trailer of a minimum size of sixty feet by twelve feet to house the Pound office, with adequate counter space and seating for the public, and including telephone, utilities, heating and heated toilet facilities;
 - (g) facilities in each tow truck and at the Pound to permit members of the public to pay for services rendered by either "American Express", "Master Card" or "Visa" credit card; and
 - (h) facilities in each tow truck and at the Pound to permit payment for services rendered in U.S. dollars, at an exchange rate commensurate with the exchange rates then in effect at commercial institutions in the City of Toronto;
- (2) The Operator further agrees as follows:

- (a) during the period when the Pound is not being staffed and supervised by the Operator in accordance with subclause 1(1)(a) above, to remove vehicles therein to the Operator's pound identified in the District Pound Agreement, which shall be open at all times, so that no unsupervised vehicles are left at the Pound at any time;
 - (b) to collect all towing and storage charges for services rendered prior to releasing any vehicles impounded under the Programme, the said charges and release procedures to be the same as those established under the District Pound Agreement;
 - (c) to pay all hydro charges associated with the Pound; and
 - (d) to maintain and repair the Pound at its own expense and on its own initiative or, if necessary, upon demand by the Unit Commander or the Board, except for repair or replacement of the pavement.
2. (1) The Operator shall obtain, at its own expense, insurance policies in form, content and amount satisfactory to the Board and the City of Toronto through an insurer licensed to sell insurance in the province of Ontario.
- (2) Without limiting the generality of the foregoing, the Operator shall obtain:
- (a) in the name of the Operator, a Standard Garage Automobile Policy (S.P.F. No. 4) with a section "A" Limit of Liability of not less than \$2,000,000.00 per accident covering all vehicles utilized by the Operator in fulfilling this contract. The Policy shall cover section "E" subsection "1" for a minimum of \$50,000.00 per customer's automobile and shall be endorsed to cover Legal Liability for Comprehensive Damage to Customers' Automobiles - including Open Lot Pilferage (S.E.F. No. 77). The Endorsement shall specify the minimum capacity of the Pound and shall provide a section "E" subsection "2" Limit of Liability of not less than \$500,000 per occurrence;
 - (b) in the name of the Board and the City of Toronto, a Non-Owned Auto Policy (S.P.F. No. 6) with a Limit of Liability of not less than \$2,000,000.00 per occurrence covering legal liability for bodily injury, death or property damage arising out of the use or operation on behalf of the Board and/or the City of Toronto of any of the vehicles utilized by the Operator in fulfilling the Agreement; and
 - (c) in the name of the Operator a liability policy with a Limit of Liability of not less than \$2,000,000.00 per occurrence covering claims for bodily injury, death, personal injury or property damage from others arising out of the Operator's premises and operations and shall state that the policy is primary before any other insurance or self-insurance available to the Board or the City of Toronto. The Policy shall contain a cross-liability clause of standard wording.

- (3) An insurance certificate in the form required by the District Pound Agreement, and any other evidence requested by the Unit Commander that the aforementioned policies are in full force and effect, shall be provided to the Board and the City of Toronto upon inception of this Agreement, and at any time during the term of this Agreement upon written request of the Board or the City of Toronto. Such evidence of insurance shall also provide for not less than thirty days prior written notice to the Board and the City of Toronto by the insurer in the event of cancellation or material change in coverage.
3.
 - (1) The Operator shall pay and discharge, on or before the due date, any and all business taxes levied, assessed or arising out of its operations hereunder.
 - (2) The Operator shall pay any and all amounts for realty and local improvement taxes for, or in respect of, the Pound premises levied or assessed during, or referable to, the term hereof, such amounts to be paid upon being invoiced therefor by the City of Toronto.
4. It is understood and agreed that the boundaries of the Programme as set out in the first Recital hereof may be amended from time to time.
5. Except where inconsistent with the terms herein contained, the terms, conditions and covenants set out in the District Pound Agreement shall apply to this agreement mutatis mutandis and, without restricting the generality of the foregoing, shall apply to the Operator's use and responsibility for the Pound and its appurtenant facilities.
6. It is understood and agreed that the Operator is providing the services hereunder to assist the Board in the implementation of the Programme and that the provision of such services is not and shall not be deemed to be occupancy of the said Pound by the Operator.
7. This Agreement and everything contained herein shall be binding upon and inure to the benefit of the Board and the Operator, and their respective heirs, successors, executors, administrators and assigns.

IN WITNESS WHEREOF the Board and the Operator have hereunto affixed their respective corporate seals attested to by the hands of their respective proper officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED

) **TORONTO POLICE SERVICES BOARD**

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) Chair

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) **(OPERATOR)**

) Per:

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Copy of the report, dated December 29, 2003, from Julian Fantino, Chief of Police:

Subject: AWARDING POLICE TOWING CONTRACTS

Recommendation:

It is recommended that the Board approve the recommendations contained in the report entitled Police Towing Contracts 2004-2007, dated November 7, 2003, submitted separately.

Background:

At its December 11, 2003 meeting, the Board requested that I review options with a view to creating a more competitive bidding process with respect to the awarding of towing and pound storage contracts within the City of Toronto (Board Minute P341/03 refers). The Board requested a report on the feasibility of increasing the number of contracts awarded in each towing district from the current practice of one contract per district, to two contracts per district, as well as the feasibility of awarding more than one contract to an operator.

Further, at the December meeting, the Board requested a copy of the minutes of the Board awarding the Towing and Pound Services Contract for the year 2000. Appended to this report is a copy of Board Minute #226/2000 (Appendix A refers).

Traditionally, any successful bid has required any new tendering company to prepare in order to position itself to be able to meet the quotation requirements and mount a competitive bid. In consultation with past contract holders, they have indicated the police contract consists of approximately 20 to 45% of their total business. Due to the fact that it takes a long period of time for any company to prepare itself to bid, it is unlikely that any significant change made at this time in the current process will result in any further bids being tendered, unless the intended start date of June 1, 2004 is extended.

Currently, there are very few large tow companies in the City of Toronto that can prepare a bid that would meet the requirements of the bidding process. Each time the tow contract is tendered there have traditionally been between seven to ten bids submitted.

The terms and conditions of the request for quotation are reviewed at the outset of each bidding process by staff from the Toronto Police Service, and the legal, auditing and purchasing divisions of the City of Toronto. To ensure the Service receives prompt and efficient towing and storage services on a 24 hours a day, 7 days a week basis at a reasonable cost to the public, contract holders must meet certain minimum standards. The ability to meet those standards require a considerable capital investment on behalf of the operator and, historically, has led to only well established and financially secure companies being in a position to tender a bid. Some of those requirements include:

- Sufficient tow vehicles either owned or leased by the operator for the duration of the contract, available to provide towing services 24 hours a day, 365 days a year within the awarded district. The number of vehicles required in each towing district is based upon the ordinary volume of daily towing an operator is reasonably expected to provide. The minimum number of trucks currently required, ranges from 15 in smaller districts to 35 in the larger districts; and
- A fully fenced and secure pound area, the size of which is based upon the ordinary volume of daily storage as well as the expected volume of extended storage. Currently, the maximum pound size required is 105,000 square feet. The operator must either own the property outright or be in possession of a lease that provides an unobstructed and exclusive right to occupy the property for the purpose of operating a pound, meeting all municipal zoning requirements for the duration of the contract, including the optional renewal year; and
- The pound property must contain a permanent structure of specific dimensions within the secure area to accommodate a customer service area and an area for the establishment of a police administrative office, as well as a video system or fence alarm that continually monitors the vehicle storage area and a video system that monitors the customer service area; and
- The operator must own or lease for the duration of the contract, a tow vehicle capable of towing heavy vehicles on a 24 hour a day, 7 day a week basis. The purchase price for a heavy tow vehicle currently ranges from \$350,000 to \$500,000; and
- The operator must maintain staffing for the customer service reception area on a 24 hour a day, 7 days a week basis.

These requirements have been developed over the years to ensure that towing operators provide high quality and efficient service to both the Service and the public. The Service requests towing and pound storage services for approximately 70,000 vehicles annually.

Historically, changes to the terms and conditions of both awarded contracts and future quotation requests have taken into consideration:

- The best interests of the Service, to ensure that effective towing and storage services are not compromised and there is continuity and no interruption in services;
- The public interest, to ensure reasonable costs on a level reasonably consistent with the price of towing and pound services provided other than under the police towing contracts and in other jurisdictions; and
- The tow operator, to ensure compliance with the terms and conditions of the contract.

Since the early 1990's each award of contracts by the Toronto Police Services Board has resulted in at least one tow operator change. It is not the same tow companies being awarded the contracts every time. It is significant to note that in the last award of towing contracts in 2000, only two of the six successful bidders were under contract to the Board fifteen years earlier.

Options for Consideration and Discussion

Further Reducing the Assets Required for Placing a Bid

In an effort to attract additional bidders for the year 2000 quotation request process, the Board approved a recommendation reducing to two-thirds the required land, tow vehicles, security equipment and other equipment required to be in the possession of the bidder on the date of bids closing. The bidder would only have to obtain the remaining one third of the land and equipment if it was awarded a contract, and have the outstanding assets in place as of the date the contract commences.

This reduction in closing date requirements was made to assist smaller operators that may not have met the full requirements of the quotation request at closing from having to make large additional capital expenditure without the benefit of knowing that they had been awarded a police towing contract. This was designed to assist smaller operators to mount bids that might be competitive with larger, better-established operators that were already in possession of the required facilities and equipment.

While this decision was financially beneficial to potential bidders, it resulted in an inherent risk to the Service should an operator be unable to fulfil its obligations by the contract commencement date. As there are only a limited number of tow companies with the resources available to meet the bidding requirements, it is uncertain whether the Board's decision encouraged more companies to consider submitting a bid. The last quotation request process in 2000 attracted a total of nine bidders for six identified districts, which appeared to be a fair representation of the number of companies capable of meeting the bidding requirements at that time. From a risk management perspective, a further reduction of the required asset commitment in an effort to attract additional bidders would not be favourable to the needs of the Service. The possibility of an operator failing to meet the contract standards and, therefore, being unable to provide towing or storage services upon commencement of an awarded contract greatly increases.

Increasing the Number of Districts

The Board has the authority to increase the total number of towing districts. In theory, this would allow for more towing and storage service operators provided that enough companies exist with the resources to meet the terms and conditions requirements. Should the Board decide to increase the number of districts to attempt to accommodate more operators, the Service would be obligated to increase its current level of administrative support for the towing and pound services operations. Additional Service staff would be required to complete audits and daily pound inspections to ensure compliance with the terms and conditions of the contract. Additional vehicles and computer equipment would also be required to ensure efficient

administration of each pound location. The cost of additional administrative support would affect the Service's operational budget and will require an increase in the Service's authorized strength or a redeployment of Service staff. Although these administrative costs are ultimately passed on to the operators under the provisions of the cost recovery clause of the contract, subject to the price cap on bids, it may also be passed on to the public through increased towing costs.

Permitting More than One Operator in Each District

Historically, the towing and pound storage contracts have been awarded to only one operator in each district. In the early 1990's, the Service conducted a review of the towing and storage contracts. In 1991, the Board established a committee to review the towing specifications with the intent of making the process more competitive. The review was to include public consultation and examine options for smaller contract areas. The results of that report (Board Minute #4/94 refers) indicated there was no justification for splitting the districts due to operating costs increases.

To divide the districts to permit more than one operator would not be in the best interest of the operator, particularly in the outlying districts where there are considerably fewer tows than the downtown core. Also it would not be in the best interests of the Service in light of the administrative concerns identified above under 'Increasing the Number of Districts'.

Increasing the Limit of Contracts Awarded

Previous decisions have led to the establishment of the practice of awarding only one contract per towing operator during the contract term. In the past the intent of the Board was to permit as many companies that met the requirements an opportunity to participate both in the bidding process and ultimately the awarding of the contract for the specified term. It was believed that the awarding of one contract per operator would prevent the larger companies from forming potential monopolies and oligarchies, while allowing smaller companies an opportunity to operate within districts with lesser towing volumes, requiring a substantially less capital investment.

The Service does not favour the awarding of more than one contract to an operator as the potential exists, in the long term, for higher pricing due to fewer companies being able to bid and be under contract to the Board.

Rotation or Roster Towing

This system is currently being used in jurisdictions with significantly less towing volumes, such as the City of Hamilton and detachments policed by the Ontario Provincial Police. The municipality may contract with any number of independent tow vehicle owner/brokers or fleet operators who respond to calls for service on a rotational or roster system.

Given the requirements of the contract, the volume of towing required and the uncertainty that towing services will be provided upon demand within a reasonable response time, the Service does not recommend a rotational or roster system. The current towing structure of allocating districts is designed to ensure that towing operators tow vehicles to pounds within a reasonable proximity to the site of the tow. A roster system would result in vehicles being towed to a variety of pounds across Toronto with a consequential impact on the ease with which members of the public could retrieve their vehicles.

Conclusion

The towing and pound services quotation request has gone through a great deal of revision in the past decade in an effort to ensure as competitive a bidding process as possible without sacrificing the needs of the Service and reasonable market pricing for the public. Most of the options discussed in this report have been considered and, for the reasons set out above, the current requirements have been accepted to allow a suitable reconciliation between the competing considerations inherent in the towing process.

It is recommended that the Board approve the recommendations contained in the report entitled Police Towing Contracts 2004-2007, dated November 7, 2003, submitted separately. Any fundamental changes to the bid quotation process will negatively affect the ability to have new contracts in place by May 31, 2004.

Mr. Karl Druckman of Toronto City Legal has reviewed, and is satisfied, with the contents of this report.

Acting Deputy Chief David Dicks, Policing Support Command will be in attendance at the Board meeting to answer any questions.

ATTACHMENT

APPENDIX "A"

THIS IS AN EXTRACT FROM THE MINUTES OF THE SPECIAL MEETING OF THE TORONTO POLICE SERVICES BOARD HELD ON MAY 12, 2000

#P226. TOWING & POUND SERVICES CONTRACTS - 2000

The Board was in receipt of the following report MAY 4, 2000 from Julian Fantino, Chief of Police:

Subject: TOWING AND POUND SERVICES CONTRACTS

Recommendation:

It is recommended that: The Board approve the awarding of the towing and pound service contracts effective June 01, 2000 to:

District 1 – J.P. Towing Service & Storage Ltd.

District 2 – Walsh's Auto Service Limited

District 3 – Abrams Towing Services Ltd.

District 4 – Williams Towing Service Ltd.

District 5 – Diamond Towing Ltd.

District 6 – A Towing Service Ltd.

BACKGROUND:

At its February 24, 2000 meeting, the Board approved the issuance of a Quotation Request, which was scheduled to close on March 31, 2000 (Minute No. 64/00 Refers). The city workers' strike delayed the closing date for bids until April 5, 2000 at which time 11 bids were received with one bidder bidding on two districts.

The contracts are scheduled to commence on June 01, 2000, and are to be in effect for a period of three years with a fourth optional year at the sole discretion of the Board. A total of six contracts are to be awarded, one for each district as described in the Quotation Request.

In accordance with the quotation request, towing operators were permitted to submit a response in respect to any or all of the towing districts; however, the Quotation Request specified "the Board will not award contracts for more than one district to the same towing operator."

BID INFORMATION:

Bidders were instructed to submit a combined towing and first day storage charge (24-hour period) as their bid price. The following bids were received:

District	Bidder	Towing Charge	Storage Charge	Total Bid
1	JP Towing Service & Storage Ltd.	80	24	104
* 2	AB Towing(1313534 Ontario Ltd)	75	20	95
2	Walsh's Auto Service Limited	75	20	95
3	Abrams Towing Services Ltd.	74	28	102
4	LB Towing Ltd.	72	24	96
4	Williams Towing Service Ltd.	41	16	57
5	Diamond Towing Ltd.	72	16	88
* 5	The Downtown Group Towing & Storage (1161931 Ont. Ltd)	49	16	65
6	A Towing Service Ltd.	88	4	92
* 6	The Downtown Group Towing & Storage (1161931 Ont. Ltd)	48	16	64

The low bid was accepted for Districts 1, 2, 3 and 4.

*** Bids so marked were found to be non-compliant and so the compliant bids in those districts were accepted.**

In addition, Classic Towing (1105779 Ontario Inc.) attempted to submit a bid for District 1 which was declared informal by staff of the City Purchasing Department and was, therefore, never opened. The representatives of Classic Towing had failed to complete and execute the Quotation Request form. The form itself indicated that failure to complete and properly sign the form would result in no consideration of the bid.

COMPLIANCE WITH QUOTATION REQUEST:

From April 6 to April 12, 2000, staff from Traffic Services conducted an inspection of the documentation, equipment, facilities and background of the towing companies. It was found that all of the bidding companies complied with the requirements of the quotation request with the exception of AB Towing (1313534 Ontario Ltd.) bidding in District 2 and The Downtown Towing & Storage Group (1161931 Ontario Ltd.) bidding in Districts 5 and 6.

As a result, it is recommended that the lowest bidder in each of Districts 1, 3 and 4, where all bidders were compliant, be awarded the towing and pound services contract for those districts.

With respect to Districts 2, 5 and 6, one of the bidders in each district was not compliant with the requirements of the Quotation Request. For the Board's information, relevant portions of the Quotation Request provide as follows.

- Bidder had to comply with all quotation requirements, conditions and schedules.
- A bidder had to submit with its bid a plan of survey certified by a qualified Ontario Land Surveyor, indicating the dimensions of the pound and all structures, including fences, currently or proposed on the property. The area of the pound for the storage of police impounds towed under the contract had to be highlighted and an indication provided of the available square footage.
- Bidders were entitled to propose to add up to one third of the required towing equipment or pound space, but, as of the date of closing, had to provide proof that they would have the required equipment and pound space on the date of commencement of the contract.
- In determining whether the pound meets the requirements of the Quotation Request, areas devoted to buildings or landscaping features would not be included in the calculation of the area.
- The area used for the police pound had to be fenced with a chain link or other suitable fence to a minimum height of six feet.
- Although a bidder could propose to add up to one third of the pound space after the date of closing, as of the date of closing of bids, the existing pound operation had to meet the Quotation Request requirements for both fencing and pound surfacing. As well, the bidder had to provide proof that any other requirements of the Request, not in place as of the date of closing, would be in place by the date of commencement of the contract.

The Board should also bear in mind that all bidders had to meet these requirements of the Quotation Request as of the date of closing in order to be considered compliant with the Request. Although bidders may be able to achieve compliance with the requirements subsequent to the date of closing, the fairness of the bidding process requires that all bidders be held to the same standards and requirements. Therefore, allowing bidders the opportunity to rectify their bids subsequent to the date of closing, or to deviate from the Quotation Request requirements, undermines the equal application of the stated requirements to all bidders.

In light of the above requirements and principles, the following is the situation in Districts 2, 5 and 6:

1. District 2

AB Towing did not submit a bid that involved a proposal to add additional pound space or vehicles. Therefore, all vehicles and the entire pound were to be in place on the closing date of the bids. AB Towing was inspected on Monday April 10, 2000. The following deficiencies were noted:

- a) The required number of tow trucks was 15 one ton and one heavy tow truck. Only 5 one ton trucks were fully compliant with the requirements of the Quotation Request and the others were deficient in a number of respects, including being not fully painted, not fully assembled, lacking towing cables, dollies, seats, license plates, names on trucks, fire extinguishers and brooms, documents such as ownership and insurance papers. Therefore, the vehicles were not roadworthy and not compliant with the Request.

- b) The survey, submitted by AB Towing, was not current in that the fencing shown on the survey was not what was in place on the inspection date and the square footage on the survey did not match the amount identified in the quotation request.
- c) The perimeter fencing of the pound was missing approximately 300 feet of fencing at the rear of the property and the front fence was 5'2" and not 6' as required.

Therefore, in a number of respects, AB Towing's bid was not compliant. As a result, it is recommended that District 2 be awarded to Walsh's Auto Service Ltd., the lowest compliant bidder.

2. Districts 5 and 6

The Downtown Towing & Storage Group submitted a bid for both District 5 and District 6 with a proposal to increase the number of tow trucks to the full complement for the District 6 bid. However, there was no proposal to alter the pound size in either District 5 or District 6. The inspection took place on Thursday April 6 and Friday April 7, 2000. Each bid was identical except for the bid price as noted previously.

(i) District 5

In District 5 the following deficiencies were noted:

- a) There was a discrepancy between the actual size of the pound and square footage noted on the survey. On inspection of the property, it appeared that the shape of the fenced pound was not the same as on the survey and the site contained a building under construction and a trailer that was not represented on the survey. As a result, a city surveyor was called in to measure the square footage of the pound and it was found to be 87,170 square feet, less than the required 90,000 square feet.
- b) The fencing had a large stretch (170-Ft) that was not 6 feet high but varied between 5' and 5'8". In addition, there were two large holes on the east side fencing, one top rail was not secured, there was a 9" opening in the south/east corner of the property and one post was broken off at the bottom, all of which gave easy access to the pound.
- c) As noted above, the submitted survey was not current and not accurate in that it did not correctly reflect the size of the pound and neither the trailer nor the large building, which is being erected on the site, were shown. The fencing had been moved in at least three areas since the survey and more moves were planned.

Therefore, in a number of respects, The Downtown Group Towing and Storage bid was not compliant. Therefore, it is recommended that District 5 be awarded to Diamond Towing Ltd., the lowest compliant bidder.

(ii) District 6

In District 6 the following deficiencies were noted:

- a) The same deficiencies as noted above in (b) and (c) with respect to District 5 exist in respect to District 6.
- b) One of the required one ton trucks was found to be improperly registered and showed on Ministry of Transportation records as being “unfit” with the license plates removed. It appears that this was a mix-up in registrations, that the bidder did not notice it until after the inspections and it was identified by Traffic Services staff during the document verification. Therefore, on the inspection date, the bidder for District 6 had only 23 of the 24 trucks required to meet the minimum two thirds requirement set out in the Quotation Request.

In light of the deficiencies, it is recommended that District 6 be awarded to A Towing Service Ltd., the lowest compliant bidder.

Deputy Chief Steve Reesor, Operational Support Command, will be present at the Board meeting to answer any questions regarding this report.

Superintendent Gary Grant, Traffic Services, was in attendance and provided the Board with details about the quotation and tender process and the results of site inspections which led to the recommendations contained in the foregoing report.

The following persons were in attendance and made deputations to the Board:

- **Jack Baker, counsel acting on behalf of LB Towing ***
- **David Smith, Fraser & Milner, counsel acting on behalf of Downtown Towing ***
- **Hugh Wilkins, counsel acting on behalf of AB Towing**
- **Martin Goose, counsel acting on behalf of Walsh’s Auto Service Ltd.**
- **Barry Smith, counsel acting on behalf of Williams Towing Service Ltd.**
- **Stephen LeDrew, counsel acting on behalf of JP Towing Service & Storage and Abrams Towing Services Ltd.**

*** written submission also provided, copies filed in the Board Office.**

Staff Sergeant Fergie Reynolds and Sergeant Adam Okonowski, Traffic Services, were also in attendance and responded to the concerns that were raised by some of the deputants with regard to the inspection process.

The Board received the deputations and the written submissions and approved the foregoing report from the Chief of Police.

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON JANUARY 06, 2004**

#P4. REVIEW OF COMPLAINTS SYSTEM

The Board was in receipt of the following report DECEMBER 22, 2003 from A. Milliken Heisey, Q.C., Acting Chair:

Subject: REVIEW OF COMPLAINTS SYSTEM

Recommendations:

It is recommended that:

- (1) the Chief prepare a report on alternative models to the current complaints system; and
- (2) the Board, after receiving the Chief's report noted in Recommendation (1), invite interested stakeholders to provide their views as to an appropriate alternative complaints system.

Background:

In November 1996, the Board adopted a recommendation that called for an annual audit of the discipline and public complaints process. The Board subsequently requested the City Auditor to conduct a review of the administration of the complaints system. The City Auditor advised that this would form a part of his 2001 Work Plan and that a final report would be forwarded to the Board in 2002.

The overall objective of the audit was to determine whether the Service's administration of public complaints complied with applicable legislation as well as with related internal policies and guidelines. In addition, the audit measured the effectiveness of the public complaints process by assessing the performance of the Service relative to the goal established by Professional Standards in the 2001 Business Plan which was "to strengthen the confidence of members of the public and service members in the impartiality and integrity of the Toronto Police Service's administration of Part V of the Ontario *Police Services Act* – the complaints system."

On September 10, 2002, the Board received from the City Auditor a report of the Performance Audit of the Public Complaints Process of the Toronto Police Service. The report included 27 recommendations; some were directed to the Board, others to the Chief.

At its meeting on November 21, 2002, the Board approved, among others, the following motion:

- ... 7. THAT the Board receive and forward copies of the Auditor's report and the written submissions provided by the deputants to the Ministry of Public Safety and Security and request that they be reviewed with the intention of amending the present complaints process to create a more independent civilian-oriented complaints process...(Minute #P292 refers.)

Following the meeting, correspondence with respect to the issue was sent to the then-Minister of Public Safety and Security. A response was received dated May 8, 2003. In the response, the then-Minister indicated that “[t]he current complaints system is a vast improvement over the previous process” but that he has taken steps to make the public complaints system “even more independent and accountable.” A copy of this letter is appended.

The new provincial government has committed to reviewing the complaints process, as reiterated by a CBC radio program on December 30, 2003, in which it was announced that Premier Dalton McGuinty is promising to improve the public complaints system. It would, therefore, be valuable at this time for the Board to prepare its own recommendations to be submitted for consideration during the review. Therefore, the Board is requesting that the Chief provide a report that outlines potential changes that could be made to the complaints process.

A review of the current complaints system should include the perspectives and concerns of both complainants as well as police officers involved in the process. Issues have also arisen with respect to the multiplicity of proceedings (such as criminal charges, civil proceedings, internal *Police Services Act* charges and *Human Rights Code* complaints) that may be brought against officers arising out of a single incident; the report should include options to reduce the number, duration and expense of these multiple proceedings. All parties to a complaint have an interest in seeing that complaint dealt with in the most effective and efficient way possible.

Alternative models to the current complaints system, including those currently in use in other jurisdictions, should also be examined.

In addition, as the Board recognizes that this issue has been of interest to many stakeholders, it would like to provide the opportunity for any interested individuals to present their opinions and suggestions for change once a response from the Chief has been received.

The Board approved the foregoing subject to amendments it made to the recommendations. The recommendations, as amended, are reprinted below:

- Recommendation (1)** *Board staff prepare a report on alternative models to the current complaints system for the Board’s February 26, 2004 meeting; and*
- Recommendation (2)** *the Board, after receiving the report from Board staff noted in Recommendation (1), invite the Chief of Police and interested stakeholders to provide their views as to an appropriate alternative complaints system.*

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON JANUARY 06, 2004**

#P5. TORONTO POLICE SERVICES BOARD – LOCATION OF MEETINGS

In an effort to provide an occasional alternate location for meetings of the Toronto Police Services Board that is accessible and convenient to members of the public who are interested in attending the meetings, the Board considered whether it should select another suitable location, such as Toronto City Hall, for use on an occasional basis.

The Board subsequently approved the following Motion:

THAT Chief Fantino, in consultation with Board staff, submit a report for the Board's February 26, 2004 meeting on the feasibility of conducting the Board meetings at an alternate location on an occasional basis and include: the costs that would be incurred; the benefits; and implications that may be experienced by staff who are required to attend the meetings.

**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON JANUARY 06, 2004**

#P6. ADJOURNMENT

A. Milliken Heisey, Q.C.
Chair