AGENDA NO. 4

PLANNING COMMISSION **STAFF REPORT**

DATE:	October 22, 2012 (Continued from the August 27, and October 8, 2012 Meetings)
TO:	Chairperson and Members of the Planning Commission
FROM:	Development Services Department/Planning Division
SUBJECT:	**CONSIDERATION OF A CONDITIONAL USE PERMIT (CUP12-00009) FOR THE ESTABLISHMENT AND OPERATION OF AN AUTO TOWING YARD AT 1833 OCEANSIDE BOULEVARD – ROADWAY AUTO TOWING – APPLICANT: MANUEL MARTINEZ**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

(1) Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities"; and,

(2) Adopt Planning Commission Resolution No. 2012-P47 approving Conditional Use Permit CUP12-00009 with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: On August 27, 2012, prior to the duly noticed public hearing, the applicant requested a continuance to October 8, 2012 in order to address public concerns received subsequent to the public notice mail out.

On October 8, 2012, the Planning Commission conducted a duly noticed public hearing to consider said project. A motion to approve the project and a second was offered, but in a 2-3 vote, the motion failed. Subsequent to the failed motion, the Planning Commission and the applicant came to an agreement to further continue the item to October 22, 2012 in order for the applicant to address Storm water and Enhanced Landscape concerns.

Site Review: The project site is located at 1833 Oceanside Blvd., with the proposed auto tow yard being situated on a 24,436-square foot portion of the fully developed 4.57-acre site. The site is currently developed with a single story 29,225-square foot industrial building and paved parking lot that is being used as a heavy equipment rental facility. The existing equipment rental facility utilizes only a small portion of the overall site, thus leaving the remainder of the site vacant and under utilized.

The proposed tow yard would be located on a central westerly portion of the 4.57-acre site, tucked behind a self storage facility. In order to further screen the proposed auto tow yard from public view as seen from off-site, the applicant proposes to implement upgrades to the existing perimeter fencing that would screen the yard and that would prevent unauthorized access to the vehicle storage area. Upgrades to the existing chain link fencing will include dark brown colored vinyl slats to further obscure the subject use from the general public. The property has a land use designation of Light Industrial (LI) on the Land Use Map, is zoned Limited Industrial (IL) on the official zoning map, and is situated within the Fire Mountain Neighborhood Planning Area.

Surrounding land uses include dedicated open space and Loma Alta creek along the south, with single-family residential further south and upslope, light industrial uses to the north, east, and west, with Professional Office beyond to the east.

Project Description: The project application is comprised of the following required entitlement:

<u>Conditional Use Permit C12-00009</u> represents a request for the following:

(a) The establishment and operation of an Auto Tow Yard on a developed but unused portion of an existing 4.57-acre site that currently operates as a heavy equipment rental facility and storage yard. The auto tow yard would employ five persons and would operate with three Tow Vehicles. Hours-of-operation would be Monday through Friday from 8:00 a.m. to 5:00 p.m. for general public retrievals, and would be used 24 hours for vehicle towing and storage. In order to provide a secured facility, the project would include the addition of chain link fencing with view obscuring vinyl slats and barbed wire along the top.

The project is subject to the following Ordinances, City policies, and the State of California Government Code:

1. General Plan
2. Zoning Ordinance
3. CEQA

ANALYSIS

KEY PLANNING ISSUES

1. General Plan conformance

The General Plan Land Use Map designation for the subject property is Light Industrial (LI). The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

A. Land Use Element I

Goal 1.12 Land Use Compatibility

Objective: To minimize conflicts with adjacent or related uses.
Policy B: The use of land shall not create negative visual impacts to surrounding land uses.

The proposed automotive tow yard would be situated within an industrial built environment that is extensively setback from the public right-of way. The proposed location tucked behind a self storage facility building and screened utilizing chain link fencing with beige colored vinyl slats would further negate visual impacts to the surrounding area.

Policy C: The use of land shall not subject people to potential sources of objectionable noise, light, odors, and other emissions nor to exposure of toxic, radioactive, or other dangerous materials.

The proposed project site is located within an industrial district established with similar type land uses and all towed vehicles will be stored in a manner that ensures that any leaking fluids from a given vehicle are captured and disposed of appropriately. The proposed operation during normal working hours will also ensure that potential noise sources do not conflict with persons living or working in the immediate area. Vehicle drop-offs in the off hours would follow a detailed late drop procedure that is part of the overall Operations Management Plan for the subject tow yard. No vehicle/equipment repairs will occur on the property as part of the overall auto tow yards operation.

2. Zoning Ordinance Compliance

Article 13, Section 1320 and 1330

Section 1320 of the Oceanside Zoning Ordinance permits the establishment and operation of vehicle storage facilities in the underlying Limited Industrial (IL) zoning district, subject to approval of a conditional use permit. As conditioned, the project site will be in substantial compliance with the development standards set forth in Section 1330 of the zoning ordinance, including but not limited to parking, screening, and landscaping provisions.

3. Land Use Compatibility with surrounding developments

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	Light Industrial (LI)	Limited Industrial (IL)	El Camino Equipment Rental
North of Subject Property	Light Industrial (LI)	Limited Industrial (IL)	Oceanside Blvd/Sprinter Line/Commercial Retail Beyond
East of Subject Property:	Professional Commercial (PC)	Commercial Professional (CP)	Loma Alta Creek/Office Beyond
South of Subject Property:	Single Family Detached Residential (SFD-R)	Single Family (RS)	Loma Alta Creek/Residential Upslope and Beyond
West of Subject Property:	Light Industrial (LI)	Limited Industrial (IL)	A-1 Self Storage Facility

DISCUSSION

Issue: Project Compatibility with the Surrounding Developed Areas:

The addition of an auto tow yard on a portion of a fully developed industrial site, and upgrades to perimeter fencing would be compatible with the goals and objectives of the General Plan for land use compatibility. The subject site is located to the rear of a larger light industrial area and immediately adjacent properties are established with similar industrial type developments and land uses. The lower intensity uses in the immediate area coupled with adequate roadway systems and access points, along with the addition of perimeter fencing would further ensure that conflicts between the general public and the auto tow yard land use would be minimized. The nearest residential property is located to the south and upslope from the site. In order to ensure that no conflicts with tow operations and residential properties to the south occurs the applicant has established "Late Drop Procedures" which will be conditioned to be incorporated within an Operations Management Plan. Staff has also conditioned the project in a manner that allows the City to monitor operations and modify hours of operation at the site should excessive complaints related to the operations be received and verified to exist.

Recommendation: Staff finds that the overall design of the project is compatible with the existing developed area and subject to implementation of an Operations Management Plan for day-to-day operations will be consistent with the original intent of the light industrial zoned parcel to establish this type of land use. Staff supports the project as submitted by the applicant, subject to conditions of approval contained within the draft resolution.

ENVIRONMENTAL DETERMINATION

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA), 1970. Based on that review, staff finds that the proposed project constitutes operations within existing facilities that will not involve expansion beyond what exist on-site at this time, and the project is categorically exempt, Class 1, "Existing Facilities" (Section 15301).

PUBLIC NOTIFICATION

Legal notice was published in the North County Times and notices were sent to property owners of record within a 300-foot radius of the subject property, individuals and/or organizations requesting notification, the applicant and other interested parties. As of the date of the preparation of this report, three e-mails in opposition have been received by staff and included as part of the public record.

SUMMARY

The proposed Conditional Use Permit (CUP12-00009), as designed and conditioned, is consistent with the requirements of the Zoning Ordinance, and the land use policies of the General Plan. The project has been designed and conditioned to meet or exceed all applicable development standards. As such, staff recommends that the Planning Commission approve the project based on the findings and subject to the conditions contained in the attached resolution. Staff recommends that the Planning Commission:

-- Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities"; and,

-- Adopt Planning Commission Resolution No. 2012-P47 approving Conditional Use Permits CUP12-00009 with findings and conditions of approval attached herein.

PREPARED BY:

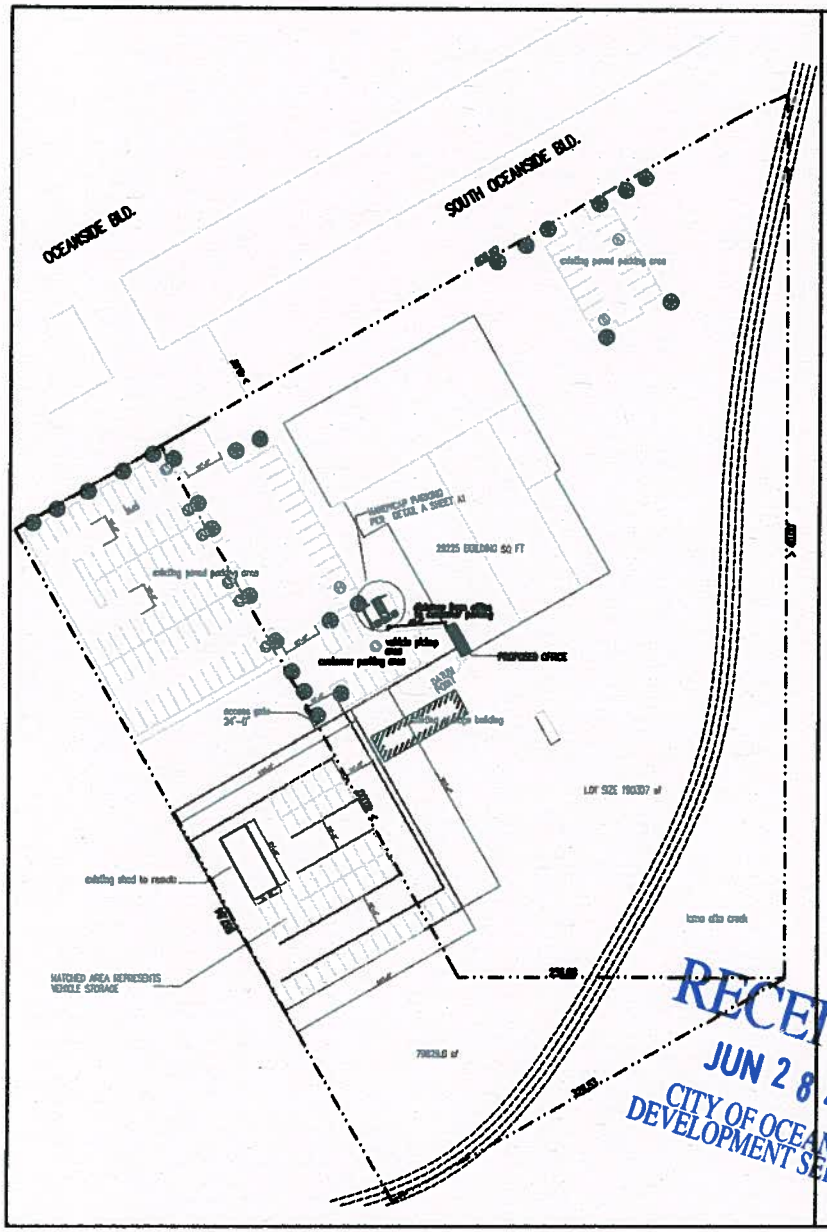
Richard Greenbauer
Senior Planner

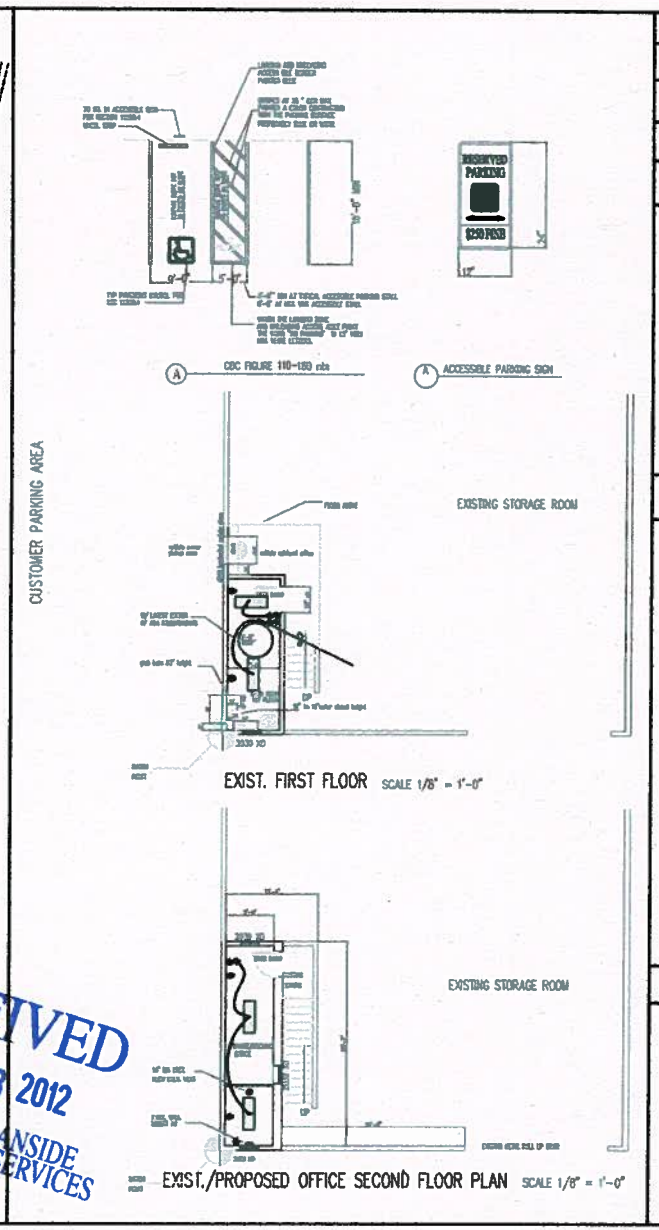
SUBMITTED BY:

John Helmer
Interim City Planner

JH/RG/fil

Attachments:
1. Plans
2. Planning Commission Resolution No. 2012-P47
3. Operations Management Plan
4. Tow Service Agreement Sample
5. Correspondence of Opposition





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JUN 28 2012
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

TABLE OF CONTENTS

A1 SITE PLAN/NOTES

SCOPE OF ORK

OBTAIN CONDITIONAL USE PERMIT TO OPERATE TOWING YARD IN THE CITY OF OCEANSIDE

LEGAL DESCRIPTION

That portion of tract 101 of south Oceanside, city of Oceanside, county of San Diego, state of California, according to the map thereof no 622, filed in the office of the county recorder of San Diego county more particularly described on follow;
Commencing at the most southerly corner of the lot 1 in said block 3 of Laguna park addition no. 1 said point of commencement being also a point on the northeasterly line of land conveyed to the state of California, by deed recorded may 15, 1952, on file no. recorded may 15, 1952, on file no. 59905 in book 4468 page 301 of official record (ID—SD-2-OCN); Thence along said northeasterly line, north 34 50' 47" west, a distance of 68.27 feet; thence north 33 57' 04" west, a distance of 184.31 feet; thence north 34 44'52" west a distance of 687.17 feet to a point on the southeasterly of that certain 100.00 foot right away of the Escondido spur of the Atchison, Topeka and Santa Fe Railway Co., said point being on the arc of a 5879.85 foot radius curve, concave southeasterly; thence along said southeasterly line, northeasterly along the arc of said through a central angle of 05 47' 49" a distance of 574.64 feet; thence tangent to said curve, north 50 53' 35" east, a distance of 368.53 feet to the point of beginning ; thence continuous along said

JOB INFORMATION

PROPERTY OWNER:	MIHOLICH FAMILY 12-14-98
ADDRESS:	2735 CAZADERO DR CARLSBAD, CA 92009-5814
JOB ADDRESS:	1833 SOUTH OCEANSIDE AVE OCEANSIDE, CA 92054-3458
APN:	151-310-02-00
ZONE:	IL LIMITED INDUSTRIAL
ACTUAL LOT SIZE:	4.57 AC
MIN. LOT SIZE IL ZONE	20,000 SF
BUILDING SQUARE FEET:	29,225.00 SF
MAX. LOT COVERAGE:	75%
MAX FLOOR AREA RATIO	1.0
MAX. BUILDING HEIGHT	80'-0"
PARKING FLOOR AREA C/LC.	
BUILDING SQUARE FEET:	29,225.00 SF
PARKING REQUIRED	1/750 sf = 39 spaces
PARKING PROPOSED	92 SPACES
SETBACKS:	FRONT-10'-0" REAR-10'-0" SIDE-10'-0"
LANDSCAPE AREA REQUIRED	12%
DESIGNER:	MANUEL MARTINEZ
ADDRESS:	1404 WOODEN VALLEY STREET CHULA VISTA, CA 91913
PHONE:	619 250 1638

VICINITY MAP

PROFESSIONAL DRAFTING SERVICES 3D MODELS

PROFESSIONAL DRAFTING SERVICES
1404 Wooden Valley Street
Chula Vista, Ca 91913

PROJECT:
NEW OCEANSIDE SITE FOR:
ROADWAY AUTO TOWING
1802 DON LEE PL
ESCONDIDO, CA 92029

CLIENT:

SHEET NAME: SITE PLAN
SCALE: 1"=10'-0"
FILE NAME:
SHEET NUMBER: A-1

PLANNING COMMISSION
RESOLUTION NO. 2012-P47

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A CONDITIONAL USE PERMIT ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: CUP12-00009
APPLICANT: Roadway Auto Towing, Manuel Martinez
LOCATION: 1833 Oceanside Blvd.

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Conditional Use Permit under the provisions of Articles 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

an automotive tow yard within a 24,436-square foot portion of a larger 4.57-acre parcel and construction and modification of interior and perimeter fencing necessary to provide a secured facility;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 27th day of August 2012, continue the subject project to the Planning Commission meeting of October 8, 2012;

WHEREAS, the Planning Commission, after giving the required notice, did on the 8th day of October 2012, conduct a duly advertised public hearing as prescribed by law to consider said application and after due consideration and a failed motion to approve, moved to continue the subject project to the Planning Commission meeting of October 22, 2012;

WHEREAS, the Planning Commission, after giving the required notice, did on the 22nd day of October 2012, conduct a duly advertised public hearing as prescribed by law to consider said application;

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project is categorically exempt from CEQA per Article 19, Section 15301, Class 1, Existing Facilities;

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

FINDINGS:

For the Conditional Use Permit to allow an automotive tow yard for towed vehicles within a fully developed portion of 4.57-acre site and construction of associated minor site improvements:

1. The proposed automotive tow yard facility is in accord with the objectives of the Zoning Ordinance and the purposes of the underlying Limited Industrial (IL) district. Section 1320 of the Oceanside Zoning Ordinance permits the establishment and operation of vehicle storage in the subject zoning district, subject to approval of a conditional use permit. The subject facility will be established on an interior portion of a fully developed site and only proposes minor modifications to the existing perimeter fencing for screening and security purposes consistent with the zoning ordinance regulations.
2. The location for the use and conditions under which it will be operated are consistent with the General Plan, will not be detrimental to public health, safety or welfare of persons residing or working in or adjacent to the neighborhood; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City. The temporary automotive tow yard will be sited within an industrial area and all stored vehicles will be kept within a 24,436-square foot fenced off and screened portion of a fully developed site. Access to the site will be directly off of Oceanside Boulevard, away from the Commercial Retail center to the west; therefore, allowing for additional separation from persons residing or working in the immediate area.
3. The proposed conditional use is subject to compliance with Zoning Ordinance provisions, specific conditions of project approval and additional regulations/licensing as deemed necessary by other regulatory or permit authorities. All necessary licenses/permits will be obtained prior to initiating operation of the automotive tow yard facility.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve Conditional Use Permit (CUP12-00009) subject to the following conditions:

Building:

1. Construction shall comply with the 2010 edition of the California Codes.
2. Construction hours shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday.

Planning:

3. This Conditional Use Permit (CUP12-00009) shall expire on October 22, 2014, unless implemented as required by the Zoning Ordinance.
4. This Conditional Use Permit approves only an automotive tow yard within an existing 24,436-square foot parking lot area of a larger fully developed site and construction of associated site improvements on the property located 1833 S. Oceanside Boulevard, as specifically shown on the approved plans dated June 28, 2012. Unless amended by a condition of project approval herein, no deviation from these approved plans and exhibits shall occur without Planning Division approval. Substantial deviations shall require a revision to the Conditional Use Permit or a new Conditional Use Permit.
5. The automotive tow yard shall be for temporary storage of towed vehicles only. Temporary storage of towed vehicles shall be limited to 30 days, unless the additional time over 30 days is required to facilitate governmental agency contracts.
6. Any spills, or oils, or antifreeze discharge shall be immediately treated with special oil absorbent material and swept up in accordance with the submitted Operation Management Plan.
7. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold harmless the City of Oceanside, its agents, officers or employees from any claim, action or proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul an approval of the City, concerning Conditional Use Permit (CUP12-00009). The City will promptly notify the applicant of any such claim, action or proceeding against the City and will cooperate fully in the defense. If the City fails to promptly notify the applicant of any such claim action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold harmless the City.
8. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to the issuance of a business license. The covenant

shall provide that the property is subject to this resolution, and shall generally list the conditions of approval.

9. Prior to the issuance of building permits, compliance with the applicable provisions of the City's anti-graffiti ordinance (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed and approved by the Planning Division. These requirements, including the obligation to remove or cover with matching paint all graffiti within 24 hours, shall be recorded in the form of a covenant affecting the subject property.

10. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and/or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.

11. Failure to meet any conditions of approval for this development shall constitute a violation of the Conditional Use Permit.

12. Unless expressly waived, all current zoning standards and City ordinances and policies in effect at the time entitlement approvals are granted are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.

13. This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified as valid by the Code Enforcement Office concerning the violation of any of the approved conditions or assumptions made by the application.

14. All signs shall meet the requirements of the Oceanside zoning ordinance. Sign plans shall be reviewed and approved by the Planning Division prior to an application for a sign permit.

15. The CUP shall be limited to an operational term of 10 years from the date of this approval, with an expiration date of October 22, 2022. However, the Conditional Use Permit may be revised or renewed in accordance with the provisions of the Zoning Ordinance. The application for Conditional Use Permit revision shall also be evaluated against the existing land use policies and any site area and neighborhood changes at the time of submission.

16. The applicant/owner shall prepare an Operations Management Plan for the subject automotive tow yard use. The Management Plan is subject to the review and approval of by the City Planner and the Police Chief prior to commencement of the use. The Management Plan shall cover the following:

a) On-Site Management of Vehicles (tow trucks and vehicles stored on-site) including late drop procedures for vehicles being brought on site after normal work hours.

b) Hours-of-Operation (Tow Truck operations between the hours of 5:00 p.m. and 8:00 a.m. shall ensure that radios, backup signals, and other noise producing activity associated with the towing operations do not exceed the noise ordinance standards). Should valid complaints be received and verified by the City Code Enforcement Department, the City Planner shall have the ability to restrict hours-of-operation and/or the operations during off hour periods listed above.

c) On-Site Security.

d) Pollution Prevention from Vehicles being brought on-site.

e) No vehicle/equipment repairs shall be permitted as part of the Tow Yard operations.

17. All services and materials provided from or at the subject site will be processed for sale in compliance with the Bradley Burns Uniform Local Sales and Use Tax Law, and all applicable Board of Equalization (BOE) local tax regulations (as may be amended from time to time) including Regulation 1802, such that the BOE will recognize all sales tax from the site to be indisputably designated to Oceanside during the term of this CUP. The intent of this condition is to ensure that the principal negotiations for the sale of all services and products provided from or at the subject site occur in the City of Oceanside. Prior to the issuance of an occupancy permit, applicant shall establish a sales office within the jurisdictional boundaries of the City of Oceanside and thereafter, for the entire term of the permit, conduct its taxable sales operations for all sales from the subject site in accordance with the California Sales and Use Tax laws and all other applicable provisions of local, state and federal law. Applicant will use all good faith efforts to market, promote and administer its taxable sales activity with the objective of maximizing the amount of local sales tax revenue. In all Sales and Use Tax Returns

filed with the BOE relating to taxable sales generated at the sales office for the subject site, Taxpayer agrees to specify the City of Oceanside as the place of sale. Applicant recognizes that violation of this condition and/or the failure of the City to receive local sales tax in accordance with this condition will subject the conditional use permit to revocation pursuant to Article 47 of the Oceanside Zoning Ordinance.

a) Applicant agrees to negotiate and sign an agreement with the City of Oceanside, prior to the issuance of a building permit for the project, that further makes a sales tax revenue continuing guaranty to the effect that, if, for any reason, the City of Oceanside does not receive the sales tax revenue from applicant's sales from the proposed Oceanside site, applicant will pay the City of Oceanside a royalty equal to the amount that the City of Oceanside would have otherwise received under applicable law had the sales been taxed and allocated to the City of Oceanside, as the parties intended.

b) Within 7 calendar days of a request by the City of Oceanside City Planner or Finance Department, the applicant shall make available for review and reproduction during normal business hours, papers, documents and computer records required by the City to verify and audit compliance with this condition.

Water:

18. The developer will be responsible for developing all water and sewer utilities necessary to develop the property. Any relocation of water and/or sewer utilities is the responsibility of the developer and shall be done by an approved licensed contractor at the developer's expense.

19. The property owner shall maintain private water and wastewater utilities located on private property.

20. All Water and Wastewater construction shall conform to the most recent edition of the Water, Sewer, and Reclaimed Water Design and Construction Manual or as approved by the Water Utilities Director.

The following conditions shall be met prior to the approval of engineering design plans:

21. No trees, structures or building overhang shall be located within any water or wastewater utility easement.

22. A separate irrigation meter and approved backflow prevention device is required and shall be displayed on the plans.

The following conditions of approval shall be met prior to building permit issuance:

23. Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees are to be paid to the City and collected by the Water Utilities Department at the time of Building Permit issuance.

24. All Water Utilities Fees are due at the time of building permit issuance per City Code Section 32B.7, unless the developer/applicant applies and is approved for a deferral of all fees per City of Oceanside Ordinance No. 09-OR0676-1.

Fire:

25. Apparatus access roads shall have a minimum unobstructed width of 28 feet. A minimum vertical clearance of 14 feet shall be provided for the apparatus access roads.

26. All security gates shall have a Knox-box override and as required have strobe activation capability.

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27. In accordance with the Oceanside Fire Code Section 505, approved addresses for commercial, industrial, and residential occupancies shall be placed on the structure in such a position as to be plainly visible and legible from the street or roadway fronting the property. Numbers shall be contrasting with their background and meet the current City of Oceanside size and design standard.

PASSED AND ADOPTED Resolution No. 2012-P47 on October 22, 2012 by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

Tom Rosales, Chairperson
Oceanside Planning Commission

ATTEST:

_____

Richard Greenbauer, Secretary

I, RICHARD GREENBAUER, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2012-P47.

Dated: October 22, 2012

Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may be required as stated herein:

_____ _____

Applicant/Representative Date

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2012
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

Roadway Auto Towing
CUP 12-00009; APN: 151-310-02

PLANNING:

1. The boards for the existing chain-link perimeter fencing with vinyl slats that will be maintained as part of the towing storage are made of vinyl and brown in color. (image 1)

2. Operations Management Plan

There will be a maximum of three tow trucks on site and a maximum number of 5 employees. Hours of operation to the public will be Monday - Friday from 08:00am to 05:00pm. From 05:00pm to 08:00am and on weekends, the offices are closed to the public but remain open to the California Highway Patrol (CHP).

CHP requires us to be available to them 24 hours a day. We have included a copy of the Towing Service Agreement (TSA). On page 8 bullet number 6.A (image 2) of the TSA states we have to respond to calls 24 hours a day. Within our CHP rotation we receive approximately 1 car every 2 days during these off hours.

We run a community friendly operation and understand that keeping the noise down during the evening and morning hours is essential. If we have to drop off a vehicle during the hours of 05:00pm to 08:00am we will drop the cars in the lower left hand corner of our lot and will not back up our trucks to avoid our backup alarm from turning on (image 3). After 08:00am we will move these cars to their appropriate location within our lot.

During the hours of 05:00pm to 08:00am and weekends there will be a maximum number of 2 tow trucks and a maximum of 3 employees will be onsite. Of the 3 employees, one will be our dispatcher and the other 2 will be drivers. Of the 2 tow trucks, one is a flatbed 2011 Hino 258 and the other is a wheel lift 2011 Ford 550. These tow trucks use Blue DEF (image 4), which reduces emission from exhaust thus providing a cleaner environment.

To deal with leaking fluids, an oil drip pan (image 5) will be placed under vehicles to avoid any oil to spread on the ground along with granulated oil absorbent (images 6, 7). The granulated oil absorbent will be used as a preventive measure and for cleanups. Oil will be collected and stored in a 55-gallon bucket (image 8), which will stand on a spill containment platform (images 9, 10). Oil stored and hazardous materials will not be permitted to surpass 25 gallons. Once the 25-gallon mark is approaching, they will be disposed of at the appropriate recycling centers (image 11).

Vehicles will be release to vehicle's Registered Owner with valid identification card, unless a certified letter with approval to release to a different person is presented. In the event that a vehicle is placed on hold, approval from CHP or PD will be pursued. Upon release of the vehicle by CHP or PD, vehicle will be released to Registered Owner or approved assignee.

Our security system includes 24-hour video surveillance covering the entire property. Barbed wire above fence (image 12) will also be in place. There is full awareness of the public property aspect and will always strive to keep it secure.

Image 1

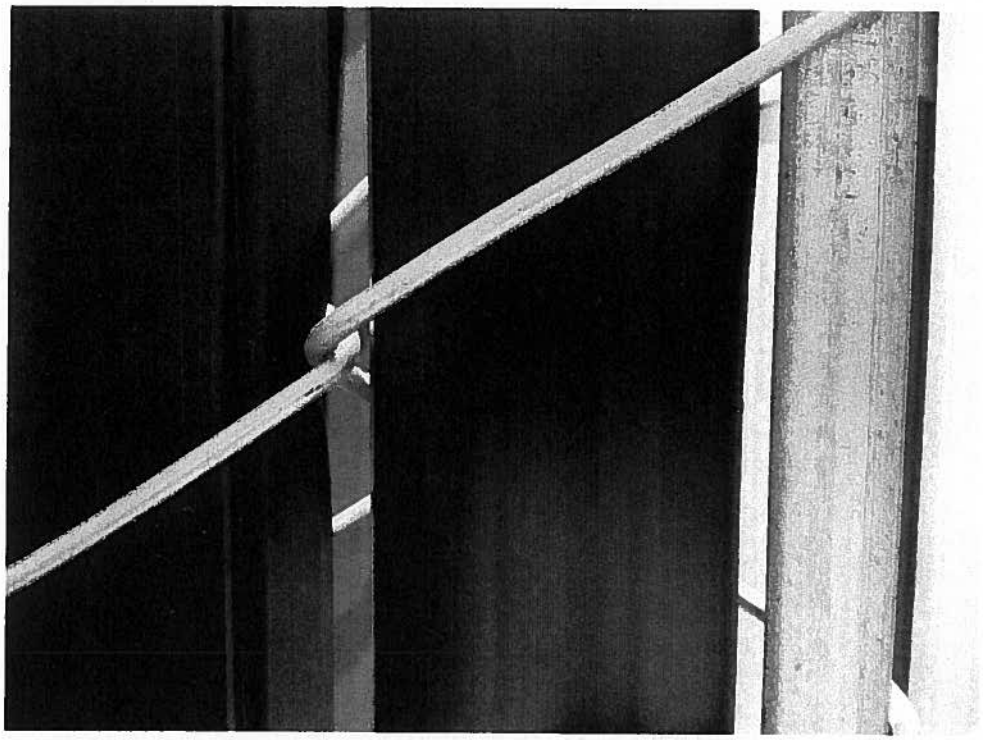

Image 2

6. RESPONSE TO CALLS

A. The operator shall respond to calls 24 hours a day, seven (7) days a week, within the maximum response time limits established by the Area commander.

B. An operator or tow truck driver shall respond with a properly equipped tow truck of the class required to tow the vehicle and be in possession of the appropriate class of driver license, applicable endorsements, and permits.

1) Any applicable permits (e.g., load variance, oversize) shall be valid and maintained in the tow truck.

C. The operator shall advise CHP dispatch, at the time of notification, if they are either unable to respond or unable to meet the maximum response time.

1) If, after accepting the call, the operator is unable to respond or will be delayed in responding, the operator shall immediately notify the appropriate CHP communications center.

Image 3

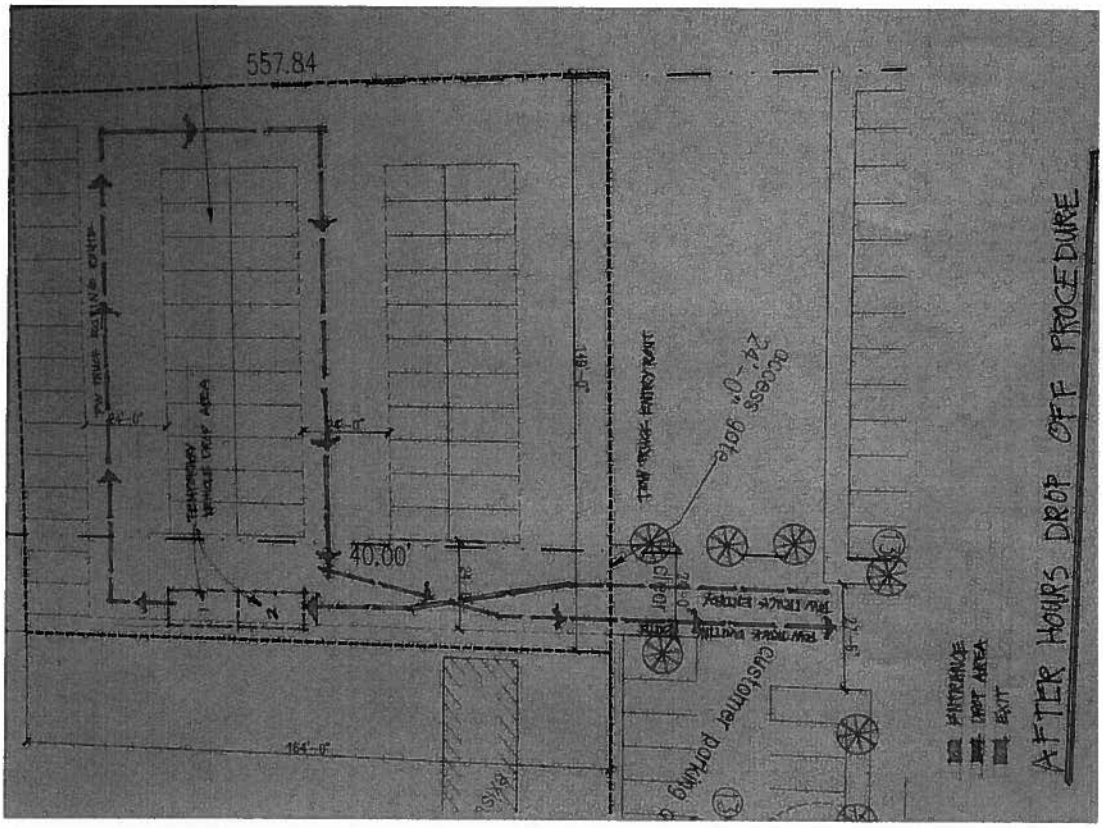

Image 4

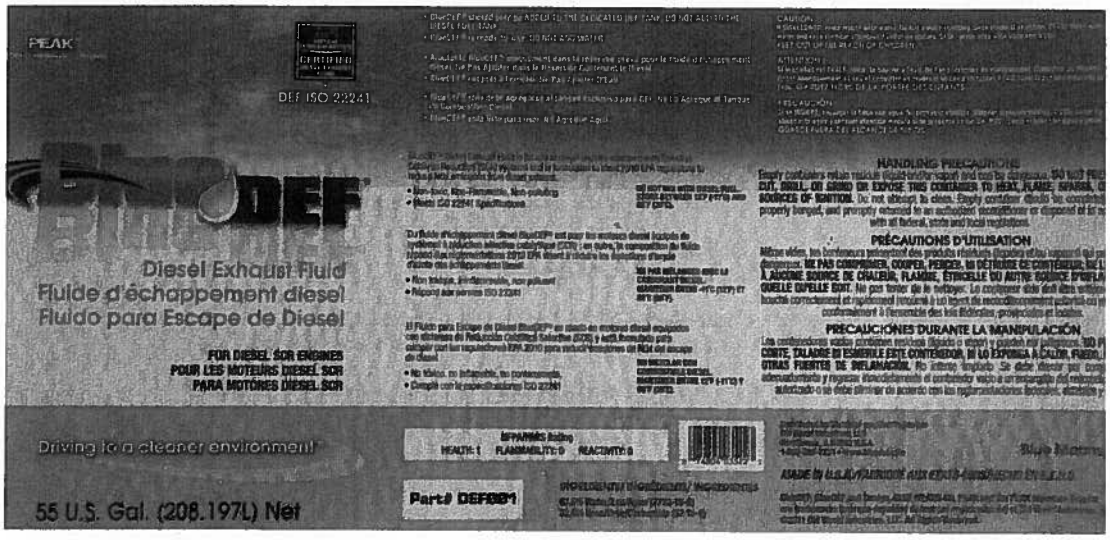

Image 5

Image 6

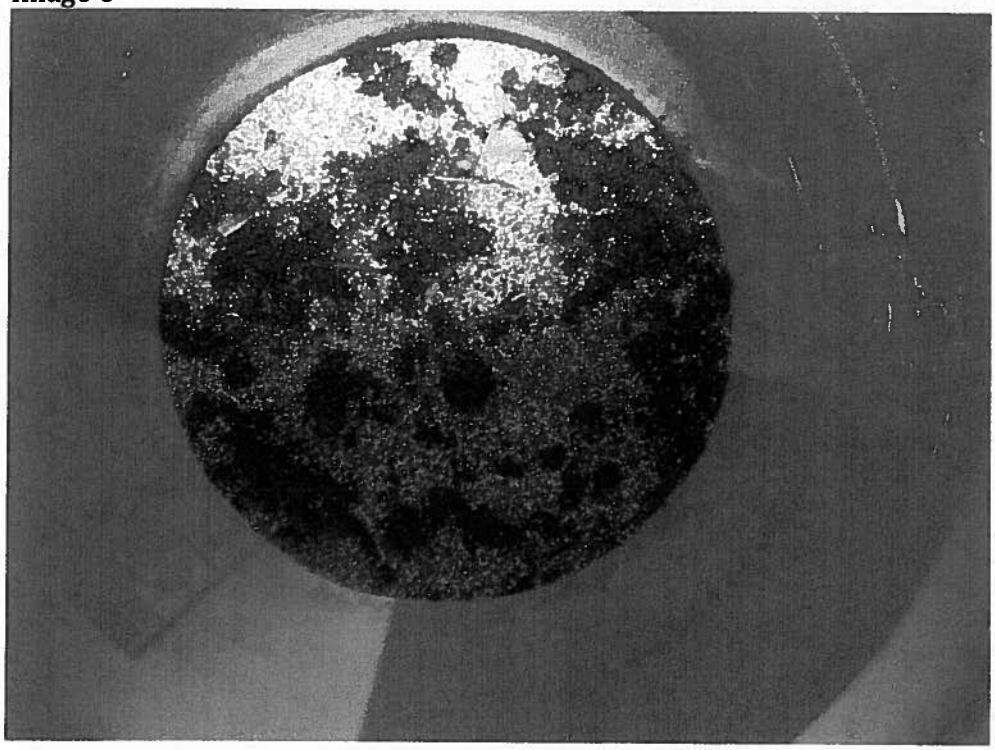

Image 7

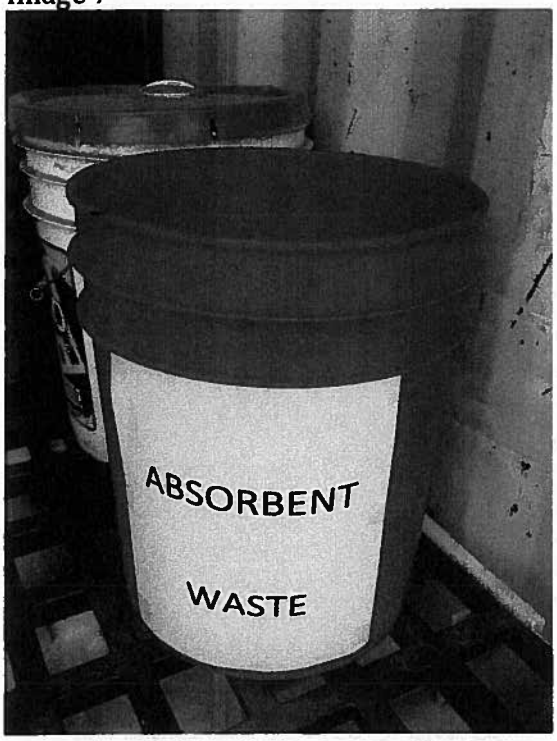

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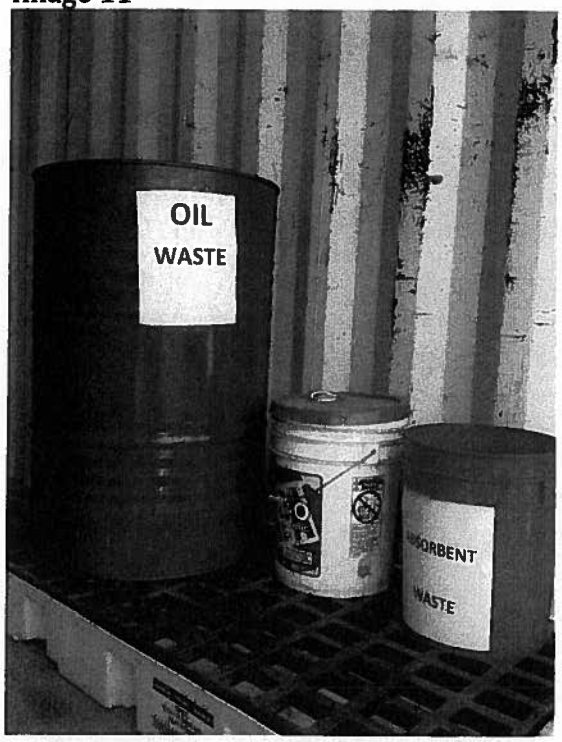
Image 10

Image 11



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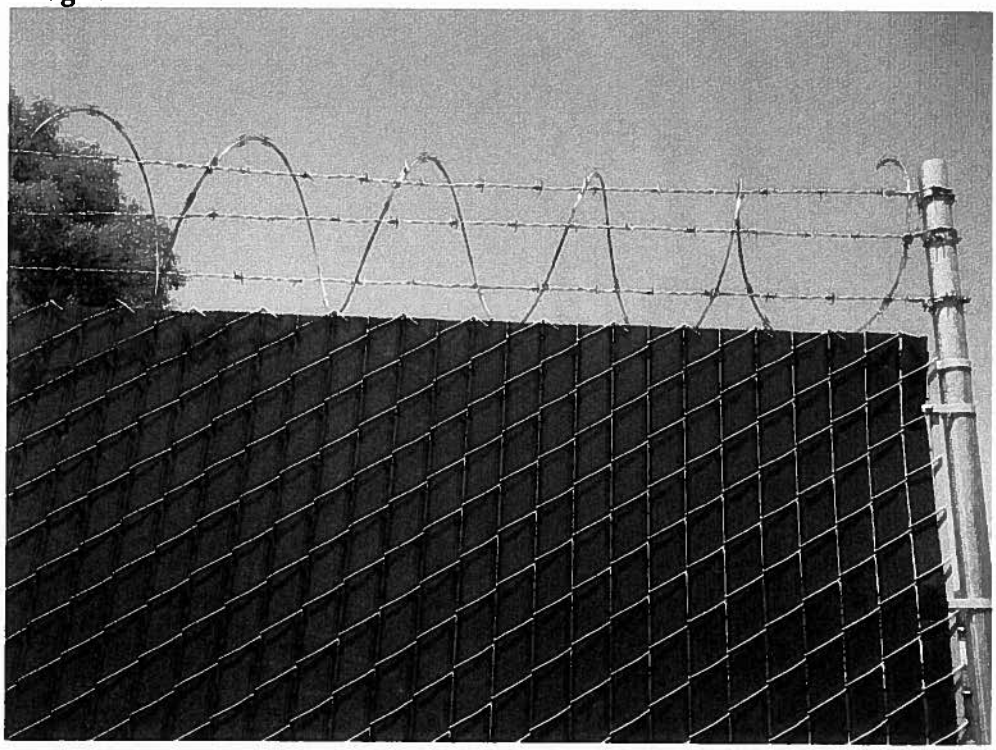

Roadway Auto Towing

CUP 12-00009; APN: 151-310-02

Vehicle late drop procedure

Vehicles towed to yard after 05:00pm will be subject to following procedure to lower noise emissions to community.

1. Tow trick will use same entrance
2. Tow truck will proceed to assigned late vehicle drop area
3. Vehicle will be dropped and left there.
4. Tow truck will proceed forward on an "O" turn to park in assigned area or leave premises (see exhibit)
5. After 08:00am crew will park late dropped vehicles on designated space.

These easy LATE VEHICLE DROP steps will be implemented and made mandatory for any vehicle that needs to be towed after 05:00pm and before 08:00am to ensure noise emissions are kept to a minimum. This also ensures the backup alarm from going off.

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OCT 04 2012
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

2012 — 2013

TOW SERVICE AGREEMENT

JANUARY 2012

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STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
TOW SERVICE AGREEMENT
CHP 234 (01-2012) OPI 061

This Tow Service Agreement (TSA) contains terms and conditions that a company agrees to comply with in order to receive and maintain a rotation tow listing with the California Highway Patrol (CHP). Participation in the CHP Rotation Tow Program is voluntary. An operator, by agreeing to participate in the program, does not establish a contractual relationship with the CHP and is not acting as an agent for the CHP or the State of California when performing services under the TSA. Exceptions to compliance with the TSA, shall not be authorized by verbal agreement. Any exceptions shall be documented as a written addendum by the Area commander and shall have the Division chief's approval.

1. TOW DISTRICTS

A. The CHP Area commander shall establish tow districts for each class of tow truck to facilitate the distribution of calls and meet the needs of the CHP with regards to response time and availability of tow services.

B. Within each tow district, the Area commander shall determine the maximum response time, reasonable rates, minimum number of trucks, and any applicable addendum.

1) The Area commander may require more than one tow truck in each class in tow districts where rapid response for congestion relief is required.

C. An operator shall have a business office and storage yard located within the district they serve, unless this requirement is waived by an addendum from the Area commander.

1) The Area commander may establish a maximum radius for the location of a business office from which an operator may provide service for a tow district.

D. An operator shall provide service in only one Area command unless waived by an addendum from both adjacent Area commanders and with the Division commander's concurrence.

E. A secondary storage yard does not qualify an operator for an additional tow district.

F. Within each tow district, the CHP should maintain separate rotation tow lists for each class of tow truck to ensure an equitable distribution of calls.

2. ROTATION LISTS

A. A call to an operator shall constitute one turn on the list and the operator shall be moved to the bottom of the list.

1) This includes when the operator fails to answer the phone, is unable to respond, is unable to perform the required service, refuses to respond or provide service, or is canceled due to excessive response time.

B. If it is determined the operator is not needed and is canceled by the CHP, up to and including arrival on scene and standby time which does not result in a tow, there shall be no charges and the operator shall be placed back at the top of the list.

C. If the operator responds to a CHP call and is canceled by the vehicle's registered owner or agent, prior to the operator taking possession of the vehicle, there shall be no charge and the operator shall be placed back at the top of the list.

1) Possession is deemed to arise when the vehicle is removed and is in transit, or when vehicle recovery operations or load salvage operations have begun (Section 3068.1[a] of the Civil Code [CC] and 22851[a][1] of the California Vehicle Code [CVC]).

2) Whenever a vehicle owner returns to a vehicle that is in possession of a towing company prior to the removal of the vehicle, the owner may regain possession of the vehicle from the towing company if the owner pays the tow company the towing charges (Section 22851[a][2] CVC).

D. Nothing in the TSA shall prohibit an Area commander, supervisor, or scene manager, from requesting a specific tow company when, in their opinion, the necessary resources to clear a hazard are not available from the tow company currently at the top of the rotation tow list.

1) In such an instance, the selected company would then go to the bottom of the list and those tow companies which were by-passed, would remain in the same list order.

E. Nothing shall prohibit a Class B, C, or D operator from maintaining a position on a lighter class rotation list, provided the tow truck meets the equipment specifications for that class of operation.

1) Regardless of the class of tow truck utilized or responding to the call, charges shall not be more than for the class of vehicle towed or serviced, except when vehicle recovery operations require a larger class tow truck.

F. A Salvage and Recovery Rotation Tow List shall be established for each Area office when there are tow operators who meet the Salvage and Recovery Rotation Tow List qualifications established in Item G.

1) This list shall be utilized whenever a large commercial vehicle is overturned and/or down an embankment.

2) This list **shall not** be utilized for a large commercial vehicle which is upright and on all wheels.

a) The Salvage and Recovery Tow List may be for each tow district or for the entire Area.

G. Those operators on the Salvage and Recovery Rotation Tow List shall respond with the following:

1) At least one (1) driver shall have five (5) verifiable years' for-hire salvage and recovery experience.

a) The five (5) verifiable years' for-hire salvage and recovery experience shall be determined by the CHP.

b) The driver with five (5) verifiable years' for-hire salvage and recovery experience shall not be shared between tow operators.

2) Two (2) tow trucks which shall be one (1) Class D tow truck and one (1) Class C tow truck.

a) Depending on an Area's needs and a tow operator's equipment availability, the Area commander may allow an operator to respond one of the following to meet the two (2) tow truck response criteria:

(1) Two (2) Class C tow trucks.

(2) The operator assigned the initial call may, subject to a prior written addendum, request a specific operator for assistance to meet the one (1) Class D tow truck and one (1) Class C tow truck, or two (2) class C tow trucks.

(3) One (1) Class C tow truck and one (1) Class B tow truck (e.g., remote Areas in the state where traffic congestion is not an issue).

NOTE: A QuickSwap unit would not qualify for the Salvage and Recovery List.

3. TOW OPERATORS

A. Operators applying for the rotation tow program shall have a minimum of three (3) verifiable year's for-hire towing experience, as an owner or principal, prior to the final filing date of an enrollment period in order to qualify for a rotation tow listing.

1) The three (3) verifiable years' for-hire experience shall be decided by the CHP.

B. Operators and owners who do not meet the three (3) verifiable years' for-hire towing experience, may be considered if a full-time manager is employed who possesses three (3) verifiable years for-hire tow experience, as an owner, principal, or full-time manager.

1) The three (3) verifiable years' for-hire experience, as an owner, principal, or full-time manager shall be decided by the CHP.

C. Management experience shall be decided and qualified by the CHP as follows:

1) The designation of "manager" implies general power and permits reasonable inferences that the employee so designated is invested with the general conduct and control of his employer's business.

2) An individual who has charge and control of a business and is vested with a certain amount of discretion and independent judgment.

D. If the manager ceases to be employed by the company, the TSA shall be suspended until a new manager is approved by the CHP.

E. Operators and owners applying for an additional identified business/terminal(s) located in a different tow district(s) or Area(s), shall utilize a full-time manager pursuant to Elements 3. B. and C.

F. New operators and tow truck drivers, involved with the CHP Rotation Tow Program, shall be fingerprinted for the purpose of conducting criminal history inquiries.

1) Any operator or tow truck driver who separates from the rotation tow program, in excess of one year, shall be fingerprinted for the purpose of conducting a criminal history regardless of prior criminal history clearances (e.g., CHP Evidence Tow Contract, Freeway Service Patrol).

2) The CHP will receive subsequent arrest/conviction notifications for all operators and tow truck drivers.

3) An operator shall notify the CHP of any arrest and/or conviction of a tow truck driver, or the operator, prior to the beginning of the next work shift.

   a) Failure to make notification should be cause for disciplinary action.

4) The Area tow officer shall be notified immediately by an operator upon a tow truck driver's separation from the rotation tow program.

G. Operators shall have all tow truck drivers involved with CHP rotation tow operations participate in a controlled substance and alcohol testing (CSAT) program.

1) Drivers requiring a Class A, Class B, or commercial Class C license (endorsed for hazardous materials transportation) shall participate in a CSAT program as defined in the Code of Federal Regulations, Title 49, Parts 40 and 382.

2) Drivers not required to possess a Class A, Class B, or commercial Class C license shall be enrolled in a CSAT program substantially similar to the requirements as outlined in Section 1) above.

3) The operator shall ensure selection pools for commercial and non-commercial licensed drivers are maintained separately.

4) A driver possessing a non-commercial driver's license who returns with a positive test result shall meet the same reinstatement requirements as a driver required to possess a commercial driver's license.

H. The operator shall provide proof of enrollment in a CSAT and/or similar CSAT program to the Area office during the enrollment period.

I. The operator and all tow truck drivers shall be enrolled in the Employer Pull Notice (EPN) program.

1) The operator shall provide a current list of drivers and a copy of the current EPN report, or in the case of a newly hired tow truck driver, proof of

enrollment in the EPN program, for all drivers to the Area office during enrollment.

a) The operator's signed and dated EPN report shall be kept on file in the Area office.

2) Upon the addition of new drivers, an operator shall be granted a maximum of 30 days to enroll drivers in the EPN.

J. The operator shall maintain a current list of drivers.

K. Operators shall have a Carrier Identification (CA) number and a valid Motor Carrier Property (MCP) permit. The MCP documentation shall be provided to the Area office during the enrollment period.

1) The expiration of an operator's MCP and/or suspension of the MCP, pursuant to Section 34623 CVC, shall result in the immediate suspension of the tow operator, as well as additional disciplinary action which may be imposed by the Area commander.

L. Operators shall ensure all drivers comply with intrastate and/or interstate hours of service pursuant to Title 13, Sections 1212 and 1212.5 of the California Code of Regulations (CCR).

1) Operators shall ensure their drivers' record of duty status complies with Title 13, Section 1213 CCR.

4. TOW OPERATOR'S BUSINESS

A. An operator's place of business shall have a sign which clearly identifies it to the public as a tow service.

1) The sign shall have letters which are clearly visible to the public from the street and shall be visible at night.

B. Business hours shall be posted in plain view to the public.

C. An operator's place of business shall have posted in plain view to the public the "Towing Fees and Access Notice" and copies of notice readily available to the public pursuant to Section 22651.07(a)(1)(A) CVC.

1) The "Towing Fees and Access Notice" shall be a standardized document plainly printed in no less than 10-point type and shall contain the required language pursuant to Section 22651.07(d) CVC.

D. An operator's place of business shall be sufficiently staffed to allow customers to talk face-to-face with a tow company's owner, manager, or employee during normal business hours.

1) Normal business hours shall not be less than 8 a.m. to 5 p.m., Monday through Friday, except for the following state recognized holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving Day, and Christmas Day.

E. If an operator's place of business is staffed with only one employee, the business office may be closed for one hour at lunch.

1) A sign shall be posted which reflects a lunch closure and a phone number where a request by a vehicle's owner/agent shall result in an immediate response to release property or a vehicle.

2) Response to the office shall be within the time frame required for a normal CHP Class A tow.

F. The operator shall maintain records of all tow services furnished at the operator's primary business office (Note: printable electronic records are acceptable).

1) Invoices shall contain the required itemized information pursuant to Section 22651.07(e) CVC.

2) Itemized invoices shall contain a distinct notice upon the invoice stating "Upon request, you are entitled to receive a copy of the "Towing Fees and Access Notice." This notice shall be contained within a bordered text box, printed in no less than 10-point type pursuant to Section 22651.07(a)(1)(B)(3) CVC.

G. The operator's primary business office shall also maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, driver's record of duty status (intrastate and/or interstate), and Federal Communication Commission licensing (if applicable), and non-CHP tows.

H. The CHP may inspect all operator records without notice during normal business hours.

I. Operators shall permit the CHP to make copies of business records at their place of business, or to remove business records for the purpose of reproduction.

1) The CHP shall provide a receipt for any record removed from the place of business.

J. An operator shall maintain business records for a period of two (2) years, plus the current term of this TSA, and shall make them available for inspection.

1) Failure of the operator to comply with the aforementioned inspection requirements shall be cause for disciplinary action.

5. FINANCIAL INTEREST

A. No operator or applicant shall be directly involved in the towing-related business of any other operator or applicant within the same rotation tow district.

B. No operator or applicant shall share equipment with any other operator or applicant involved with the CHP rotation tow list (excluding equipment which may be unavailable due to repairs, equipment replacement, or the operator is involved in the Salvage and Recovery List).

C. The sale or transfer of the controlling interest in a company shall immediately terminate the TSA.

1) A new owner may apply for the rotation tow program at any time during the remainder of the current TSA term, regardless of the Area's enrollment period.

6. RESPONSE TO CALLS

A. The operator shall respond to calls 24 hours a day, seven (7) days a week, within the maximum response time limits established by the Area commander.

B. An operator or tow truck driver shall respond with a properly equipped tow truck of the class required to tow the vehicle and be in possession of the appropriate class of driver license, applicable endorsements, and permits.

1) Any applicable permits (e.g., load variance, oversize) shall be valid and maintained in the tow truck.

C. The operator shall advise CHP dispatch, at the time of notification, if they are either unable to respond or unable to meet the maximum response time.

1) If, after accepting the call, the operator is unable to respond or will be delayed in responding, the operator shall immediately notify the appropriate CHP communications center.

D. A failure to respond to towing or service calls, and/or repeated failures to meet maximum response time requirements, shall result in disciplinary action.

E. If service, other than towing, recovery, and load salvage, is canceled by the vehicle's registered owner or agent, no lien shall arise for the service unless the operator has presented a written statement to the vehicle's registered owner or agent for the signed authorization of services to be performed pursuant to Section 3068(a) CC.

1) The operator shall not attempt to take possession of a vehicle in order to establish a lien for any non-towing services performed, or initiated and subsequently canceled.

F. Nothing shall prohibit a Class B, C, or D tow truck from maintaining a place on a lighter class rotation tow list, provided the tow truck meets the equipment specifications for that class of operation.

1) Regardless of the class of tow truck utilized or responding to the call, charges shall not be more than for the class of vehicle towed or serviced, except when vehicle recovery operations require a larger class tow truck.

G. Area commanders may establish local policy which allows an operator to dispatch more than one tow truck to a multiple vehicle collision scene in response to a rotation tow call.

H. If two or more operators are called to the same incident, distribution of the vehicles shall be at the discretion of the CHP incident commander.

I. When an operator will be temporarily unavailable to provide services due to a pre-planned or scheduled activity, the operator shall notify the Area command at least 24 hours prior to the date that services will be unavailable, noting the times and dates of the unavailability.

J. Only tow truck personnel and equipment requested shall respond to a CHP call (e.g., tow truck driver bringing girlfriend, children, or their dog, is not allowed).

1) Exception would be responding a tow truck driver trainee with an approved rotation tow truck driver and only if an approved CHP 234F, Tow Operator/Driver Information, and documentation of tow truck driver training has already been submitted for the trainee to the Area office.

K. An operator/tow truck driver shall not respond to a CHP call assigned to another operator or re-assign a call to another tow operator, unless requested to do so by the CHP.

1) Nothing would preclude the assigned operator/tow truck driver from responding to an incident to ascertain if additional assistance or equipment is required.

L. There shall be no additional charge for any personnel or equipment which is not necessary to perform the required service.

M. There may be times when the operator/tow truck driver assigned the initial call, may require assistance from an additional operator/tow truck driver.

1) The assigned operator/tow truck driver may, with the concurrence of the scene manager, request a specific operator/tow truck driver for additional assistance.

2) The operator/tow truck driver's approved request shall be routed through the CHP.

N. There may be times when an operator/tow truck driver, who was not called to the scene, comes upon a collision scene where a vehicle or vehicles are blocking a roadway and the on-scene officer requests assistance in clearing the roadway.

1) In such a case, the operator/tow truck driver may be requested by the officer to move the vehicle to a safe location and leave it.

2) There shall be no charge for this assistance and the assistance provided shall not change the operator's place in the rotation.

7. STORAGE YARD

A. The operator shall be responsible for the safekeeping and prevention of vandalism of all vehicles and contents which are stored/impounded by the CHP.

1) At a minimum, a permanent securely fenced or an enclosed storage area of an adequate size shall be provided for the proper storage of vehicles.

B. The primary storage yard shall be at the same location as the business address.

1) Stored/impounded vehicles shall be at the primary storage yard.

2) This requirement may be waived by a written addendum from the Area commander.

C. A secondary storage yard shall be located reasonably close to the main business office.

1) There shall be no charge to the vehicle's owner/agent for towing a vehicle from a secondary storage yard to the primary storage yard.

D. Tow operators shall maintain sufficient storage spaces.

1) A secondary storage yard shall only be utilized if the primary storage yard is full.

a) This requirement may be only waived by a written addendum from the Area commander.

E. A storage yard owned by an operator and shared with another operator shall only be approved if the operator/owner charges for the space exclusively on a flat monthly rate rather than a vehicle-by-vehicle basis, or combination thereof.

F. A storage yard shared by operators, or other business establishments not owned by the operator, shall be physically separated and secured from each other.

G. Prior to the utilization of a new storage yard, which was not listed on the CHP 234A, Rotation Tow Listing Application, the operator shall obtain the Area commander's approval.

H. An operator's employee shall be properly trained to conduct business transactions related to towing, storage, and release of vehicles/property.

I. The operator or their employee shall release personal property from a vehicle which has been stored/impounded by the CHP at the request of the vehicle's registered owner or agent pursuant to Sections 22851(b) and 22651.07 CVC.

1) California Highway Patrol approval shall be obtained prior to the release of personal property from a vehicle that has been impounded for evidence or investigation.

2) A receipt shall be provided for the removed personal property, with a copy placed inside the stored/impounded vehicle.

a) This procedure shall also apply to the removal of property by the tow operator and/or their employee to a secured area within the business.

J. Personal property and/or the vehicle shall be released at the primary storage yard.

1) Personal property or a vehicle release from a secondary storage yard shall only be granted if it's acceptable to the vehicle's registered owner or agent.

a) Personal property is considered to be items which are not affixed to the vehicle. Personal property includes: papers, cell phones, pull-out radios, clothes, luggage, tools, etc.

K. No fee shall be charged for the release of a vehicle or personal property during normal business hours pursuant to Sections 22851(b) and 22651.07(c)(1) CVC.

1) The maximum charge for a non-business hours release shall be one-half the hourly tow rate charged, or less, for initially towing the vehicle pursuant to Section 22851(b) CVC.

2) No lien shall attach to any personal property in or on the vehicle pursuant to Section 22851(b) CVC.

L. The operator shall keep a written record of every vehicle stored/impounded for a period longer than 12 hours pursuant to Section 10650(a) CVC.

1) The record shall contain the name and address of the person storing or requesting the tow, the names of the owner and driver of the vehicle (if ascertainable), and a brief vehicle description (make, model, license plate number, and any vehicle damage) pursuant to Section 10650(b) CVC.

8. TOW TRUCK DRIVERS

A. The operator shall ensure tow truck drivers responding to calls initiated by the CHP are competent and have completed a Tow Service Agreement Advisory Committee (TSAAC) approved tow truck driver training program.

1) The TSAAC approved tow truck driver training course list is contained in Attachment A of this TSA.

a) Acceptable tow truck driver training programs shall be approved by the TSAAC.

2) Documentation of a completed tow truck driver training program shall be submitted along with the CHP 234F.

a) Tow truck driver training documentation should be for the appropriate class of tow truck (e.g., a Class D driver should have heavy duty tow truck driver's training documentation).

b) An operator shall be provided with written notification regarding the reason(s) for denial of an operator/driver's CHP 234F within 30 days.

B. Completion and/or documentation of a tow truck driver's training does not indicate a sufficient level of competence.

C. Tow truck drivers shall perform all towing and recovery operations in the safest and most expedient manner possible.

D. Tow truck drivers shall be at least 18 years of age and shall possess the proper class of license and endorsements for the towed and towing vehicle.

E. Uniforms: CHP rotation tow truck drivers shall wear an identifiable uniform (either shirt and pants, or coveralls) displaying the company and the driver's name while engaged in CHP rotation tow operations.

F. Personal Appearance: CHP rotation tow truck drivers shall represent a professional image. An unacceptable representation would include: unbathed, excessively dirty/torn uniform, body art, visible body piercing, etc.

G. Safety Garments: CHP rotation tow truck drivers **shall** wear appropriate warning garments (e.g., vests, jackets, shirts, retroreflective clothing) during daylight and hours of darkness in accordance with California Code of Regulations, Title 8, Section 1598. If the tow truck driver is working on a Federal-aid highway, the operator **shall** comply with the guidelines contained in the Federal Code of Regulations, Title 23, Highways, Chapter 1, Federal Highway Administration, Department of Transportation, Part 634, Worker Visibility, which requires high-visibility personal protective safety clothing to be worn that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004.

9. TOW TRUCK CLASSIFICATIONS

A. An operator shall equip and maintain tow trucks covered under the TSA in accordance with the provisions set forth in the California Vehicle Code (CVC), Title 13 of the California Code of Regulations (CCR), the specifications contained in this TSA, and in a manner consistent with industry standards and practices.

B. All tow trucks shall have recovery, wheel lift, and boom capabilities meeting the specifications contained in this TSA and the most recent electronic version of the CHP 234B, Tow Truck Inspection Guide.

1) Class D tow trucks used exclusively for salvage and recovery operations are not required to possess wheel lift capabilities.

2) A Class B tow truck with a 14-ton boom rating, which has been previously inspected and approved by the CHP and owned by the same operator for the 2009-2010, 2011, and 2011-2012 TSA, may remain on rotation.

3) An operator who has a car carrier is exempted from the recovery, wheel lift, and boom capability requirements. However, the car carrier must be an additional unit and **shall not be used for recovery.**

C. A violation of the gross vehicle weight rating (GVWR) and/or safe loading requirements of a tow truck should be cause for immediate suspension. This includes exceeding the tow truck's GVWR, front axle weight rating, rear axle weight rating, maximum tire weight ratings, or not maintaining 50 percent of the tow truck's unladen front axle weight on the front axle when towing.

There are four (4) classes of tow trucks covered under this TSA.

1) **Class A - Light Duty**

a) An operator should maintain a minimum of one tow truck which has a manufacturer's GVWR of at least 14,000 pounds.

(1) After June 30, 2006, Class A 4-wheel drive tow trucks with a GVWR of less than 14,000 pounds may be listed as special equipment on the CHP 234A, Rotation Tow Listing Application. These tow trucks shall be used only for recoveries requiring the use of 4-wheel drive.

2) **Class B - Medium Duty**

a) An operator should maintain a minimum of one tow truck with a GVWR of at least 26,001 pounds. The truck shall be equipped with air brakes and a tractor protection valve or device, and be capable of providing and maintaining continuous air to the towed vehicle.

(1) All Class B tow trucks with a GVWR of less than 26,001 pounds currently approved for the CHP Class B rotation tow list will be allowed to remain on the Class B rotation tow list until June 30, 2013.

3) **Class C - Heavy Duty**

a) An operator should maintain at least one three-axle tow truck with a GVWR of at least 48,000 pounds. The truck shall be equipped with air brakes and must be capable of providing and maintaining continuous air to the towed vehicle.

(1) All Class C tow trucks with a GVWR of less than 48,000 pounds currently approved for the CHP Class C rotation tow

list will be allowed to remain on the Class C rotation tow list until June 30, 2013.

4) **Class D - Super Heavy Duty**

a) An operator should maintain at least one three-axle tow truck with a GVWR of at least 52,000 pounds. The truck shall be equipped with air brakes and must be capable of providing and maintaining continuous air to the towed vehicle.

(1) All Class D tow trucks with a GVWR of less than 52,000 pounds currently approved for the CHP Class D rotation tow list will be allowed to remain on the Class D rotation tow list until June 30, 2013.

(2) If this class of tow truck is used exclusively for salvage and recovery operations, there is no requirement for providing and maintaining continuous air to the towed vehicle.

10. GENERAL EQUIPMENT SPECIFICATIONS

A. Tow Truck and Car Carrier Classifications: Tow truck and car carrier classifications are based on the truck chassis GVWR and the classification system used by the American Trucking Association (ATA) and truck manufacturers. Tow truck and car carrier classifications shall meet all applicable state and/or federal standards.

B. Identification Labels: Each piece of towing equipment shall have a label or identification tag permanently affixed to the equipment in a prominent location to identify the manufacturer, serial number, model, and rated capacity.

C. Recovery Equipment Rating: The basic performance rating of the recovery equipment is the weight the equipment can lift in a winching mode, when the boom is static at a 30 degree elevation with the load lines vertical and the lifting cables sharing the load equally, measured with a live load (weight or load cell).

1) The structural design of the recovery equipment must have a higher load capacity than the performance ratings.

2) Winches shall conform to or exceed the specifications set forth by the Recovery Equipment Rating, Society of Automotive Engineers (SAE) Handbook, SAE J706.

3) All ratings for wire rope and chain assemblies are for the undamaged assembly condition. All wire rope and chain assemblies should be the same type, construction, and rating as specified by the original equipment manufacturer (OEM) for the equipment.

D. Control/Safety Labels: All controls shall be clearly marked to indicate proper operation, as well as any special warnings or cautions.

11. INSPECTIONS

A. The CHP shall provide for not less than one annual inspection of all tow trucks utilized on CHP rotation calls, at no charge to the operator.

1) The CHP may conduct additional inspections without notice during normal business hours.

B. The operator shall not dispatch any tow truck which has not been inspected and approved by the CHP.

1) The CHP shall inspect a tow truck within thirty (30) days of a request from an operator.

C. The annual inspection shall consist of the following:

1) A Level One inspection (CHP 407F, Safetynet Driver/Vehicle Inspection Report) conducted by a commercial enforcement officer or Area tow officer with the assistance of a motor carrier specialist or commercial vehicle inspection specialist.

2) A tow truck inspection (CHP 234B, Tow Truck Inspection Guide) conducted by a commercial enforcement officer or Area tow officer.

D. Upon the successful completion of a Level One inspection, a Commercial Vehicle Safety Alliance (CVSA) decal shall be issued, regardless of the tow truck inspection (CHP 234B) results.

E. If 50 percent or more of the operator's tow trucks fail the initial annual inspection, the operator's application shall be denied and the operator may reapply during the next open enrollment period.

1) The operator whose trucks have successfully passed the initial annual inspection but still have some tow trucks which failed, shall be allowed one re-inspection for those failed tow trucks.

F. The intent of these inspections is to ensure operators are involved in an ongoing safety maintenance program for their tow trucks. The annual inspection is not intended to find out what needs to be repaired/replaced on an operator's tow truck. A tow truck responding to a CHP call should be properly equipped and operating in a safe condition.

G. The operator shall be provided with written notification of the failure/denial of any tow truck or equipment and allowed a hearing upon request to the Area office.

H. An Area office should honor annual inspections performed by another Area office.

I. All of the equipment listed on an operator's CHP 234A shall be accounted for during the annual inspection.

J. Special Equipment

1) To properly and safely tow, service, or recover the wide variety of vehicles being operated on the highway, a towing procedure may require the use of special equipment specifically designed for the purpose. This special equipment shall be listed on the operator's CHP 234A and should be used when appropriate.

2) All special equipment listed on the CHP 234A shall be accounted for during the annual inspection or when additional equipment is added.

3) Any special equipment which requires certification/inspection of the equipment and/or operator (e.g., cranes, forklifts), the applicable and current certification/inspection document(s) shall be provided to the Area office at the time of enrollment or as equipment is added by an operator.

12. RATES

A. Fees charged for calls originating from the CHP shall be reasonable, valid, and not in excess of those rates charged for similar services provided in response to requests initiated by a public agency or private person.

1) Reasonableness shall be determined as compared to other similar service rates.

2) Validity shall be based upon the following: telephone quotes, invoices, posted rates, charges to retail customers, etc.

NOTE: Element 12.A, shall not apply if the operator responds to a CHP call in a location where towing rates for all tow companies are established by an Official Police Garage (OPG) or city/county ordinance pursuant to Section 21100(g) CVC.

B. Based upon the average of the proposed fees submitted, the Area commander shall determine the reasonableness and validity of all submitted rates (i.e., storage, non-skilled labor, special equipment).

C. An operator who submits a rate, which is determined by the Area commander to be unreasonable and/or invalid, shall be allowed to re-submit rates only once.

1) If the re-submitted rate is unreasonable and/or invalid, the operator shall be disqualified until the next enrollment period.

2) An operator shall be provided with written notification regarding the disqualification within 30 days.

D. Rate requirements represent the maximum an operator may charge on a CHP call.

1) An operator is not precluded from charging less when deemed appropriate by the operator.

2) These requirements shall not be construed as requiring a charge if an operator would not normally charge for such service.

E. Any operator who charges rates above the submitted rates for a CHP call shall be subject to disciplinary action.

F. In an effort to remain competitive in the open market, the operator may lower retail rates at any time by notifying the CHP.

1) When an operator lowers the retail rate, that retail rate becomes the operator's new approved rate.

G. A valid bank credit card or cash payment shall be accepted for payment of towing and/or storage pursuant to Sections 22651.1 and 22651.07(c)(4) CVC.

1) A surcharge shall not be imposed upon a cardholder who elects to use a credit card for payment pursuant to Section 1748.1 CC and Section 22651.07(c)(4) CVC.

H. The approved schedule of rates charged by the operator shall be available in the tow truck, and shall be presented upon demand to the vehicle owner/agent for whom the tow service was provided or any CHP officer at the scene.

I. There shall be no additional charge for moving (i.e., driving, towing, pushing, utilizing a forklift) a stored/impounded vehicle from inside an operator's storage yard to the front of the business establishment.

J. Operators may only raise rates during the enrollment period or upon approval after a midterm review.

K. Tow Rates

1) The rate for towing should be computed from portal to portal when a vehicle is towed to the operator's storage yard.

a) Portal to portal is defined as follows: Time shall start from either the point of dispatch or upon departure from the place of business, whichever is closer to the location of the call, and shall end at the estimated time of return to the place of business or completion of the call, if another call is pending, whichever is shorter.

2) The time expended, for towing a vehicle back to the operator's storage yard, should be charged at a rate not to exceed the hourly rate.

a) Time expended in excess of the hourly rate shall be calculated in no more than one-minute increments.

b) There shall be no additional charges for mileage, etc.

3) A clear, itemized, and detailed explanation of any additional service that caused the time to exceed one hour shall be documented on the invoice pursuant to Section 22651.07(e)(7) CVC.

4) The operator may submit two retail hourly tow rates to the Area: One rate for calls originating during normal business hours and one rate for calls originating after business hours.

5) The operator shall base towing charges upon the class of vehicle being towed, regardless of the class of truck used.

L. Service Calls

1) The operator may charge up to a 30-minute minimum per call for any service which is performed when the vehicle operator or agent is present and the vehicle is not stored at the direction of an officer or returned to the operator's storage yard.

2) Rates for a service call (out-of-gas, lockouts, tire changes, etc.) should be from portal to end of service.

3) Charges, in excess of a 30-minute service call, may be charged in no more than one-minute increments.

   a) A clear, itemized, and detailed explanation of any additional service that caused the time to exceed one hour shall be documented on the invoice pursuant to Section 22651.07(e)(7) CVC.

4) Fuel charges for gasoline dispensed on out-of-gas service calls shall be at the prevailing market rate.

M. Fees for Special Operations

1) Fees shall be reasonable and consistent with industry standards for similar operations.

2) Operators involved in the two (2) tow truck Salvage and Recovery List may charge a minimum two-hour rate.

   a) Time expended in excess of the two-hour minimum shall be at the hourly rate in no more than one-minute increments.

   b) If a second hour is charged, the second hour shall meet the invoicing requirements pursuant to Section 22651.07(e)(7) CVC.

   c) If it is determined that only one truck is required, the second truck may claim portal to portal and time expended on scene until determination was made that it was not required.

3) Hourly rates shall be established for the following:

   a) Auxiliary and contracted equipment, e.g., airbags, converter gear/dolly, additional trailers, fork lift, front loaders, etc.

4) Operators shall submit a mark-up rate (percentage of the cost to the operator) for rental equipment and labor not otherwise listed on the CHP 234A.

5) If an operator performs a service for which a required rate was not submitted and approved by the Area, the operator shall only be entitled to charge for the actual cost of that service plus a markup rate not to exceed ten (10) percent.

N. Storage Fees

1) A vehicle stored/impounded 24 hours or less shall be charged no more than one day storage pursuant to Section 3068.1(a) CC.

   a) If the vehicle is released from storage after 24 hours has lapsed, charges may be allowed on a full, calendar-day basis for each day of storage, or part thereof pursuant to Section 3068.1(a) CC.

2) Storage of vehicles in combination should be charged a per vehicle rate except for dollies, con-gear, vehicle on a car carrier/trailer, etc.

   a) Dollies and con-gear, not in combination, may be charged a storage rate not to exceed Class A storage fees.

3) Inside storage fees shall only be charged when inside storage is requested by the CHP, registered owner, legal owner, insurance company, or when the inside storage can be justified by the tow operator.

4) The operator shall display in plain view at all cashiers stations, a sign as described in Section 3070(d)(2)(E) CC, disclosing all storage fees and charges in force, including the maximum storage rate.

O. Lien Fees

1) If a vehicle has been determined to have a value exceeding four thousand ($4,000), pursuant to Section 22670 CVC, the lien shall be satisfied pursuant to Section 3071 CC (Section 3074 CC).

2) The lienholder may charge a fee for lien sale preparations not to exceed seventy dollars ($70), for a vehicle valued at four thousand dollars ($4,000) or less and not to exceed one hundred dollars ($100) for a vehicle valued at greater than four thousand dollars ($4,000) (Section 3074 CC).

   a) These charges may commence when the lienholder requests the names and addresses of all persons who have an interest in the vehicle from the Department of Motor Vehicles (Section 3074 CC).

   b) Not more than 50 percent of the allowable fee may be charged until the lien sale notifications are mailed to all interested parties and the lienholder or registration service agent has possession of the required lien processing documents (Section 3074 CC).

c) This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage (Section 3074 CC).

13. COLLUSION

A. An operator and/or applicant shall not conspire, attempt to conspire, or commit any other act of collusion with any other operator or applicant for the purpose of secretly, or otherwise, establishing an understanding regarding rates or conditions to the TSA that would bring about any unfair condition which could be prejudicial to the CHP, the motoring public, or other operators.

B. A finding by the CHP that any operator or applicant has been involved in collusion shall be cause for denial of an application or shall nullify the TSA. Any operator or applicant found to be involved in any act, or attempted act of collusion, shall be disqualified from participation on all CHP rotation tow lists for the current term, plus three years.

14. INSURANCE

A. The operator shall maintain the following minimum levels of insurance from an insurance carrier admitted in California, or admitted in the state in which the operator's business is located, and is authorized to do business in California:

1) Minimum Level of Financial Responsibility (as required by Section 34631.5 CVC) - Bodily injury and property damage with a combined single limit of not less than $750,000 for Class A tow trucks. The combined limits for Classes B, C, and D shall not be less than $1,000,000. These minimum standards are to include non-owned and hired auto coverage.

2) Uninsured Motorist - Legal minimum, combined single limit.

3) On-Hook Coverage/Cargo - Insuring the vehicle in tow with limits based on the size of the tow truck.

a) Class A tow truck.....$50,000.

b) Class B tow truck.....$100,000.

c) Class C tow truck.....$200,000.

d) Class D tow truck.....$250,000.

4) Garage Liability - Includes premises and operations. Coverage for bodily injury and property damage with a combined single limit of not less than $500,000.

5) Garage Keeper's Liability – Shall be the same minimum as on-hook coverage for vehicles in the care, custody, and control of the operator in the storage yard.

B. An operator shall provide proof of insurance for all storage facilities listed on the CHP 234A.

C. Proof of insurance shall be in the form of a certificate of insurance. The operator's insurance policy shall provide for not less than 30 days written notice to the CHP in the event the insurance policy is canceled or is due to expire.

D. Failure of the operator to maintain the minimum insurance requirements set forth in the TSA shall immediately nullify the TSA, remove the operator from the rotation tow list, and subject to disciplinary action by the Area commander.

15. ANNUAL OPEN ENROLLMENT MEETINGS

A. The Area commander shall conduct, at a minimum, one (1) annual open enrollment meeting to discuss the forthcoming TSA term and issues concerning the rotation tow program.

1) The CHP shall give the operator a 30-day written notice of the meeting.

2) If an operator or operator's designee fails to attend the annual open enrollment meeting, the operator's application for the forthcoming TSA term shall be denied.

a) The operator shall be provided with written notification of the denial and may reapply during the next open enrollment.

B. Any subsequent meetings shall be mandatory for the operator or operator's designee.

1) The CHP shall give a 30-day written notice, if practical, of the meeting.

2) Failure to attend a meeting shall result in disciplinary action.

16. DEMEANOR AND CONDUCT

A. While involved in CHP rotation tow operations or related business, the tow operator and/or employee(s) shall refrain from any acts of misconduct including, but not limited to, any of the following:

1) Rude or discourteous behavior.

2) Lack of service, selective service, or refusal to provide service which the operator is capable of performing.

3) Any act of sexual harassment or sexual impropriety.

4) Unsafe driving practices.

5) Exhibiting any objective symptoms of alcohol or drug use.

a) The operator/tow truck driver shall submit to a preliminary alcohol screening test upon demand of the CHP if an odor of an alcoholic beverage is detected upon their person.

17. TOW COMPLAINTS

A. All CHP related tow service complaints received or initiated by the CHP against a tow operator or tow operator's employees, shall be accepted and investigated in a fair and impartial manner.

1) The tow operator and their employees shall cooperate with CHP investigators during the course of an investigation.

B. Alleged violations of the TSA shall be investigated by the CHP Area covered by the TSA.

C. Should the filing of criminal charges be a possibility, the CHP shall conduct the investigation to conclusion or assist the lead investigating agency and request prosecution if warranted.

D. Complaints for violations of the law not normally investigated by CHP shall be referred to the agency with investigation jurisdiction.

E. The operator shall be notified in writing of the findings within 30 days of the conclusion of any investigation.

18. COMPLIANCE WITH LAW

A. The tow operator and employees shall, at all times, comply with federal, state, and local laws and ordinances.

B. Any conviction of the operator or employee involving a stolen or embezzled vehicle, fraud related to the towing business, stolen or embezzled property, a crime of violence, a drug-related offense, felony driving while under the influence of alcohol or drugs, misdemeanor driving while under the influence of alcohol or drugs, or moral turpitude should be cause for suspension or removal of an operator/employee, or denial of an operator/employee's application, or termination of the TSA.

C. California Highway Patrol personnel, as well as tow operators and their employees, shall not be offered nor accept gratuities pursuant to Section 12110(a) CVC.

D. No tow operator or their employees shall accept any gratuities from a repair shop for the delivery of a vehicle, not owned by the repair shop or tow company, for the purpose of storage or repair pursuant to Section 12110(c) CVC.

E. An operator shall satisfy a court order mandating reimbursement to the vehicle or property owner for the damage or loss which occurred while the vehicle was in the operator's custody.

F. An operator or employee arrested/charged for a violation involving any of the above crimes should be suspended until the case is adjudicated.

19. COMPLIANCE WITH TSA

A. The operator agrees, as a condition of inclusion in the rotation tow program, to comply with the terms and conditions of the TSA. Furthermore, the operator or operator's agent agrees that failure to comply with these terms and conditions shall be cause for disciplinary action (i.e., written reprimand, suspension, termination, or denial of an application).

B. A violation of the equipment requirements, related to safety, shall be cause for immediate suspension.

1) The suspension shall remain in effect until the suspension period is completed and the CHP has inspected the equipment and concluded the operator is in compliance.

C. A violation of the GVWR and/or safe loading requirements of a tow truck may be cause for disciplinary action.

1) This includes exceeding the tow truck's GVWR, front axle weight rating (FAWR), rear axle weight rating (RAWR), maximum tire weight ratings, or not maintaining 50 percent of the tow truck's laden front axle weight on the front axle when in tow.

D. A violation of intentionally overcharging or a pattern of overcharging shall be cause for suspension.

1) The suspension shall remain in effect until the suspension period is completed and proof of reimbursement to the aggrieved customer has been provided to the CHP.

E. Any unsatisfactory terminal evaluation rating issued by the Motor Carrier Safety Unit (MCSU) shall be cause for suspension.

1) The suspension shall remain in effect until proof of a satisfactory compliance rating from the MCSU has been provided to the Area commander.

F. Allowing an incompetent tow truck driver to respond to a CHP call shall be cause for disciplinary action of the operator.

G. An operator responding a tow truck driver to a CHP call (i.e., those drivers dispatched by the tow operator's business) for whom the following information has not been submitted and approved by the Area office, shall be cause for disciplinary action of the operator:

1) A CHP 234F shall include all convictions of felonies and misdemeanors.

a) A new tow truck driver, or any tow truck driver that has separated from the rotation tow program, shall be fingerprinted in accordance to Element 3. Item F. and F. 1).

2) Documentation indicating completion of a TSAAC approved tow truck driver training program within the past five (5) years.

3) Enrollment in an annual random drug testing program and the EPN program.

H. Tow operators shall not record (i.e., videotape or photograph) a scene unless it is for official use by the tow company for business related reasons.

1) The on-scene investigating officer or incident commander shall make the determination when a tow operator may record a scene for tow related business reasons.

2) In the event a tow operator is determined to be in violation of this provision, they will immediately surrender any such recording device to an officer of the CHP.

20. DISCIPLINARY ACTION

A. The Area commander shall take disciplinary action against an operator for violations investigated and sustained. Furthermore, the operator agrees that failure by the operator, or their agent, to comply with these terms and conditions shall be cause for disciplinary action (i.e., written reprimand, suspension, denial of an application, or termination from the CHP Rotation Tow Program).

1) The Area commander shall retain discretion regarding the length of any suspension imposed pursuant to the terms and conditions of this TSA.

B. Nothing shall preclude the CHP from taking the appropriate enforcement or administrative action for any violations of law.

C. Nothing herein shall be deemed to prohibit the CHP from immediately suspending, terminating, or denying an application of any operator or employee whose conduct, in the opinion of the Area commander, is deemed to be a danger to the motoring public (e.g., registered sex offender), or who has engaged in conduct constituting a flagrant violation of the TSA.

D. Records of violations shall be retained by the CHP for 36 months.

E. Disciplinary action taken against an operator by an Area commander should be honored by all CHP Areas being serviced by the operator in question.

21. TERMS OF DISCIPLINARY ACTION

A. Violations of the terms and conditions of the TSA may be cause for disciplinary action in the following manner:

1) First violation within a 12-month period – letter of written reprimand.

2) Second violation within a 12-month period – one to 30-day suspension.

3) Third violation within a 12-month period – 60 to 90-day suspension.

4) Fourth violation within a 12-month period – termination of the TSA.

NOTE: Nothing may preclude an Area commander from imposing a suspension for a first violation if it is a flagrant violation of the terms and conditions of the TSA.

B. Violations of the terms and conditions of the TSA which warrant suspension for the first violation are categorized as major violations. Any subsequent or continuing major violation may be cause for termination.

1) In lieu of termination, the CHP may impose additional suspensions for longer periods, if deemed appropriate.

2) When considering disciplinary action for a major violation of the TSA, an Area commander should take into consideration all violations which have occurred within 36 months prior to the date of the current violation.

C. A suspended or terminated operator, and/or the tow business owner at the time of the suspension or termination, shall not be eligible for a rotation listing for the duration of the suspension or termination.

1) This provision applies to the operator working in any capacity within any tow business or operating any tow business, even if operated under new ownership.

D. If the operator is serving a suspension for one year or more, the operator shall be required to have complied with all terms and conditions of the current TSA at the time of reinstatement.

E. An operator shall comply with all the terms of the suspension (i.e., restitution to victims, court orders) prior to reinstatement or reapplication.

22. HEARING/APPEAL

A. A hearing shall be granted, upon an operator's request, within ten (10) calendar days, for any of the following circumstances:

1) Operator is served with disciplinary action.

2) Denial of an operator's rotation tow application (CHP 234A) or an operator/driver application (CHP 234F).

B. A hearing shall be held as soon as practicable.

C. The hearing shall be conducted by the Area commander or designee, and the operator shall be entitled to present all relevant facts and circumstances in support of the operator's position.

1) The operator shall be entitled to present testimony of at least one qualified person.

D. The operator shall be notified in writing of the Area commander's decision(s) within ten (10) business days of the date of completion of the hearing.

E. Upon receipt of the Area commander's written hearing decision, if the operator is dissatisfied with the decision(s), the operator may appeal by submitting a written request to the CHP Division commander within ten (10) business days.

F. The appeal shall be conducted by the Division commander or designee and shall be held as soon as practicable.

1) The operator shall have the same rights as afforded at the Area level.

2) The operator shall be notified in writing of the Division commander's decision(s) within ten (10) business days of the appeal.

3) The Division commander's decision(s) shall be subject to no further administrative appeal.

G. Disciplinary action shall not take effect until the hearing and appeal process has been exhausted, with the exception of operators whose conduct is deemed to be a danger to the motoring public or who continue to violate the terms and conditions of this TSA.

H. If an operator fails to request a hearing or appeal within the specified time or fails to appear at a scheduled hearing or appeal, the action taken by the CHP Area commander shall be final and the disciplinary action shall take effect upon written notification to the operator by the Area commander.

23. MIDTERM REVIEW

A. The purpose of this section is to provide a process for a midterm review of the terms and conditions of the TSA in the event there is a legitimate and substantial change in conditions or law affecting the majority of the operators within an Area or the CHP.

B. A midterm review, when granted by the Commissioner or designee, will not automatically authorize a change in the terms and conditions of the TSA.

1) If a midterm review is announced by the Commissioner or designee, it is the responsibility of the affected Area commander to conduct a review of the conditions which initially caused the request to be communicated and to determine if the change is justified.

24. ADVERTISING

The operator shall not display any sign or engage in any advertisement indicating an official or unofficial connection with the CHP or the Department of Motor Vehicles.

25. CANCELLATION

This TSA may be canceled by either party by giving written notice to the other party.

26. OPERATOR APPROVAL

I certify that all drivers operating under this Tow Service Agreement (TSA) are qualified and competent. I further certify that I have read and understand this TSA and agree to abide by all the provisions. I further agree to indemnify, defend, and save harmless the state, its officers, agents, and employees from any and all claims and losses accruing or resulting to the operator in connection with the performance of the TSA, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the operator in the performance of this TSA. The operator, and the agents and employees of the operator, in the performance of this TSA, shall act in an independent capacity and not as officers or employees or agents of the State of California. The terms of this TSA (2012-2013 TSA) will become effective:

_____ and end _____.
Date Date

Operator Approval		
Signature	Typed Name	
Company	Title	Date
Business Address	Phone Number	
Motor Carrier Permit Number		

ATTACHMENT A

TOW SERVICE AGREEMENT ADVISORY COMMITTEE
APPROVED TOW TRUCK DRIVER TRAINING COURSES

Automobile Club of Southern California
3333 Fairview Road
Costa Mesa, CA 92626
Contact: Rob Wade at (714) 885-1333
E-mail: wade.robert@caaa-calif.com

California Tow Truck Association
3050 Beacon Blvd.
West Sacramento, CA 95691
Contact: Jack Morris at (800) 874-2860 or (760) 325-5840, Extension 116
E-mail: jmorris@ctta.com

California State Automobile Association
Automotive Services
3055 Oak Road
Walnut Creek, CA 94597
Contact: Geoff Rice at (415) 308-5442
E-mail: geoff.rice@goaaa.com

International Institute of Towing & Recovery (Instructor Led / Self Study Course)
c/o CSAA ERS Communications
3055 Oak Road
Walnut Creek, CA 94597
Contact: Geoff Rice at (415) 308-5442
E-mail: geoff.rice@goaaa.com

Randy Resch
Manager, C & D Towing
8332 Case Street
La Mesa, CA 91942
Telephone: (619) 463-8697
E-mail: rreschran@aol.com

Tow Pros, LLC
4615 East Brundage Lane
Bakersfield, CA 93307
Contact: Ken Kay at (661) 979-0747
E-mail: kktowman@towpros.com

WreckMaster Incorporated
P.O. Box 473
Lewiston, NY 14092
Telephone: (800) 267-2266
E-mail: www.WreckMaster.com

Nadine L. Scott
Attorney at Law

550 Hoover St.
Oceanside CA 92054
nadia550@sbcglobal.net
760-803-6813

City of Oceanside
Planning Department
Attn: Richard Greenbauer and George Buell
300 N. Coast Highway
Oceanside CA 92054

Emailed: rgreenbauer@ci.oceanside.ca.us
gbuell@ci.oceanside.ca.us, jmullen@ci.oceanside.ca.us
Copy: City Clerk for Official Records
htrobaugh@ci.oceanside.ca.us

Re: Application Roadway Auto Towing, CUP12-00009

Dear Mr. Greenbauer and Mr. Buell,

I just received notice of a hearing on August 27 for a **24 hour** tow yard at 1833 Oceanside Boulevard, CUP application CUP12-00009.

I am vehemently opposed to a 24 hour tow yard right below homes in Fire Mountain. This project should *NEVER* have received an exemption from CEQA based on noise, incompatibility with surround residential uses, lack of buffer, among other things. This project should have been denied in the planning stages.

Such a project is wholly 'incompatible' with surrounding residential development; homes are directly above the project on a hillside and noise will channel upwards to these homes in the Fire Mountain area. **"Acceptable noise levels shall be demonstrated by the applicant in the review and approval of projects ...that require a permit or other approval from the City."** [Page 13, General Plan Land Use Element] It is 100% doubtful that the applicant can provide acceptable noise levels with back up beepers, hydraulic lifts, and other noises that are generally associated with this type of operation.

Due to the CEQA exemption, it seems likely that NO noise study was done. It is obvious that this type of project, adjacent to residential property, will exceed acceptable levels in the Noise Ordinance [Chapter 38] and General Plan Noise Element as well. "Excessive noise is considered an impact under CEQA" and *thus an exemption is not allowed.* [Noise Element, page 3, General Plan]

<u>Additional info:</u>
Curfews may be adopted between 10pm and 8am. This is another reason to deny this project as they have applied for 24 hours operations.
High noise levels are prohibited if the noise level is raised 5dB if adjacent to residential uses. [Noise element, page 25] Per the Noise element, does Oceanside have a noise meter as required by the Element? Residential areas are NOT to be impacted by noise and can be denied approval. [ditto, page 27]

The project also will create negative visual impacts to surrounding neighborhoods as prohibited in the General Plan. View preservation is required! [Page 12, Paragraph B2, LUE]

An open space buffer is also required per the General Plan for industrial projects that are next to residential areas. [Page 12, Paragraph D, LUE]

Further this project completely, 100% frustrates any and all goals in the Oceanside Boulevard Vision Plan that was worked on by hundreds of residents, expensive consults and then accepted by the Council! The PLAN was quite clear in prohibiting more industrial, increased heavy truck traffic, dirty and noisy uses in this corridor. Absolutely NO further impacting industrial uses were not envisioned nor are they acceptable. Indeed more compatible uses are desired that create high paying jobs (not tow truck drivers), have a low impact on surrounding neighborhoods and *one that enhances quality of life rather than degrades it.* [http://www.ci.oceanside.ca.us/civica/filebank/blobdload.asp?BlobID=25442]

This project is absolutely not compatible with surrounding residential uses as required in Zoning Ordinance [1310-E, page 13-1].

It also quite dubious if this type of project will bring any meaningful revenue enhancements versus economic and environmental costs to the city as required by zoning ordinance. {Ditto, page 13-1]

I am also interested to see if stormwater and landscaping plans were prepared, particularly since this property abuts the sensitive area Loma Alta Creek.

I am asking you to pull this item immediately, engage the pubic residents surround the property, revoke the CEQA exemption, and have the applicant withdraw their application and/or prepare either an EIR or a Mitigated Dec. Further, the community above this project should have been informed via neighborhood meetings. I am also asking to verify if the surrounding residential uses received notice of this hearing and/or project.

Thank you for a reply and more information on this project including a web link to the project materials available to the public. I searched for 10 minutes on eTrakit and was unable to find any file on it by applicant's name, project name or CUP number.

Conclusion: *This is 100% the wrong place for this type of business at this time. It should be withdrawn immediately.*

Sincerely,

Nadine Scott

Nadine Scott
550 Hoover St.
Oceanside CA 92054
760-803-6813

Cpy: file

Richard Greenbauer

From: JOHN SCRIVENER <jayscrivener@cox.net>
Sent: Sunday, August 19, 2012 7:34 PM
To: Richard Greenbauer
Subject: Re: TowYardOppose081812

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

No NO No this is just fucking wrong, aside from the white trash nature of the business, putting it on the creek, WTF? You should be getting the Sierra Club and environmental groups behind this, like there is any chance of keeping petro-chemicals out of the creek.

Point taken on the Vision for Oceanside Blvd.

From: Nadia <nadia550@sbcglobal.net>
Reply-To: Rich Greenbauer <RGreenbauer@ci.oceanside.ca.us>
Date: Saturday, August 18, 2012 12:11 PM
To: George Buell <GBuell@ci.oceanside.ca.us>
Subject: TowYardOppose081812

Please see my attached letter opposing CUP12-00009, Roadway Auto Towing on South Oceanside Boulevard.
Nadine L. Scott

Holly- please enter into the official record for this project.
Thank you,
Nadine

Application for Discretionary Permit

Development Services Department / Planning Division
(760) 435-3520
Oceanside Civic Center 300 North Coast Highway
Oceanside, California 92054-2885

STAFF USE ONLY

ACCEPTED

BY

RECEIVED MAR 20 2012 CITY OF OCEANSIDE DEVELOPMENT SERVICES

Please Print or Type All Information

HEARING

GPA	
MASTER/SP.PLAN	
ZONE CH.	
TENT. MAP	
PAR. MAP	
DEV. PL.	
C.U.P. CUP 12-0009	
VARIANCE	
COASTAL	
O.H.P.A.C.	

PART I – APPLICANT INFORMATION

1. APPLICANT ROADWAY AUTO TOWING MANUEL MARTINEZ

2. STATUS AGENT

3. ADDRESS 2875 CALLE SALIDA DEL SOL SAN DIEGO CA 92139

4. PHONE/FAX/E-mail 619 250 1658 manuel.idealelive.com

5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) MANUEL MARTINEZ

6. ADDRESS 2875 CALLE SALIDA DEL SOL SD CA

7. PHONE/FAX/E-mail 619 250 1658 manuel.idealelive.com

PART II – PROPERTY DESCRIPTION

8. LOCATION 2 BLOCKS WEST OF I-5 ON SOUTH SIDE OF OCEANSIDE BLD. BETWEEN I-5 & CROUCH ST 1833 S. OCEANSIDE BLD. OCEANSIDE CA.

9. SIZE TOTAL 220,019.0 S.F. PORTION 24,436.0 SF.

10. GENERAL PLAN

11. ZONING IL (limited indust.

12. LAND USE

13. ASSESSOR'S PARCEL NUMBER 151-310-02-00

14. LATITUDE

15. LONGITUDE

PART III – PROJECT DESCRIPTION

16. GENERAL PROJECT DESCRIPTION
CONDITIONAL USE PERMIT FOR TOWING & RECOVERY YARD ON SOUTH OCEANSIDE BLD. EAST OF I-5 BEFORE CROUCH ST.

17. PROPOSED GENERAL PLAN	18. PROPOSED ZONING	19. PROPOSED LAND USE	20. NO. UNITS	21. DENSITY
N/A	N/A	N/A	N/A	N/A

22. BUILDING SIZE	23. PARKING SPACES	24. % LANDSCAPE	25. % LOT COVERAGE or FAR
N/A	92	12%	75%

PART IV – ATTACHMENTS

3	26. DESCRIPTION/JUSTIFICATION	✓	27. LEGAL DESCRIPTION	✓	28. TITLE REPORT
✓	29. NOTIFICATION MAP & LABELS		30. ENVIRONMENTAL INFO FORM	✓	31. PLOT PLANS
20	32. FLOOR PLANS AND ELEVATIONS		33. CERTIFICATION OF POSTING		34. OTHER (See attachment for required reports)

PART V – SIGNATURES 1) RUNOFF ASSESSMENT FORM.

SIGNATURES FROM ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGAES AS NECESSARY).

35. APPLICANT OR REPRESENTATIVE (Print):	36. DATE	37. OWNER (Print)	38. DATE
MANUEL MARTINEZ	12-23-11	William F. Mihalich	1/6/12
Sign: Manuel Martinez		Sign: William F. Mihalich (TRUSTEE)	

- **I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. FURTHER, I UNDERSTANDING THAT SUBMITTING FALSE STATEMENTS OR INFORMATION IN THIS APPLICATION MAY CONSTITUTE FRAUD, PUNISHABLE IN CIVIL AND CRIMINAL PROCEEDINGS.**
- **I HAVE READ AND AGREE TO ABIDE BY THE CITY OF OCEANSIDE DEVELOPMENT SERVICES DEPARTMENT AND ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT POLICY NO. 2011-01/POLICY AND PROCEDURE FOR DEVELOPMENT DEPOSIT ACCOUNT ADMINISTRATION.**

PROJECT DESCRIPTION LETTER

June 26, 2012

RECEIVED
JUN 28 2012
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

Project Name: Roadway Towing Yard Oceanside
Project Address: 1833 South Oceanside Boulevard
Project Owner: Evan Khaty
1802 Don Lee Place, Escondido, CA. 92029

Oceanside, CA.

Roadway Towing Yard wants to obtain an Operational Conditional Use permit to operate a towing yard to serve the Oceanside Community thru its Police Department and the California Highway Patrol in the above referenced address.

Currently the lot holds two other businesses. One is El Camino Rental; this business is operating with CUP # C-52-00 for a vehicle and heavy equipment rental business, the other business is Herzog Equipment Rental.

Roadway Towing will lease a portion of the lot measuring 149.0' x 164.0' as shown on the plans to secure on a short time basis vehicles that have became stranded, involved in an accident or impounded by local police. There is to be no welding, dismantling or selling of parts.

Currently the lot is paved in its entirety, we have no plans for any improvement other than necessary drainage or fire department required painting to mark fire areas. The lot is fenced with chain iink fence and gate, but we are prepared to screen it as necessary to satisfy city of Oceanside Zoning regulations from undesirable viewing of the secured vehicles by the public.

There is an existing shed on the west side portion of the lot, we plan to enclose and use office as shown on the plans. The lot has direct access to Oceanside Boulevard thru existing parking lot driveway.

I have In its entirety described the extent of this project. If there are any questions please feel free to call me at 619 250 1658.

Sincerely:

Manuel Martinez. Agent for the owner

Policy No.: 880003233 - P01
Page 1

DESCRIPTION

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF LOT 1 IN SAID BLOCK 3 OF LAGUNA PARK ADDITION NO. 1, SAID POINT OF COMMENCEMENT BEING ALSO A POINT ON THE NORTHEASTERLY LINE OF LAND CONVEYED TO THE State of California, BY DEED RECORDED MAY 15, 1952, AS FILE NO. 59905, IN BOOK 4468, PAGE 301 OF OFFICIAL RECORDS (XI-SD-2-OCN); THENCE ALONG SAID NORTHEASTERLY LINE, NORTH 34° 50' 47" WEST, A DISTANCE OF 68.27 FEET; THENCE NORTH 38° 57' 04" WEST, A DISTANCE OF 184.31 FEET; THENCE NORTH 34° 44' 52" WEST A DISTANCE OF 687.17 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THAT CERTAIN 100.00 FOOT RIGHT-OF-WAY OF THE ESCONDIDO SPUR OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAID POINT BEING ON THE ARC OF A 5679.65 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05° 47' 49", A DISTANCE OF 574.64 FEET; THENCE TANGENT TO SAID CURVE, NORTH 59° 53' 35" EAST, A DISTANCE OF 368.53 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE NORTH 59° 53' 35" EAST A DISTANCE OF 681.50 FEET, TO A POINT ON THE NORTH AND SOUTH CENTERLINE OF SECTION 25, TOWNSHIP 11 SOUTH, RECORDED 5 WEST, S.B.M.; THENCE CONTINUING ALONG SAID NORTH AND SOUTH CENTERLINE SOUTH 00° 11' 45" EAST A DISTANCE OF 712.78 FEET; THENCE LEAVING SAID NORTH AND SOUTH CENTERLINE, SOUTH 59° 53' 35" WEST A DISTANCE OF 326.07 FEET; THENCE NORTH 30° 06' 25" WEST A DISTANCE OF 617.84 FEET TO THE POINT OF BEGINNING.

NOTICE OF EXEMPTION
City of Oceanside, California

Post Date: Removal: (180 days)

1. **APPLICANT:** Mr. Manuel Martinez
2. **ADDRESS:** 2875 Calle Salida Del Sol, San Diego, CA.92139
3. **PHONE NUMBER:** (619) 250-1658
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Richard Greenbauer, Senior Planner
6. **PROJECT TITLE:** CUP12-00009 (Roadway Auto Towing)

7. DESCRIPTION: A Conditional Use Permit (CUP12-00009) to allow the establishment and operation of an Auto Tow Yard on a developed but unused portion of an existing 4.57-acre site that currently operates as a heavy equipment rental facility and storage yard. The auto tow yard would employ five persons and would operate with three Tow Vehicles. Hours-of-operation would be Monday through Friday from 8:00 a.m. to 5:00 p.m. for general public retrievals, and would be used 24 hours for vehicle towing and storage. The property has a land use designation of Light Industrial (LI) on the Land Use Map, is zoned Limited Industrial (IL) on the official zoning map, and is situated within the Fire Mountain Neighborhood Planning Area.

ADMINISTRATIVE DETERMINATION: Planning Division staff has completed a preliminary review of this project in accordance with the City of Oceanside's Environmental Review Guidelines and the California Environmental Quality Act (CEQA), 1970. Based on this review, the Environmental Coordinator has determined that further environmental evaluation is not required because:

[x] The project is categorically exempt as a Section 15301, Class 1, "Existing facilities that will not involve expansion beyond what exist on-site at this time";

[ ] "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,

[ ] The project is statutorily exempt, Section, ____ (Sections 15260-15277); or,

[ ] The project does not constitute a "project" as defined by CEQA (Section 15378).

_____ Date: October 8, 2012

Richard Greenbauer, Senior Planner

cc: [x] Project file [x] Counter file [x] Library Posting: [ ] County Clerk $50.00 Admin. Fee