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Subject: FW: 2-7-2017 Item 11 on Agenda, CVPD Tow Contracts
Attachments: Chula Vista Police Tow Contract 2-7-2017.docx

From: Jessica Hayes
Date: February 7, 2017 at 3:20:00 PM PST
To: Mayor Casillas Salas <msalas@chulavistaca.gov>, Patricia Aguilar <PAguilar@chulavistaca.gov>, Steve Padilla <spadilla@chulavistaca.gov>, John McCann <jmccann@chulavistaca.gov>, Mike Diaz <mdiaz@chulavistaca.gov>
Subject: 2-7-2017 Item 11 on Agenda, CVPD Tow Contracts

Dear Mayor and Council Members;

In regards to Item 11, 16-0574 on the Agenda for today's Council meeting, respectfully I urge the Chula Vista City Council to approve towing contracts only to those companies who, as approved respondents, 1) possess green fleets, 2) possess all requisite equipment as defined by the California Vehicle Code, 3) whose yards are within City Limits, 4) who do not have to enter into a Byzantine sub-contract in order to fulfill their duties to the City and CVPD, 5) whose personnel, drivers, training and employee records and equipment can all be vetted and inspected at the same location, and 6) who can be fully insured for all equipment and personnel as the primary contractor for all equipment and personnel because they possess all the equipment as required by law and employ all requisite trained personnel.

Below and attached are points supporting this request.

Thank you for your time and consideration.

Sincerely,
Jessica Hayes
resident

Chula Vista Police Tow Contract

February 7, 2017

1. **GREEN FLEETS ARE A CHULA VISTA MANDATE.** At least four of the companies approved by the Chula Vista Police Department for this contract have entirely green fleets. There is no compelling overarching interest for the City that relieves the City of its duty to follow its own green mandate, especially when the mandate can easily be met among the approved respondents for the contract. Chula Vista must follow its own mandate in this contract.

2. FEDERAL AND STATE LAW GOVERNS TOWING EQUIPMENT IN

CALIFORNIA. The Federal Motor Vehicle Safety Act (MCSA) under which no state, nor any of its smaller municipalities, may tell a towing company what equipment to use and the California Vehicle Code which describes weight, height and length requirements for tow trucks are the final authority for what must be used in the state. Class D tow trucks are mandated by State Law for carrying over-height, over-weight and over-length vehicles. A tow contractor without all of the proper vehicles is by definition not sufficiently equipped to fully execute a tow contract for Police business. Only a company that possesses every class of tow vehicle is qualified. There are four companies approved by the CVPD that possess these vehicles. Therefore, no overarching or compelling reason exists for the City to use any company other than those which are fully equipped. To do otherwise when it can be easily avoided unnecessarily places citizens at risk of a tow company without the proper equipment using an unauthorized truck.

3. PARKER IMMUNITY. Because the State of California and the Federal Government has clearly articulated State and Federal law governing equipment in this contract, and because the City has an absolute duty to follow both Federal and State law, and to protect City assets and citizens, the City may legally restrict contractors. Therefore, should any lawsuit arise, the outcome may be the City secures a swift summary judgement because the City's exemption would be complete.

4. CHULA VISTA TAXPAYERS The City of Chula Vista residents pay for its officers to perform their duties including generating these tows. Since the City is paying for these tows, it follows the City should, if possible, collect the taxes for these tows. But any vehicles impounded in the City of San Diego will have any taxes collected go to the City of San Diego and not to the City of Chula Vista. Additionally, City Police Officers would be required to leave the City for any issues arising at an impound yard. Police Officers should not have to leave the City in performance of their duties when they can easily remain here. Having on-duty officers remain in the City is a matter of safety which is a compelling reason. This contract should remain with companies located inside the City of Chula Vista.

5. Subcontracting for proper equipment is a convoluted attempt to circumvent state and federal law and fails to protect the citizens of Chula Vista. There is no method to examine a sub-contract for this service. There is no true mechanism for the Police Department to investigate, inspect or review a sub-contractor or its drivers, nor to insure the drivers have been properly trained and are up-to-date as required by law with all of their training. Sub-contractors are not likely to be present at the primary site when the Police conduct inspections on personnel and equipment. Sub-contractors will not be placed under the same scrutiny as regular contractors and yet they will be asked to perform the most complex and dangerous of all tows. This makes sub-contracting for the City's tow contract inherently and unnecessarily unsafe. There is no compelling reason for the City to contort itself into bizarre extenuated contracting which can neither be reviewed by the general public nor allow for full background checks of the drivers or inspection of the equipment by the police department. There are four companies which qualify for this contract without the need to sub-contract. There is no reason to place the City at risk. No sub-contracting should be allowed in this contract.

6. INSURANCE COMPANIES. For any lawsuit, lawyers will not overlook the City's own communications stating the City knew the City must have Class D tow trucks to fulfill the City's tow requirements. If the City wanted to be insured for Class D trucks, the City will properly include Class D trucks as a requirement for every contractor, not just some. A towing company must have enough insurance to cover every eventuality, but with sub-contracting, the primary company to the contract does not need to have insurance for the vehicles it does not possess and therefore may not be covered if an incident occurs with a sub-contractor. Here, there are four approved respondents who possess these trucks and so will have the necessary insurance as part of their primary policy for these trucks. This protects the City. There is no reason to not protect the City. Sub-contracting should not be allowed because there will always be a loophole with a sub-contractor. Only truly qualified contractors should become signatory to this contract.