

**Resolution Award for Towing Services  
(Flanagan’s Auto Truck Service of NJ)**

WHEREAS, the Township of Pennsauken in the county of Camden and State of New Jersey that bids were read and received on Tuesday, February 15<sup>th</sup>, 2022 at 11:00am; and

WHEREAS, N.J.S.A 40A:11-5 (u) states that, all contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor; and

WHEREAS, that after review and evaluation Flanagan’s Auto & Truck Service of NJ, 9035 Collins Ave, Pennsauken, NJ 08109 is hereby accepted as the lowest responsible bid.

WHEREAS, by the Township Committee of the Township of Pennsauken, County of Camden, State of New Jersey, as follows

1. That the aforesaid contracts are opened-end contracts permitting the purpose of items at a state price on an “as needed” basis, at which time certification of available funds shall be provided for each purchase by means of an encumbered purchase order, in accordance with Local Public Contract Regulations 5:30-14.5 (C) 2ii.
2. That the Township Committee, for the aforementioned reasons, hereby declares that the following vendor is the lowest qualified responsible bidder for the bid packet 22-03 Towing Services: Flanagan’s Auto & Truck Service of NJ, 9035 Collins Ave, Pennsauken, NJ 08109.
3. The Township Administrator is hereby authorized to execute the necessary documents for the use of Flanagan’s Auto & Truck Service of NJ, 9035 Collins Ave, Pennsauken, NJ 08109.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forward by the Township Clerk to:

Administrator  
CFO  
Chief of Police  
Purchasing  
Vendor

Tim Killion  
Elizabeth Peddicord  
Philip Olivo  
Katelyn Ubil  
Flanagan’s

TOWNSHIP OF PENNSAUKEN

---

Pamela Scott-Forman  
TOWNSHIP CLERK

ADOPTED

**CONTRACT BY AND BETWEEN  
THE TOWNSHIP OF PENNSAUKEN  
AND  
FLANAGAN’S AUTO AND TRUCK SERVICE OF NEW JERSEY, INC.**

This CONTRACT, made effective pursuant to the terms set forth herein, by and between the **TOWNSHIP OF PENNSAUKEN** (hereinafter referred to as the "Township"), a municipal entity organized under the laws of the State of New Jersey and located in Camden County, having its principal office at 5605 North Crescent Boulevard, Pennsauken, New Jersey 08110 and **FLANAGAN’S AUTO AND TRUCK SERVICE OF NEW JERSEY, INC.** (hereinafter referred to as “Flanagan’s” or “Vendor”), having its principal place of business at 9035 Collins Avenue, Pennsauken, New Jersey 08109.

**W I T N E S S E T H**

*WHEREAS*, the Township requires towing services for the removal and storage of vehicles; and

*WHEREAS*, on February 15, 2022, Township issued a Request for Proposal (“RFP”) for a towing service within the Township pursuant to N.J.S.A. 40A:11-5 (u) et seq. (Local Public Contracts Law); and

*WHEREAS*, in response to said public advertisement, Township received bid submissions from Flanagan’s having its principal place of business at 9035 Collins Ave, Pennsauken, NJ 08109; and

*WHEREAS*, the Township awarded the towing service contract for a one (1) year term with one (1) optional year extension; and

*WHEREAS*, by the Township Committee of the Township of Pennsauken, County of Camden, State of New Jersey, as follows

1. That the aforesaid contracts are opened-end contracts permitting the purpose of items at a state price on an “as needed” basis, at which time certification of available funds shall be provided for each purchase by means of an encumbered purchase order, in accordance with Local Public Contract Regulations 5:30-14.5 (C) 2ii.
2. That the Township Council, for the aforementioned reasons, hereby declares that the following vendors are the lowest qualified responsible bidders for the bid packet 22-03 Towing Services

*WHEREAS*, the Flanagan’s and Township agree that it is to their material benefit and interest to set forth the terms of their understanding and agreement in writing; and

Now **THEREFORE**, in consideration of the mutual exchange of promises and covenants contained herein and, in the Contract, the parties hereto, intending to be legally bound hereby agree as follows;

**1. Term:**

This Contract shall be effective on March 11<sup>th</sup>, 2022 and shall run for one (1) year ending March 10<sup>th</sup>, 2023

**2. Contract Documents:**

It is understood and agreed upon by the parties that Bid packet 22-03 Towing Service within the Township of Pennsauken is part of this Contract and is incorporated herein by referenced.

**3. Fees:**

In accordance with the Stipulation of Settlement annexed hereto as Exhibit "A", it is understood that the fees to be charged for any and all towing and storage services performed in connection with this contract shall be those fees for service that are set forth in the Flanagan's bid proposal; said Flanagan's fees are incorporated herein by reference and made a part of this contract.

**4. Insurance:**

The Vendor shall maintain during the term of this Contract, workers compensation, comprehensive general liability insurance and comprehensive auto liability insurance naming the Township of Pennsauken as a co-insured on all policies. Those policies of insurance shall provide within the amounts and under the terms and conditions set forth in the Bid Package #22-03.

In the event that the Vendor fails to maintain and keep in force any of the required insurances herein required, the Township shall have the right to cancel and terminate this Contract forthwith and without further notice. The Vendor shall advise each insurance agency to automatically renew all policies in coverage in force at the start resulting from this Contract until notified of revisions in coverage requirements.

Insurance certificates indicating the required minimum coverage shall be issued prior to the commencement of this Contract to the Township Administrator and shall be subject to his review and approval.

**5. Indemnification and Hold Harmless:**

The Vendor shall indemnify, hold harmless, and defend the Township, its Committeepersons, directors, officers, members, agents, servants and employees (the Township's "Indemnified Parties") from and against any and all damages, claims, demands, suits, loss, costs, penalties, causes of action or expenses (including but not limited to, expenditures for and costs of investigations, hiring of expert witnesses, court costs, counsel fees, settlements, and judgments) which may be imposed upon or incurred by the Township's Indemnified Parties as a result of (i) personal injury (including death) or property damage, loss or theft arising out of the negligent or willful acts or omissions of Vendor, its employees or agents, or (ii) breach by Vendor of any of its obligations, covenants, and undertakings herein; and (iii) any failure by Vendor to comply with any statutes, regulations, ordinances or order of any governmental authority. Vendor covenants, upon notice to the Township, to resist or defend such actions or proceedings by legal counsel reasonably satisfactory to the Township.

The Vendor further agrees that the indemnification obligation under this Contract is intended to protect the Township's Indemnified Parties from and against any and all suits, claims, liabilities, losses and judgments, demands or damages, of whatsoever kind or nature, whether such fault is imputed or constructive only, vicarious or derivative, being based on some legal relation between the parties, or arising from some positive rule of common or statutory law or because of a failure to discover or correct a defect or remedy a dangerous condition caused by the act of Vendor or a principal or an agent thereof.

The Vendor shall not hold the Township responsible for loss of money or product resulting from vandalism, death or any other peril. In addition, the Vendor shall not penalize the Township for any losses incurred and related to this Contract.

**6. Ordinances, Laws, Regulations, Permits, Licenses. Bonding:**

Vendor shall comply with all local, County, State, and Federal ordinances, laws, and regulations, as well as policies and procedures from the *Township's Policy and Procedures Manual* pertaining or applicable to the operation contemplated herein. It shall be the obligation of Vendor to apply for, pay for, and obtain all permits, licenses and bonding as required by applicable ordinances, laws and regulations and/or by Township, and assume liability for all applicable taxes.

**7. Contract Violation, Additional Remedies:**

In the event that Vendor violates the terms of this contract, in addition to other remedies at laws that the Township may exercise and other applicable provisions set forth in the Bid Package, the following remedies shall apply:

1. Upon notice from the Township of the first violation, Vendor shall have fifteen (15) calendar days to cure and to reimburse in full any party affected by such violation.
2. Upon notice from the Township of a second violation, Vendor shall have seven (7) days to cure and to reimburse in full any party affected by the violation.
3. Upon notice of a third violation the Township may declare a default and terminate this contract.

Vendor may request a hearing before Township Committee as to any alleged violation by written notice to the Township Administrator not less than five (5) days subsequent to the date of any notice of violation

**8. Bankruptcy:**

If at any time an involuntary petition of bankruptcy shall be filed against either party and shall not be dismissed within thirty days, or if either party shall take advantage of any insolvency law, or if a receiver or trustee of any of a party's property shall be appointed and such appointment shall not be vacated within thirty days, the other party shall have the right, in addition to any other rights of whatsoever nature that it may have at law or in equity, to terminate this Contract by giving in no case more than ten (10) business days' notice in writing of such termination.

**9. Warranty and Prohibiting Gratuities:**

Vendor warrants to the Township that neither Vendor nor anyone authorized to act on Vendor's behalf has made any payment or contribution to any political candidate, political committee, public official or any other person or entity, for the purpose of influencing the award of this Contract. Vendor agrees that if the Township decides, after conducting a hearing as it deems necessary, that this warranty has been breached, the Township may terminate this Contract, or Vendor shall, within thirty (30) days of this decision, pay to the Township liquidated damages equal to twenty-five percent (25%) of the Contract's first year base fee. Township's decision in this regard shall be final, unless Vendor seeks a review thereof in a commercial arbitration proceeding conducted by the American Arbitration Association, instituted by Vendor within fifteen (15) days of receipt of the Township's decision.

Neither Vendor nor any person, firm or corporation employed by Vendor, in the performance of this Contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any Township employee at any time. Township may by written notice to Vendor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Vendor, or any agent or representative of Vendor, to any officer or employee of Township with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such Contract.

**10. Retention of Records:**

Unless Township specifies in writing a shorter period of time, Vendor agrees to preserve and make available all of its books, documents, papers, records and other evidence

involving transactions related to this Contract for a period of one (1) year from the date of the expiration or termination of this Contract. Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals.

**11. Notices:**

All notices, demands, requests, approvals, reports, instruction, consents or other communications (collectively referred to as “notices”) which may be required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when mailed by certified mail, return receipt requested, addressed to the intended recipient as follows:

If to Township:

Township Administrator  
5605 North Crescent Boulevard  
Pennsauken, NJ 08110

If to Vendor:

Flanagan’s Auto and Truck Service of New Jersey, Inc.  
9035 Collins Avenue  
Pennsauken, New Jersey 08109

or to any other persons or addresses as may be designated by notice from one party to the other.

**12. Independent Contractor:**

Both parties, in the performance of this Contract, shall be acting in their individual capacity and not as agents, employees, partners or joint ventures of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.

**13. Modifications:**

This Contract shall be modified only by the written agreement of the parties. No alteration or variation of the terms and conditions of the Contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provision shall be effective.

**14. Change Orders:**

There shall be no change order for additional services unless the Township dramatically changes the scope of work. All changes orders must be initiated by the Township and authorized by the Township in writing.

**15. Sexual Harassment:**

Federal law and the policies of the State of New Jersey and Township prohibit sexual harassment of individuals in the Township community. Vendor, its subcontractors, and suppliers are required to exercise control over their employees to prohibit acts of sexual harassment.

**16. Drug Free Workplace:**

Vendor agrees that in the performance of this Contract, no employee of Vendor shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by this Contract. Township reserves the right to request a copy of Vendor’s Drug Free Workplace Policy. Vendor further agrees to insert a provision similar to this statement in all subcontracts for services.

**17. Governing Law:**

The laws of the State of New Jersey shall govern the validity, interpretation, construction, and performance of these terms and conditions, and jurisdiction shall be in the Superior Court, County of Camden.

**18. Third Party Beneficiaries:**

This Contract shall not be construed as providing an enforceable right to any third party.

**19. Waiver:**

It is understood and agreed that a waiver by any party of a breach or default by the other party of any provision of this Contract shall not be deemed a waiver of future compliance therewith, and such provisions shall remain in full force and effect. It is further understood and agreed that no trade usage, prior course of dealing or course of performance under other contracts and/or agreements shall be used in the interpretation of construction of this Contract.

**20. Assignment:**

Vendor shall not assign, convey, encumber, or otherwise transfer its right or duties under this Contract without the prior written consent of Township, whose response will not be unreasonably withheld or delayed; provided, however, that Vendor may, without prior approval and without being released from any of its responsibilities hereunder, assign the Contract to any affiliate or wholly owned subsidiary of Vendor. This Contract shall immediately terminate in the event of its assignment, conveyance, encumbrance or other transfer by Vendor in violation of this provision.

**21. Severability:**

If any provision of this Contract shall be invalid or unenforceable, in whole or in part, such provision and this Contract shall be deemed and construed to be modified or restricted to the extent that and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Contract as the case may require.

**22. General:**

This Contract contains the entire agreement of the parties and supersedes any and all prior agreements, arrangements and understandings relating to the subject matter hereof. This Contract shall be binding on their respective executors, administrators, legal representatives, successors and assigns. This Contract may not be amended or altered without the written consent of both parties hereto. This Contract shall be executed in one or more counterparts and all such counterparts shall constitute one and the same instrument. The person who executes this Contract on behalf of Vendor expressly represents and warrants that s/he has full and complete authority to do so.

The terms and conditions set forth in the Stipulation of Settlement in the matter of Flanagan's Auto and Truck Service of New Jersey, Inc. versus Township of Pennsauken, Superior Court of New Jersey, County of Camden, filed under docket number CAM-L-107-13, annexed hereto as Exhibit "A", are incorporated herein by reference and made a part of this contract.

**23. Captions:**

All headings preceding the text of the several sections and paragraphs hereof are inserted solely for the convenience and reference of the parties and shall not constitute a part of this Contract, nor shall they affect their meaning or interpretation thereof.

IN WITNESS WHEREOF, and intending to be bound hereby, the parties hereto have caused this CONTRACT to be duly executed as of the day and year first above written.

ATTEST:

TOWNSHIP OF PENNSAUKEN

\_\_\_\_\_

By: \_\_\_\_\_

TIM KILLION

TOWNSHIP ADMINISTRATOR

ATTEST:

FLANAGAN'S AUTO AND TRUCK SERVICE  
OF NEW JERSEY, INC.

\_\_\_\_\_

By: \_\_\_\_\_

, PRESIDENT