

Date July 9, 2011

AFFIRMING FINANCE DIRECTOR'S DECISION ON APPEAL OF BID AWARD FOR TOWING AND STORAGE OF JUNK VEHICLES CONTRACT TO CROW TOW

WHEREAS, the Community Development Department requested the Finance Department Procurement Division to solicit bids for an annual contract with four (4) additional one year renewal options to furnish junk vehicle towing and storage services for use by the Neighborhood Inspection Division; and

WHEREAS, the Procurement Division solicited bids by advertisement and mailing Invitation to Bid V12-083 to ten (10) potential bidders with three (3) bids received; and

WHEREAS, the Procurement Administrator determined that the low dollar compliant bid was received from Crow Tow, based on an annual estimated amount of revenue to the City of \$221,600.00, which was the highest revenue-generating compliant bid paid to the City for such services; and

WHEREAS, on June 25, 2012, by Roll Call No. 12-1007, the City Council accepted the bid of Crow Tow, and authorized the Procurement Administrator to enter into an annual agreement renewable for four (4) additional twelve (12) month periods; and

WHEREAS, an appeal was received from Swift Auto Parts, 1720 E. Washington Avenue, Des Moines, IA 50316 (Mike Swift/Owner), from the City Council's bid award to Crow Tow ("the Swift Auto Appeal"); and

WHEREAS, the Swift Auto Appeal was considered by the Finance Director and his decision upheld the award to Crow Tow, as described in the attached written decision; and

WHEREAS, an appeal was received from Swift Auto Parts from the Finance Director's decision to uphold the award of such contract to Crow Tow; and

WHEREAS, pursuant to the terms of the bid, an appeal of the Finance Director's decision is to the City Council; and

WHEREAS, the Council has considered the comments and written materials presented regarding the Swift Auto Parts Appeal.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the City Council hereby affirms the decision of the Finance Director upholding the award to Crow Tow, as the highest revenue-generating compliant bid, and hereby overrules the objections of Swift Auto Parts.

★ Roll Call Number

Agenda Item Number

33A

Date July 9, 2011

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council hereby directs the Procurement Administrator to issue a Purchase Order to Crow Tow and to enter into an annual agreement in conformity with Roll Call No. 12-1007.

(Council Communication No. 12-**383** )

Moved by \_\_\_\_\_ to adopt.

Approved as to form:

Ann DiDonato

Ann DiDonato  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

★ Roll Call Number

12-1007

Agenda Item Number

28

Date June 25, 2012

WHEREAS, the Community Development Department requested the Finance Department Procurement Division to solicit bids for an annual contract with four (4) additional one year renewal options to furnish junk vehicle towing services for use by the Neighborhood Inspection Division; and

WHEREAS, the Procurement Division solicited bids by advertisement and mailing Invitation to Bid V12-083 to ten (10) potential bidders with three (3) bids received; and

WHEREAS, the award is based upon the highest amount paid to the City to transfer or demolish a vehicle; and

WHEREAS, the highest revenue-generating compliant bid was received from Crow Tow, 826 SE 21st Street, Des Moines, IA 50317, Randy Crow, President, at an annual estimated amount of \$221,600.00; and

WHEREAS, the Des Moines City Council on March 9, 2009, requested additional information from the City manager's Office regarding details of the bid, which have been provided in the attached blue letter; and

WHEREAS, the Procurement Administrator and the Community Development Department recommends approval of the highest revenue generating compliant bid for junk vehicle towing services; and

NOW THEREFORE BE IT RESLOVED, that the Des Moines City Council hereby accepts and approves the award to Crow Tow and, and further authorizes the Procurement Administrator to enter into annual agreements renewable for four (4) additional twelve (12) month periods with price increases complying with agreement terms., .

Moved by Guess to adopt .

Approve as to form:

Ann DiDonato  
Ann DiDonato  
Assistant City Attorney

(Council Communication No. 12-331 )

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE		✓		
TOTAL	6	1		
MOTION CARRIED	APPROVED			

T. M. Franklin Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.


IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh City Clerk

38  
33

CITY OF DES MOINES - DEPARTMENT OF FINANCE - PURCHASING DIVISION

Annual Agreement for Towing/Storage of Junk Vehicles	Community Development	Bid No. V12-083	
Opened: 05/04/12	Opened by: rt	Req. # -	
Bidder Address City Terms FOB: Delivery:	G & S Services, Inc. 4100 E. 16th Street Des Moines, IA 50313	Swift Auto Salvage 1720 E. Washington Ave. Des Moines, IA 50316	NO RESPONSE FROM: City Wide Towing Daliano, Inc. Des Moines Automotive Hanifen Co. Owen Crist Auto Body Serv. Rick's Towing Yaws Auto Salvage
Dollar amount paid to the City for Authority to Transfer and/or Demolish a Vehicle Certificate	\$277.00	\$165.00	\$180.65
Towing Charge to the Owner of a Vehicle Released by the City	\$48.00	\$75.00	\$65.00
Daily Storage Charge to the Owner of a Vehicle Released by the City	\$9.00	\$15.00	\$15.00
Charge to the City to Move or Retain any Vehicle	\$45.00	\$55.00	\$45.00
Towing Charge	\$8.00	\$12.50	\$8.00
Daily Storage Charge	\$45.00	\$65.00	\$55.00
Per Hour Moving Charge			

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> June 25, 2012
	<b>Agenda Item No.</b> <del>38</del> <b>Roll Call No.</b> <u>12-1007</u> <b>Communication No.</b> <u>12-331</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Approving Bid for Junk Vehicle Towing Service Contract with Crow Auto Services Inc. d/b/a Crow Tow .

**SYNOPSIS:**

Recommend approval of bid from Crow Auto Services, Inc. for a contract to furnish junk vehicle towing services to be used by the Neighborhood Inspection Division and authorizing the Procurement Administrator to enter into contract for a period of one (1) year with four (4) - one (1) year options for renewal. The four (4) - one (1) year renewal options shall be executed upon mutual consent of the City and the vendor.

**FISCAL IMPACT:**

Amount: \$221,600.00 estimated revenue to the City.

Funding Source: Cleanup efforts are funded by Community Development Block Grant funds. Revenue income generated will be shown as program income in Operating Budget, SP020, CDD049900, CDBG2008005, page 106.

**ADDITIONAL INFORMATION:**

On May 21, 2007, City Council approved a contract with Swifts Auto Salvage for junk vehicle towing services to support the Neighborhood Inspection Division neighborhood cleanup efforts. That contract has expired.

On April 19, 2012, the City Procurement Division solicited bids from ten (10) potential bidders and advertised the invitation to bid in the Des Moines Register. The city received three (3) bids. A cost evaluation summary and comparison of responses to bid specifications is attached. The specifications stated that the award will be determined by the maximum amount of revenue generated to the City and the ability of the vendor to deliver service in a timely fashion. While the City reserved the right to reject proposals that failed to address each criteria, no rejections were deemed necessary as the Crow Tow bid will generate the maximum amount of revenue and was fully compliant in responding to each criteria.

Staff subsequently received numerous concerns from Swift Auto Salvage regarding Crow Tow operations. Staff provides the following responses to those concerns:

Concern: Mr. Swift believes the contract award is to take into consideration a vendors past performance in fulfilling prior city contracts and shall be sufficient cause for rejection of the proposal and that Crow Tow had a contract with the City that was rebid due to overcharging and complaints.

Staff Response: Staff review did not find such language in the bid specifications. Pursuant to section 1.0 of the specifications, the award is to be determined by maximum amount of revenue generated to the city and the ability of the vendor to deliver service in a timely fashion. Staff cannot confirm or deny Mr. Swifts allegations regarding overcharging or complaints. Staff does not believe such complaints are applicable to the bid as submitted by Crow Tow.

Concern: Mr. Swift alleges that Crow Tow has not turned in mercury switches.

Staff Response: The Iowa DNR web site indicates that it is mandatory for any business that is in operation of parting out cars to recycle mercury switches. Such a requirement was not specifically a criterion of the City's specifications and the City is not the responsible entity for enforcing this Iowa DNR regulation.

Crow Tow has since received the information and implemented the recycling process.

Concern: Mr. Swift alleges that Crow Tow is not complying with federal laws regarding registration of VIN's when he auctions cars.

Staff Response: It was not specifically a criterion of the City's specifications that the operation report vehicles through the NMVTIS. The City is not the responsible entity for enforcing this federal regulation.

Mr. Crow indicates that he will comply with this program for all cars that fall into the guidelines as they relate to the city contract.

Concern: Mr. Swift alleges that Crow Tow has not possessed a Salvage License for the last five (5) years, as required.

Staff Response: Pursuant to Section 5.4 of the specifications, the company or owner must have a minimum of five (5) years experience in vehicle salvage operations or as a vehicle disposal facility. It does not require that the operator or business have a salvage dealer's license for the last five (5) years. Randy Crow the owner of Crow Tow, states in his proposal he has been in the industry since 1996. He further states this business has been in operation since 2001. Mr. Crow also provided copies of his City Salvage Dealer License and Iowa DOT Vehicle Recycler/Vehicle Salvage License that are currently valid.

Concern: Mr. Swift alleges that he contacted all the other recyclers in the area and they were not given an opportunity to bid.

Staff Response: Information from the Purchasing Division indicates the bid packets went out to a 10 local companies. The proposal to bid was also published in the Des Moines Register. No one approached the city to be added to the mailing list. Three (3) proposals were received and the Crow Tow

bid will generate the maximum amount of revenue and was fully compliant in responding to each criteria.

Mr. Swift indicates that there was some impropriety on the part of Mr. Crow, in another bid contract held with the police department. Des Moines Police Department confirms that Crow Tow held a contract with them. During the term of the contract Crow Tow did nothing that violated the terms, conditions or intent of the contract. The contract was bid out at its expiration and there was controversy regarding the bid submission and review process. Crow Tow did raise questions about the bids with city staff and in front of Council. The bid was re-let and Crow Tow was not awarded the bid. It was not due to any illegal or unethical conduct or any impropriety by Crow Tow during the term of the contract.

Staff reviewed the bid packages submitted Crow Tow, G&S and Swift. There were a number of specific requirements outlined in the bid proposal. The following is an analysis of what information was provided by each company regarding each specification.

Was the Invitation to Bid filled out and signed?

Crow Tow - completed

G& S – completed

Swift – not completed

State Recyclers License and the City Auto Salvage Dealers license attached:

Crow Tow – attached

G& S – attached

Swift – not attached

Insurance Certificate Form attached:

Crow Tow – attached

G& S – attached

Swift – attached

Site meets zoning requirements:

Crow Tow - yes

G& S – yes

Swift – yes

Response regarding adequate storage of 300 cars separate from other stored vehicles:

Crow Tow – completed

G& S – completed

Swift – not addressed

Statement regarding the number of year's experience:

Crow Tow - completed

G& S – completed

Swift – not addressed

Statement of agreement to comply with removal of vehicle parts:

Crow Tow - completed

G& S – completed

Swift – not addressed

Statement of agreement to meet city hours of operation:

Crow Tow - completed

G& S – completed

Swift – not addressed

Listing of equipment, tow truck and two flatbed salvage trucks:

- Crow Tow - completed
- G& S – completed
- Swift – not addressed
- Driver information supplied:
  - Crow Tow - completed
  - G& S – completed
  - Swift – not addressed
- Statement of wireless communication with driver and agreement for one hour response time:
  - Crow Tow - completed
  - G& S – not supplied
  - Swift – not addressed
- Show ability to provide tow services for all specified vehicles:
  - Crow Tow - completed
  - G& S – not supplied
  - Swift – not addressed
- Agreement to comply with record keeping:
  - Crow Tow - completed
  - G& S – not supplied
  - Swift – not addressed

Department of Finance, Purchasing Division did an analysis of the bid amounts.

Amount paid to the City for authority dispose of vehicle -			
Crow Tow \$277.00	G&S \$165.00		Swift \$180.65
Charge of tow to owner -			
Crow Tow \$48.00	G&S \$75.00		Swift \$65.00
Daily storage paid by owner -			
Crow Tow \$9.00	G&S \$15.00		Swift \$15.00
Charges to the city for towing -			
Crow Tow \$45.00	G&S \$55.00		Swift \$45.00
Charges to the city for daily storage -			
Crow Tow \$8.00	G&S \$12.50		Swift \$8.00
Per hour moving charge to city -			
Crow Tow \$45.00	G&S \$65.00		Swift \$55.00

Crow Tow submitted a complete bid, meeting all of the specifications. Additionally, Crow Tow pays the city the most for vehicles transferred them and charges the least for services provided to the City.

Staff recommends the Neighborhood Inspection Division towing contract be awarded to Crow Tow.

**PREVIOUS COUNCIL ACTION(S):**

Date: March 23, 2009

Roll Call Number: 09-484

Action: Bid from Swifts Auto Salvage for an annual contract with two (2) additional one-year renewal options to furnish junk vehicle towing services to be used by the Neighborhood Inspection Division,



\$126,500. (Eights (8) bids mailed, three (3) received). (Deferred from March 9, 2009 Council meeting). (Council Communication No. 09-186). Moved by Hensley to adopt. Motion Carried 5-2.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).

**NADING LAW FIRM**

www.nadinglaw.com

ROBERT A. NADING II  
CHARLES P. PRITCHARD, JR.  
AMANDA L. GREEN

408 S.W. THIRD STREET  
ANKENY, IOWA 50023

T: (515) 963-1000  
F: (515) 964-5624  
Amanda@nadinglaw.com

June 27, 2012

DATE RECEIVED  
JUN 27 2012  
PURCHASING

*hand-delivered*  
Scott Sanders, Finance Director  
City of Des Moines  
400 Robert D. Ray Drive, 1<sup>st</sup> Floor  
Des Moines, IA 50309

RE: *Appeal of Agenda Item Number 38  
Council Communication No. 12-331*


Dear Mr. Sanders,

Please consider this Swift Auto Parts timely appeal of the Agenda Item Number 38 wherein it was resolved that the Des Moines City Council accepted and approved the award of junk vehicle towing services for use by the Neighborhood Inspection Division to Crow Tow on June 25, 2012, see attached.

The contract was improperly awarded to Crow Tow. Paragraph 5.4 of the City of Des Moines, Iowa Junk Towing Specifications requires the "company and owner must have a minimum of five years experience in vehicle salvage operations or as a vehicle disposal facility." Swift Auto Parts believes that Crow City does not meet this five year requirement.

Furthermore, it is believed that it is Crow Tow's intent to sell the vehicles and not crush or dismantle the vehicles as required, which allowed them to bid the higher dollar amount paid to the City for Authority to *Transfer* and/or Demolish a Vehicle Certificate. It is Swift Auto Part's belief that Crow Tow does not have a City Auto Salvage Dealer License as required in paragraph 3.0 of the City of Des Moines, Iowa Junk Towing Specifications. Crow Tow does not dispose salvaged vehicles, but instead auction the cars off, which again is against the City's requirements to crush or dismantle the vehicles. Swift Auto Part's confirmed that the vehicles were required to be crushed or dismantled in the attached emails.

The award of the contract to Crow Tow should be canceled. Thank you for your attention to this matter.

Sincerely,  
  
Amanda Green  
Attorney at Law

33

Subj: **FW: contract**  
Date: 4/24/2012 11:19:28 A.M. Central Daylight Time  
From: [fidx3@msn.com](mailto:fidx3@msn.com)  
To: [mike@trailsendauto.com](mailto:mike@trailsendauto.com), [junkman5@aol.com](mailto:junkman5@aol.com), [steve@trailsendauto.com](mailto:steve@trailsendauto.com), [tom03racing@msn.com](mailto:tom03racing@msn.com),  
[dgsswiftauto@aol.com](mailto:dgsswiftauto@aol.com), [apcarter16@aol.com](mailto:apcarter16@aol.com), [rwcroush@aol.com](mailto:rwcroush@aol.com)

Faith is the confidence that what we HOPE for will actually happen. It gives assurance about things we cannot see. Hebrews 11:1

[www.thefidlersthree.blogspot.com](http://www.thefidlersthree.blogspot.com)

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Date: Tue, 24 Apr 2012 11:16:46 -0500  
Subject: Re: contract  
From: [tsyaw@dmgov.org](mailto:tsyaw@dmgov.org)  
To: [fidx3@msn.com](mailto:fidx3@msn.com)

I just talked with Su Donovan my boss and she is going to read over it and get back with me.

On Tue, Apr 24, 2012 at 10:54 AM, SUSAN FIDLER <[fidx3@msn.com](mailto:fidx3@msn.com)> wrote:

Thank you for clarifying this. In the contract there is some wording that says....transfer vehicle.....so people think that they can get the titles, transfer, and sell.....

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[www.thefidlersthree.blogspot.com](http://www.thefidlersthree.blogspot.com)

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Date: Tue, 24 Apr 2012 10:32:25 -0500  
Subject: Re: contract  
From: [tsyaw@dmgov.org](mailto:tsyaw@dmgov.org)  
To: [fidx3@msn.com](mailto:fidx3@msn.com)

The contract is to either CRUSHED or DISMANTLED the vehicles.

Thanks  
Tammy

On Tue, Apr 24, 2012 at 9:36 AM, SUSAN FIDLER <[fidx3@msn.com](mailto:fidx3@msn.com)> wrote:

ok.....we got the new contract.....Is it still the same where YOU CANT SELL THE CARS.....they have to be CRUSHED or DISMANTLED.....we have a few people calling us, and the way they are reading the contract it they

Tuesday, June 26, 2012 AOL: Dgsswiftauto

thing you can re-sell the cars.....I just wanted to clarify this!

Thanks!

susan

Faith is the confidence that what we HOPE for will actually happen. It gives assurance about things we cannot see. Hebrews 11:1

[www.thefidlersthree.blogspot.com](http://www.thefidlersthree.blogspot.com)

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Tammy Yaw  
Neighborhood Inspection Division  
602 Robert D Ray Drive  
Des Moines IA 50309

515-283-4260

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Tammy Yaw  
Neighborhood Inspection Division  
502 Robert D Ray Drive  
Des Moines IA 50309

515-283-4260

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33

Subj: **FW: contract**  
Date: 4/24/2012 10:54:53 A.M. Central Daylight Time  
From: [fidx3@msn.com](mailto:fidx3@msn.com)  
To: [junkman5@aol.com](mailto:junkman5@aol.com), [mike@trailsendauto.com](mailto:mike@trailsendauto.com), [stave@trailsendauto.com](mailto:stave@trailsendauto.com), [dqswiftauto@aol.com](mailto:dqswiftauto@aol.com),  
[rwcroush@aol.com](mailto:rwcroush@aol.com), [tom03racing@msn.com](mailto:tom03racing@msn.com), [apcarter16@a.com](mailto:apcarter16@a.com)

Faith is the confidence that what we **HOPE** for will actually happen. It gives assurance about things we cannot see. Hebrews 11:1

[www.thefidlersthree.blogspot.com](http://www.thefidlersthree.blogspot.com)

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Date: Tue, 24 Apr 2012 10:32:25 -0500  
Subject: Re: contract  
From: [tsyaw@dmgov.org](mailto:tsyaw@dmgov.org)  
To: [fidx3@msn.com](mailto:fidx3@msn.com)

The contract is to either CRUSHED or DISMANTLED the vehicles.

Thanks  
Tammy

On Tue, Apr 24, 2012 at 9:36 AM, SUSAN FIDLER <[fidx3@msn.com](mailto:fidx3@msn.com)> wrote:

ok.....we got the new contract.....Is it still the same where YOU CAN'T SELL THE CARS.....they have to be CRUSHED or DISMANTLED.....we have a few people calling us, and the way they are reading the contract it they thing you can re-sell the cars.....I just wanted to clarify this!

Thanks!

susan

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[www.thefidlersthree.blogspot.com](http://www.thefidlersthree.blogspot.com)

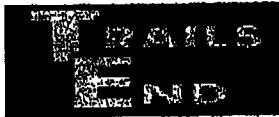
--  
Tammy Yaw  
Neighborhood Inspection Division  
602 Robert D Ray Drive  
Des Moines IA 50309

515-283-4260

=

Tuesday, June 26, 2012 AOL: Dgswiftauto

33



Mike Swift <mike@trailsendauto.com>

## Contract

Mike Swift <mike@trailsendauto.com>

Thu, May 17, 2012 at 10:19 AM

To: "Donovan, SuAnn" <smdonovan@dmgov.org>

Cc: THOMAS LOSEE <tom03racing@msn.com>, Steve Swift <steve@trailsendauto.com>, skipmoore@dmgov.org

Suann

The other thing they are going to do is process the cars and then sell them. Do they have a Des Moines Salvage Dealers License???

I looked it up I don't see they have one

They also don't dispose salvage They Auction the cars off There is also another business at the same location. They run a scrap operation. These cars can not be sold. That was what you said to me.

Dales Towing has had the contract for that last few years with hardly any complaints. Did you take this in to account.

I guess when we heard from our source that Crow Tow was going to get the contract, We should have believed this

One other thing Tom Loosee the Manage from Swifts called you several times and you never once returned his calls

Mike Swift

[Quoted text hidden]

33



Mike Swift <mike@trailsendauto.com>

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## Contract

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Donovan, SuAnn <smdonovan@dmgov.org>

Thu, May 17, 2012 at 9:56 AM

To: Mike Swift <mike@trailsendauto.com>

Cc: THOMAS LOSEE <tom03racing@msn.com>, Steve Swift <steve@trailsendauto.com>

Mike,

The contract will be presented to council with a recommendation to award to Crow Tow. They meet all the criteria and came in highest on return for vehicles to the city.

SuAnn Donovan  
Neighborhood Inspection Zoning Administrator  
602 Robert D. Ray Drive  
Des Moines, IA 50309  
515-283-4516

[Quoted text hidden]

33



Mike Swift <mike@trailsendauto.com>

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## Contract

Donovan, SuAnn <smdonovan@dmgov.org>

Thu, May 17, 2012 at 10:28 AM

To: Mike Swift <mike@trailsendauto.com>

Cc: THOMAS LOSEE <tom03racing@msn.com>, Steve Swift <steve@trailsendauto.com>, skipmoore@dmgov.org

Mike,

I believed I was handling questions on the contract through you and that was sufficient communication to your company. No offense was intended to be given to Mr. Loose.

As to the contract. We give certificates that only allow crushing of vehicles at this time. I see no change in our business practice.

Crow Tow has all the required certificates.

Thanks,

SuAnn Donovan  
Neighborhood Inspection Zoning Administrator  
602 Robert D. Ray Drive  
Des Moines, IA 50309  
515-283-4516

[Quoted text hidden]



June 29, 2012

Amanda Green  
 Attorney at Law  
 Nading Law Firm  
 408 S.W. Third Street  
 Ankeny, Iowa 50023

Re: Appeal of Invitation to Bid (V12-083) Towing and Storage of Junk Vehicles Bid Award

Dear Ms. Green:

This letter is in response to the Swift Auto Parts appeal of the City of Des Moines' bid award to Crow Tow for Towing and Storage of Junk Vehicles. Your letter dated June 27, 2012 identifies four points of contention that I will address in the order that they were introduced.

- 1) Issue: required minimum of five years experience in vehicle salvage operations or as a vehicle disposal facility

Response: Pursuant to Section 5.4 of the specifications, the company or owner must have a minimum of five (5) years experience in vehicle salvage operations or as a vehicle disposal facility. It does not require that the operator or business have a salvage dealer's license for the last five (5) years. Randy Crow the owner of Crow Tow, states in his proposal he has been in the industry since 1996. He further states this business has been in operation since 2001. We have not received credible evidence disputing the length of this experience. Mr. Crow also provided copies of his City Salvage Dealer License and Iowa DOT Vehicle Recycler/Vehicle Salvage License that are currently valid.

- 2) Issue: transfer verses demolish vehicles

Response: The bid request was let with the provision (section 5.3) that the tow contractor will be issued a demolition or sales certificate to take title to and transfer the vehicle as cars towed under this contract have traditionally only been identified for demolition. However, the Invitation to Bid does not prohibit the resale of vehicles and it is in the best interests of the City to accommodate the potential case, however unlikely, that a vehicle can have its title transferred and the vehicle sold. I note further that section I.B of the Administrative Information part of the Invitation to Bid requires that inquiries concerning this bid are to be directed in writing to the Procurement Division 10 days prior to the opening of the bids. Electronic communications by potential bidders with other City staff regarding bid requirements do not change or amend bid specifications.

- 3) Issue: does Crow Tow have a City Auto Salvage Dealer License

Response: Community Development staff has confirmed that Crow Tow does possess a City Salvage Dealer License.

- 4) Issue: misunderstanding of City's requirement to crush or dismantle vehicles

Response: The City will decide on a case-by-case basis whether a vehicle should be demolished or allowed to be sold. The bid documents do not reference any requirement that all vehicles be demolished.



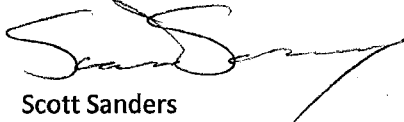
FINANCE DEPARTMENT  
 CITY HALL  
 400 ROBERT D. RAY DRIVE  
 DES MOINES, IOWA 50309-1891  
 (515) 283-4921  
 FAX (515) 237-1668

ALL-AMERICA CITY  
 1949, 1976, 1981  
 2003

I find that the bid response by Crow Tow is compliant and that the issues arising from Swift Auto Parts' appeal of the Procurement Administrator's and City Council's bid award for Towing and Storage of Junk Vehicles to Crow Tow are without merit. For these reasons, my decision is to uphold the award to Crow Tow.

If Swift Auto Parts desires to appeal this decision, an appeal may be made to the City Council at its July 9, 2012, meeting. A written request to be placed on the agenda for such appeal must be received by the City Clerk's Office by no later than 5:00 pm on Thursday, July 5, 2012. Please be sure to include the basis for your appeal when contacting the City Clerk's Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Sanders", with a long, sweeping underline that extends to the right.

Scott Sanders  
Finance Director, City of Des Moines

Cc: Mike Swift, Swift Auto Parts  
Rick Clark, City Manager

NADING LAW FIRM

www.nadinglaw.com

408 S.W. THIRD STREET  
ANKENY, IOWA 50023

ROBERT A. NADING II  
CHARLES P. PRITCHARD, JR.  
AMANDA L. GREEN

T: (515) 963-1000  
F: (515) 964-5624  
Amanda@nadinglaw.com

July 3, 2012

City Clerk's Office  
400 Robert D. Ray Drive  
Des Moines, IA 50309

2012 JUL -3 PM 4:26  
CITY CLERK  
DES MOINES, IA  
FILED

RE: *Appeal decision of Scott Sanders dated June 29, 2012*

Dear Clerk,

Please consider this Swift Auto Part timely appeal of the City of Des Moines' bid award to Crow Tow for Towing and Storage of Junk Vehicles and Scott Sanders' decision dated June 29, 2012 (attached hereto). Please add Swift Auto Parts' appeal on the agenda for the July 9, 2012 City Council meeting.

The basis for the appeal is Issue 2 and 4 in the attached letter, transfer verses demolish vehicles, crush or dismantle vehicles. The attached decision states that the bid does not prohibit the resale of vehicles and that the Invitation to Bid does not prohibit the resale of vehicles. This is in violation of Iowa Code Section 321.90 (2)(d) which states in relevant part,

If the abandoned motor vehicle is not reclaimed [...] the police authority shall give the applicant a certificate of authority allowing the applicant to obtain a junking certificate for the motor vehicle. The applicant shall make application for a junking certificate to the county treasurer within thirty days of receipt of the certificate of authority and surrender the certificate of authority in lieu of the certificate of title. The demolisher shall accept the junking certificate in lieu of the certificate of title to the motor vehicle. (emphasis added)

And Iowa Code Section 321.90 (3)(a) which states:

3. Duties of demolishers.

a. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk under the provisions of this section shall junk, scrap, wreck, dismantle, or demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle. (emphasis added)

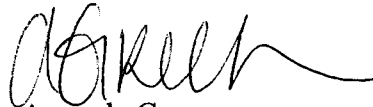
The Authority to Transfer and/or Demolish a Vehicle Certificate referenced in the Bid Invitation and the attached letter references the certificate required in Iowa Code Section 321.90 (2)(d) to obtain a junk certificate *only* and gives the demolisher or applicant authority to demolish the vehicle *not sell the vehicle*.

Iowa Code does not allow for the resale of vehicles. The City deciding “on a case-by-case basis whether a vehicle should be demolished or allowed to be sold” is against Iowa law. The City’s misinterpretation of the Iowa Code to allow for the re-sale of vehicles caused the city to accept a lower bid for the junk vehicle towing. All parties should have had the same understanding at the time the bids were submitted.

The award of the contract to Crow Tow should be canceled.

Should you have any questions please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,



Amanda Green  
Attorney at Law

Encl.



# Iowa Department of Transportation

## Certificate of Disposal of an Abandoned Vehicle

### Disposal by a Police Authority:

The Abandoned Vehicle Sales Receipt on the reverse side shall be completed by the police authority and provided to the purchaser when the abandoned vehicle is sold at public auction.

The Authority to Transfer and/or Demolish a Vehicle area shall be completed by the police authority and provided to the demolisher when the vehicle is disposed of for junk without auction.

### Disposal by a Private Entity:

The Disposal by Private Entity area shall be completed by the police authority and provided to the private entity employed to dispose of abandoned vehicles.

The Abandoned Vehicle Sales Receipt shall be completed by the private entity and provided to the purchaser when the vehicle is sold at public auction.

The Authority to Transfer and/or Demolish a Vehicle area on the reverse side shall be completed by the private entity and provided to the demolisher when the vehicle is disposed of for junk.

For assistance in completing, contact 515-237-3183.

## DISPOSAL BY PRIVATE ENTITY

I \_\_\_\_\_ hereby employ  
Police Authority

\_\_\_\_\_ to dispose of the following vehicle:  
Private Entity

### DESCRIPTION OF VEHICLE:

Make \_\_\_\_\_ Body Style \_\_\_\_\_ Year \_\_\_\_\_

VIN (Serial No.) \_\_\_\_\_

Lic. Plate No. \_\_\_\_\_ Year Issued \_\_\_\_\_

Name of Last Registered Owner: \_\_\_\_\_

Address \_\_\_\_\_

Name of Known Lienholders of Record: \_\_\_\_\_

Address \_\_\_\_\_

Name of Known Claimants: \_\_\_\_\_

Address \_\_\_\_\_

Description of Personal Property Found in the Vehicle: \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_ Police Authority  
\_\_\_\_\_  
Signature/Title of Officer

**ABANDONED VEHICLE SALES RECEIPT**

The vehicle described below has been sold as provided by law to the following named purchaser:

\_\_\_\_\_  
Name of Purchaser

Street or R.F.D. \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_

The vehicle described below:

Has been sold to a demolisher for junk. The purchaser must surrender this form to their county treasurer within 30 days and apply for a junking certificate.

Has been sold for use upon the highways. The purchaser must surrender this form to their county treasurer within 30 days and apply for a certificate of title.

**DESCRIPTION OF VEHICLE:**

Make \_\_\_\_\_ Style \_\_\_\_\_ Model \_\_\_\_\_

Year \_\_\_\_\_ V.I.N. (Serial No.) \_\_\_\_\_

License Plate No. \_\_\_\_\_ Year Issued \_\_\_\_\_

State of Issue \_\_\_\_\_

Purchase Price \$ \_\_\_\_\_ Date of Sale \_\_\_\_\_

\_\_\_\_\_  
Police Authority or Private Entity  
By: \_\_\_\_\_  
Name and Title of Officer or Private Entity

**AUTHORITY TO TRANSFER AND/OR DEMOLISH A VEHICLE**

To: \_\_\_\_\_  
Name of Demolisher or Applicant

\_\_\_\_\_  
Address of Demolisher or Applicant

You are hereby given authority to demolish the vehicle described below:

You are hereby given authority to dispose of the vehicle described below to a demolisher for demolition or dismantling:

This form must be surrendered to your County Treasurer within 30 days and application for a Junking Certificate made.

**DESCRIPTION OF VEHICLE:**

Make \_\_\_\_\_ Style \_\_\_\_\_ Model \_\_\_\_\_

Year \_\_\_\_\_ V.I.N. (Serial No.) \_\_\_\_\_

License Plate No. \_\_\_\_\_ Year Issued \_\_\_\_\_

State of Issue \_\_\_\_\_

Date of Disposal \_\_\_\_\_

\_\_\_\_\_  
Police Authority or Private Entity  
By: \_\_\_\_\_  
Name and Title of Officer or Private Entity