

# AGREEMENT

<b>Parties</b>	<b>City of Roy</b> (hereinafter referred to as "City")	<b>Lucky Transport</b> (hereinafter referred to as "Lucky")
<b>Addresses</b>	216 McNaught St. S. Roy, WA 98580	120 Tule Lake Road S. #B Tacoma, WA 98444
<b>Initial contact persons</b>	Name: Cindy Guillot Phone: 253-843-1113 FAX: 253-843-0279	Name: Robert Davis Phone: 253-537-8700 FAX:
<b>Effective Date</b>	April 27, 2009	<b>Agreement No.: 4272009</b>

Lucky has been selected to provide vehicle towing or hauling services to the general public within the City limits of Roy, WA, on the terms and conditions detailed below.

- 1. No Obligation to Purchase.** This Agreement does not create any obligation for the City to purchase goods or services from Lucky.
- 2. Term.** The initial term of this Agreement will commence on the effective date noted above and will terminate on April 26, 2010. This Agreement can be terminated by either party with 60 days written notice.
- 3. Price.** The prices, discounts, labor rates and fees described herein establish Lucky's pricing commitment for products, services, and/or related materials supplied to the City.

As consideration for this Agreement, Lucky will provide the following products or services at no charge to the City: Towing and services (lock-outs, jump-starts, fuel delivery, & tire changes) for all City vehicles. Except as specifically stated herein, the City shall receive no other consideration of any kind.

- 4. Description of Work.** Lucky shall lawfully tow, haul, or otherwise remove any vehicle(s) (or components thereof) within the City limits upon request by Law Enforcement personnel of the City. Lucky understands that all such vehicle(s) (or components thereof) are not the property of the City and the City will bear no cost of any kind for any action taken by Lucky. Upon removal from the City, Lucky will assume all responsibility, including liability, for management and eventual return of any vehicle(s) to the rightful owner of that vehicle. Such return (or disposition of any kind) of such vehicle(s) (or components thereof) shall be in accordance with all Federal, State, and Local laws and regulations. This specifically includes, but is not limited to, all State Patrol guidelines.

Lucky shall respond within 40 minutes to requests by Law Enforcement personnel. If Lucky cannot (or is unable to) respond to any request within 40 minutes of such request, the City has the option, at no cost or penalty of any kind, to engage an alternate party to meet the needs of the City for such requests.

- 5. Indemnity.** Lucky specifically and expressly agrees to defend, indemnify and save harmless the City, its officers, agents and employees against any and all loss, damage, suits, liability, claims, demands or costs resulting from injury or harm to persons or property (including, without limitation, attorney fees and injury or damage to Lucky's employees or property) arising out of or in any way connected with Lucky's performance hereof, to the extent of the Lucky's, its subcontractors or their agents or employees' concurrent negligence. Lucky specifically and

expressly waives any immunity under Industrial Insurance, Title 51 RCW, and acknowledges that this waiver was mutually negotiated by the parties herein. In the event of litigation between the parties to enforce the rights under this paragraph, reasonable attorneys' fees shall be allowed to the prevailing party.

Without limiting the generality of the foregoing, Lucky's indemnity includes claims caused by the use, misuse or failure of any vehicle, rigging, blocking, scaffolding or other things used by Lucky, even though such vehicle, rigging, scaffolding or other things be rented, loaned or furnished to Lucky by the City. The defense and indemnity obligation specifically applies to operations in close proximity to power lines and other utilities.

6. **Insurance.** Prior to commencement of work, Lucky shall obtain and maintain in full force and effect during the term hereof, at Lucky's sole expense, the following insurance coverages upon Lucky's operations hereunder:

- a. Commercial General Liability (occurrence form), covering bodily injury and property damage liability, including contractual, products and completed operations, and, if applicable, coverage for explosion, collapse and underground (xcu); with minimum limits of \$1,000,000 per occurrence, \$1,000,000 products and completed operations aggregate and \$1,000,000 general aggregate;
- b. Comprehensive Automobile Liability covering owned, hired and non-owned vehicles with minimum limits of \$1,000,000 per person and \$1,000,000 per accident for bodily injury and \$1,000,000 property damage or combined single limit of \$1,000,000;
- c. Workers' Compensation or Industrial Accident insurance providing benefits as required by law, including Employer's or Stop-Gap Liability with minimum limit of \$1,000,000 per accident; and, if Maritime activity exists then coverage is to also include U.S.L.&H., Jones Act, and Protection and Indemnity, where applicable;

and shall furnish the City with a Certificate of Insurance evidencing compliance herewith.

Lucky shall ensure that its subcontractors have insurance coverages and endorsements consistent with the above. Insurance companies providing coverage for Lucky and subcontractors shall have a Best's rating of no less than B+ VII. Lucky's and subcontractor's insurance companies shall waive right of subrogation against the City.


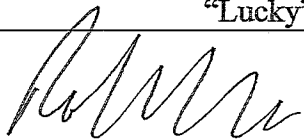
All insurance or self-insurance of the City and its affiliates shall be excess of any insurance provided by Lucky or subcontractors.

7. **Assignment.** Lucky shall not have the right to sublet, transfer or assign this Agreement or any part thereof, without the prior written consent of the City. Such consent shall not relieve Lucky of any liability or responsibility hereunder. The failure of the City to assert any of its rights hereunder shall not be construed as a waiver thereof.
8. **Regulatory Requirements/Safety.** The Products and Services supplied by Lucky must meet all OSHA and other Federal and State regulatory agency requirements. If Lucky's employees or Agreementors perform any services or work at a City-owned location, Lucky will ensure that its

employees and Agreementors comply with the terms and conditions of this Agreement as well as any Site-specific safety instructions given them by the City.

9. **Entire Agreement.** This Agreement constitutes the entire agreement between Lucky and the City regarding the sale and purchase of products or services and supersedes all prior agreements, negotiations and discussions, written or oral, and there are no additional terms or understandings. Any alterations, amendments, deletions or additions to this Agreement will not be binding unless in writing and signed by both parties.

**Agreed to by:**

Party	The City of Roy "City"	Lucky Transport "Lucky"
Signature		
Print	Natalie Banks	Robert Davis
Title	Mayor, The City of Roy	Owner, Lucky Transport

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