



**Weare Police Department**  
**144 North Stark Highway**  
**Weare, New Hampshire 03281**

**Phone 603-529-7755 Fax 603-529-0606**



**Christopher D. Moore**  
**Chief of Police**

**Frank Hebert**  
**Lieutenant**

## **WEARE POLICE DEPARTMENT TOWING MEMORANDUM of AGREEMENT**

Made by and between the Weare Police Department and \_\_\_\_\_ of Weare, NH, Hereinafter referred to as Contractor.

The Weare Police Department agrees to call only the listed Contractors for the purpose of obtaining any towing and road service required by the Town of Weare. The listed Contractors will be placed on a rotating call list.

That whereas, the Weare Police Department wishes to secure the services of Wrecker/Towing companies and here as the Contractor has been found to meet all of the qualifications and specifications of this agreement.

New Contractors meeting all specifications and requirements shall be allowed to join to this Agreement; however, the Weare Police Department reserves the right to limit the number of Contractors or Towing Companies based on the needs of the Town and the number of calls for towing service.

At the time of application, contractors must ensure that all insurance certificates have been turned into the Weare Police Department. The on-call phone number for the Contractor must be given to the Weare Police Department to become part of the call rotation.

In determining which companies will tow for the Weare Police Department, experience, availability, honesty, and past working relationships with the Weare Police Department will be taken in to consideration. The Weare Police Department will conduct a Background Check on all eligible wrecker services including Criminal Record Checks on the owner and driver(s) that apply for this contract. The Background Check may include the following, but is not limited to:

- Attorney General's Office (Consumer Protection Division)
- New Hampshire State Police
- Any Law Enforcement Agency
- Other public & private agencies

Due to of the emergency nature of the service required and for convenience to the citizens of Weare:

- The Contractor must have an established place of business for a minimum of one (1) year located within the Town of Weare or the immediate surrounding areas.
- The Contractor must maintain a secure storage lot within the Town of Weare or within five (5) miles from its border.
- Storage lots must be staffed Monday-Friday, during business hours, business hours being described as 9:00 a.m.- 5:00 p.m. If not physically staffed, the Contractor shall be able to respond to the lot within 30 minutes.

- A secured lot is mandatory in order to properly safeguard and prevent unauthorized persons from entering. This area must have the ability to secure a minimum of ten (10) vehicles.
- After business hours, the Contractor will respond to the lot within sixty (60) minutes, or as scheduled with the customer. Contractors will not be required to respond to the lot between the hours of 11:00 p.m. – 7:00 a.m. unless specific circumstances exist; this will require prior authorization from the Officer in Charge (OIC).
- When Dispatch contacts the Contractor, regardless of the time of day, the call must be answered by a live person.

Upon the execution of this agreement the Contractor shall:

- Provide the Weare Police Department a list of its wrecker operators involved, their qualifications and a photocopy of their valid New Hampshire Driver's License;
- Provide the Weare Police Department the qualifications of any new wrecker operator within ten (10) days of their employment by the Contractor;
- Supply a copy of the medical certificate of any wrecker operator who operates a wrecker with a GVW of over 10,000 pounds;
- Individuals who are convicted of a crime involving moral turpitude are prohibited from towing for the Weare Police Department for the following:  
     Felony- 10 years  
     Misdemeanors- 5 years

The Weare Police Department does hereby agree that the said Contractor shall be one of the Contractors on whom the Weare Police Department will call for towing services with the exception noted below:

- The Weare Police Department reserves the right to call for services from companies on or off the "list" if special circumstances require. (Examples include but not limited to exigent circumstances such as public safety concern, specialty equipment needed for oversized vehicles )
- For special tows that the Contractor is not equipped to handle, the Weare Police Department reserves the right to call suitable wrecker service/company.

### **Insurance Requirements**

Insurance Certificates, as detailed below, shall be furnished to the Weare Police Department prior to this agreement being finalized and the Contractor hereby agrees to maintain insurance as prescribed below in full force and effect during the entire term of this agreement.

### **Comprehensive General Liability Insurance**

Comprehensive General Liability Insurance written on occurrence form, including completed operations, coverage, personal injury liability coverage, broad form property damage liability coverage and contractual liability coverage insuring the agreements contained herein.

The minimum limits of liability carried on such insurance shall be \$1,000,000.00 each occurrence and, where applicable, in the aggregate combined single limit for bodily injury and property damage liability; \$1,000,000.00 annual aggregate personal injury liability.

### **Automobile Liability Insurance**

Automobile Liability Insurance for owned, non-owned and hired vehicle. The minimum limit of liability carried on such insurance shall be \$1,000,000.00 each collision, combined single limit for bodily injury and property damage.

### **Worker's Compensation Insurance**

Worker's Compensation Insurance whether or not required by the New Hampshire Revised Statutes Annotated, as amended with statutory coverage including employer's liability insurance with limits of liability of at least \$100,000.00 each employee and \$500,000.00 per policy year.

### **Deductibles**

Any and all deductible on the above described insurance policies shall be assumed by and for the account of, and at the sole risk of the Contractor.

### **Insurance Companies**

Insurance companies utilized must be admitted to the business in New Hampshire or be on the Insurance Commissioner's list of approved non-admitted companies and shall have a rating of "A" in the current edition of Best's Key Rating Guide.

### **Certificates**

Contractor agrees to furnish certificate(s) of the above mentioned insurance to the Weare Police Department on the date of this agreement and, with respect to the renewals of the current insurance policies, at least thirty (30) days in advance of each renewal date. Such certificates shall, with respect to comprehensive general liability and auto liability insurance, name the Town of Weare and the Weare Police Department as an additional insured and, with respect to all policies shall state that in the event of cancellation or material change, written notice shall be given to the Weare Police Department at least thirty (30) days in advance of such cancellation or change.

### **Indemnification**

The purchase of the insurance required or the furnishing of the aforesaid certificate shall not be a satisfaction of Contractor's indemnification responsibilities to the Town of Weare and the Weare Police Department.

The Contractor agrees to be solely responsible for the payment of its employee's unemployment, social security and other payroll taxes including contributions from them when required by law.

The Contractor hereby agrees to protect, defend and indemnify, and hold the Town of Weare and its employees, agents, officers and servants free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including but not limited to, the amounts of judgments, penalties, interests, court costs, legal fees and all other expenses including claims, liens, debts, personal injuries to property, including property of the Town, and without limitation by or in any way incident to, in connection with or arising directly or indirectly out of this Contractor Agreement. Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands or suits at the sole expense of the Contractor. Contractor also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false or fraudulent. This provision is not intended to create any cause for action in favor of any third party against the Contractor or the Town or to enlarge in anyway the Contractor's liability but is intended solely to provide for injuries to third persons or property arising from the Contractor's performance hereunder.

### **Records**

Ledgers, records and bills shall be kept for all vehicles towed and shall be made available to the Weare Police Department upon request. These records will be kept for a period of one (1) year.

### **Subletting or Subcontracting**

The Contractor shall not assign, sublet or subcontract any portion of its rights or responsibilities under this agreement. Nor shall the Contractor sell or transfer any of its rights or responsibilities under this agreement.

### **Wrecker**

"Wrecker" shall have the same meaning as RSA 259:126. All equipment to be used by the Contractor in the performance of this agreement may be inspected by the Weare Police Department to insure compliance with the specifications of this agreement. The Weare Police Department may utilize the Department of Safety pursuant to RSA 266:111, to assist in the inspection of any wrecker at any time throughout the contract period. Contractor must meet the requirements of all State Laws which pertain to wrecker services which are now enacted or may be enacted during the life of this agreement.

Every wrecker shall display lettering on both sides of the vehicle that indicates the name or trade name of the wrecking service, the Town and State in which the vehicle is customarily based, and the business phone number. Said lettering shall contrast sharply in color with the background and be a minimum of two (2) inches in height.

Contractors shall possess a minimum of one wrecker, which must be a flatbed and having a manufacturer's GVW of 10,000 lbs, with dual wheels and a four ton minimum winching capacity. In the absence of having a flatbed, each Contractor must have a wrecker equipped with "dolly" wheels (tires with legal tread reading), snatch blocks, chains and nylon straps for towing. In the event a Contractor possesses a wrecker and certification for Medium tow and recovery which means ability to tow and recover trucks and trailers having a GVWR or gross combination weight rating (GVCR) of 10,001 pounds (4,546 kg) to 26,000 pounds (11,818 kg), this agreement may be amended as to suitable requirements for said wrecker and pricing.

The same will apply to Heavy duty towing certifications for trucks and trailers having a (GVWR) or (GVCR) of 27,001 pounds (11,819 kg) or more.

### **Equipment**

Each wrecker shall have:

- Broom, shovel, and a container to place debris into once it has been picked up and such other items or materials as would be needed to fulfill this contract.
- Reflective Class I Traffic Vest as approved by the Department of Transportation. Each wrecker shall also carry a supply of "Speedy-Dry" and/or sand, which the Contractor will place upon fluids at a collision scene. The Contractor shall be responsible for the clean-up and removal of "Speedy-Dry" and/or sand at the scene.
- In the cases where large amounts of "Speedy-Dry" and/or sand have been deposited at the scene, the Contractor shall sweep this material to the side of the roadway\*. The investigating officer will then notify the Public Works Department who will respond and pick up the "Speedy-Dry" and/or sand.

\*The decision as to whether or not the debris will be picked up by the Contractor, or if it should be swept to the side of the roadway, shall be made by the OIC of the Weare Police Department.

- No debris from a scene will ever be placed into the vehicle.
- Contractors agree to sweep up the debris at all motor vehicle collisions that exist as a result of the collision.
- Equipment to be used by the Contractor in the performance of this agreement may be inspected at any time by any member of the Weare Police Department to ensure compliance with the specifications of the agreement and state law. The Weare Police Department may utilize a New Hampshire State Trooper, or a State Highway Enforcement Officer to assist in the inspection of any wrecker at any time throughout the agreement period.

### **Duty to Respond**

Contractor must provide service on a twenty-four (24) hour basis, three hundred sixty five (365) days a year. The Contractor will not frequently pass on request. Violation of this section and other infractions are cause for termination of this agreement.

Upon being contacted by the Weare Police Department the Contractors agree to respond to calls within a maximum of twenty five (25) minutes from the time of the initial request to the answering service. A possible exception to this is the call to tow "abandoned" vehicles.

If the Contractor does not respond within the specified time limits the Weare Police Department may elect to cancel that wrecker. The Contractor may be subject to suspension or termination of contract.

Once Weare Police Department has arrived to an emergency situation in which a tow truck may be required, tow truck operators and their affiliates are prohibited from making contact with **any** individual on scene in an attempt to solicit business unless specifically requested by the Weare Police Department. This is to ensure the safety of personnel on scene, and to maintain fair practices. If this section is violated, the appropriate police and administrative action will be taken.

### **Pricing**

Contractors pricing list must be equitable and competitive to other companies within the immediate area. The Recommended tow fees are located in attachment two (2) of this document. Collection of all tow fees or debts is the sole responsibility of the Contractor.

It is understood and agreed that the Contractor shall tow any vehicle on request of the Weare Police Department and that the Contractor shall charge the owner of the vehicle so towed and shall not charge the Weare Police Department or the Town of Weare for any service rendered or performed pursuant to this contract.

The Contractor may exercise any lien it may have on a towed vehicle pursuant to New Hampshire State Law except that:

- The Contractor shall release to the owner or operator of any towed vehicle, necessary personal property including but not limited to, medicine, glasses, wallets, handbags, car seats and other items deemed appropriate by the OIC of the Weare Police Department contained within but not attached to such vehicle upon request by the owner or operator without regard to any lien which the Contractor may have on said property pursuant to New Hampshire State Law.

### **Request for Town Services**

The Contractor agrees to provide towing services to the Town of Weare and shall bill no more than 50% of the included fee schedule.

### **Storage Lot**

The Contractor must have a fenced-in lot properly secured to prevent unauthorized persons from entering the lot. The lot shall be posted in accordance with NH RSA 635:4 and will specify by signage similar to that required by RSA 635:4, the name and telephone number of the wrecker service using the lot as a storage facility.

- The lot shall be able to hold a minimum of ten (10) vehicles.
- Contractors, for the purpose of this agreement must have an established business in the Town of Weare or immediate surrounding area for a period of one year.
- Contractors must have a secured storage facility in the Town of Weare or within 5 miles of it's border.
- Contractors must not be in violation of Town Zoning and Planning Codes.

### **Name of Business**

The Contractor shall notify the Weare Police Department in writing of any change of trade name or the use of any additional trade names.

### **Police Contact**

"Police contact" includes but is not limited to; motor vehicle warnings and citations, town ordinance citations, Fish and Game warnings and citations, and any contact pertaining to complaints and or investigations/arrests. The Contractor shall notify the Weare Police Department in writing within

seven (7) days of incidents involving any police contact within any jurisdiction that does not relate to "police tows." If an arrest occurs involving an employee and or business owner, the Weare Police Department must be notified at the earliest opportunity

### **Suspension or Termination of Contract**

The Weare Police Department may schedule periodic meetings, with attendance of the Contractor or his designee mandatory. Failure to attend may in the sole discretion of the Chief of the Weare Police Department, result in the suspension of this agreement. This agreement may be terminated at any time, if the opinion of the Weare Police Department or the Town of Weare, the Contractor has failed to fulfill its responsibilities as expressed in this agreement.

- The Weare Police Department shall give notice to the Contractor stating at a minimum, the action being taken, and detailed reasons for the suspension or termination.
- The Contractor shall have the right to appeal a suspension or termination to the Chief of the Weare Police Department. The appeal shall be in writing and filed with the Chief of Police within ten (10) days from the date of the notice. The appeal shall fully state all of the grounds for the appeal.
- The Chief of Police or his designee shall be the hearing officer and shall set a date for a hearing on the appeal and notify the Contractor of same. The hearing shall be held as soon as possible upon receipt of the appeal; a written decision shall be provided to the Contractor within a reasonable time.
- In the case of termination or suspension of a Contractor from this agreement the Contractor waives any and all claims for damages.
- The Weare Police Department may in its sole discretion waive any of these administrative requirements when it deems such waiver to be in the best interest of the Town of Weare and the Weare Police Department.

IN WITNESS THEREOF, the parties hereto have hereunto set their hands this \_\_\_\_ day \_\_\_\_\_ 2021.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Christopher D. Moore  
Chief of Police