

INTRADEPARTMENTAL CORRESPONDENCE

May 19, 2015
1.0

TO: Honorable Board of Police Commissioners

FROM: Executive Director, Board of Police Commissioners

SUBJECT: PROPOSED CHANGE IN THE CORPORATE OWNERSHIP OF GARY BAINES, INC., DBA LOS ANGELES TOW (LA TOW), OFFICIAL POLICE GARAGE FOR SOUTH BUREAU HEAVY DUTY SERVICE AREA OF THE LOS ANGELES POLICE DEPARTMENT CONTRACT NO. C121706 TO JOSE ACOSTA, PURSUANT TO LOS ANGELES MUNICIPAL CODE SECTION 80.77.4(E)(2)

RECOMMENDED ACTIONS

That the Board APPROVE and TRANSMIT to the Office of the Mayor and City Council the Executive Director's report recommending approval of the proposed change in ownership of Gary Baines, Inc., DBA Los Angeles Tow, Inc. the Official Police Garage for the South Bureau Heavy Duty Service Area Contract No. C121706 to Jose Acosta.

BACKGROUND

Commission Investigation Division has received a request from LA Tow, the Official Police Garage for the South Bureau Heavy Duty Service Area to transfer its ownership interest in Official Police Garage Towing and Storage Agreement C121706 to Jose Acosta.

Los Angeles Municipal Code Section 80.77.4(E)(2) states that the sale or transfer of a majority of either the ownership interest, or stock, except public share stock, of any Official Police Garage shall be subject to the approval of the City Council, which shall consider any recommendation of the Board of Police Commissioners.

Commission Investigation Division has conducted a background investigation of Jose Acosta. There was no adverse history discovered. Mr. Acosta also provided references from various law enforcement agencies which were check by staff. Mr. Acosta's Business and Takeover Plan is attached for the Board's review.

Staff recommends that the Board approve the transfer of corporate ownership of Gary Baines, Inc., DBA Los Angeles Tow, to Jose Acosta.

Should you have any questions, please call me at (213) 236-1400, or Lieutenant Chris Waters, Commanding Officer, Commission Investigation Division, at (213) 996-1270.


RICHARD M. TEFANK, Executive Director
Board of Police Commissioners

**BOARD OF
POLICE COMMISSIONERS**
Approved *June 2, 2015*
Secretary *Maria Silva*

Attachments



LOS ANGELES TOW

220 Broad Ave. • Wilmington, CA 90744 • Bus.: (310) 518-7100 • Fax: (424) 703-6172

November 20, 2014

VIA HAND DELIVERY AND CERTIFIED U.S. MAIL

Mr. Richard Tefank, Executive Director
Police Commission
Los Angeles Police Department
100 West 1st Street, 1st Floor
Los Angeles, CA 90012

Dear Mr. Tefank:

I am writing to request the Commission's approval of the transfer of ownership interests in GARY BAINS, Inc. dba Los Angeles Tow, Official Police Garage for Heavy Duty Towing for South Bureau, contract number C121706 to Jose Acosta Jr.

Los Angeles Municipal Code Section 80.77.4 (e)(2) states that any sale or transfer of a majority of either the ownership interests or stock, except public share stocks, of any official police garage shall be subject to the approval of the City Council, which shall consider any recommendation made by the Board of Police Commissioners.

I am requesting that Commission Investigation Division complete its background investigation and recommend approval of the transfer of ownership to sell my interest to Jose Acosta Jr. doing business as Pepe's Towing Service.

As part of the sale, Jose Acosta Jr. has agreed to assume all liabilities of GARY BAINS, Inc. A copy of the sales agreement is attached. Should you have any questions regarding this matter please contact Raj Dhillon at (818) 915-2286.

Thank you for considering my request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gary Bains".

Gary Bains
President

PEPE'S TOW BUSINESS AND TAKEOVER PLAN

I. BACKGROUND AND EXPERIENCE

Pepe's Tow Service was founded by Jose Acosta Jr. in April 1987, and primarily functioned as a California Highway Patrol (hereinafter "CHP") rotation tow operator. In addition to the CHP work, Pepe's Tow Service was also engaged in commercial and private towing. After realizing that the business was growing and prosperous, Mr. Acosta converted the business entity into a California Corporation on March 10, 1992. The business was then named Pepe's Inc. dba Pepe's Tow (hereinafter "Pepe's Tow" or the "Company") with a corporate number 1704129. From then until the present day, the Pepe's Tow remains in good standing with the Secretary of State's Office.

Pepe's Tow is in good standing with all governmental agencies that monitor towing, storage and vehicle transportation. The Company maintains in good standing its: (1) California Department of Motor Vehicles Motor Carrier Permit Number 117433; (2) California Department of Motor Vehicles Pull Notice Number L8266; and (3) City of Los Angeles Business Permit Number 813482 (within this permit are separate permits for Towing Operations and Parking Occupancy).

Mr. Acosta has no other business involvement or entanglements other than his commitment to operate Pepe's Tow. During the last 28 years, through sheer determination and hard work, he has developed the Company into a powerhouse in the field of heavy duty towing. Due to his concentration in the heavy duty towing, Mr. Acosta has performed all necessary functions in the field such as driving, dispatching, releasing vehicles and overseeing the lien sale process. In fact, he is Hazardous Material Certified through the Department of Motor Vehicles. In addition, he still works five to six days of the week in the daily operations of the Company. Furthermore, Mr. Acosta has settled for nothing less than excellence in defining and running the Company. For example, his heavy duty towing fleet is modern and comprised mostly of Peterbilt power units. Peterbilts are considered the standard of excellence in the field of heavy duty towing.

Pepe's Tow has a history of performance excellence for its clients. Clients include agencies such as the CTIP division of the California Highway Patrol and the TRAP division of the Los Angeles County Sheriff's Department. These law enforcement agencies have used Pepe's Tow for their towing, recovery, impound, and storage and investigative hold needs. Please see the next section for a summary of client agencies and accounts that Pepe's Tow has served with integrity and efficient, quality service.

II. FACILITIES AND CURRENT OPERATIONS

Currently the Company is located at 918 S. Boyle Avenue, Los Angeles, CA 90023 (hereinafter the "property"). Mr. Acosta owns this property. The property is 30,000 square foot lot with a 5,000 square foot brick building, which is partitioned for uses such as offices and evidence hold. The property has the capability of storing eight big rigs and over 60 light-duty vehicles.

Security is of the utmost importance to Mr. Acosta. The property is surrounded by an eight-foot high block wall, which has aluminum siding that further increases its height. In addition, barbed wire has been added to the top of the wall to further enhance security. Secondly, the property has nine cameras, which are always recording the activity in the yard and in the release office. The cameras are connected to a DVR, which can store the information for over 45 days. Some of the cameras are also equipped with infrared capability. Thirdly, the property has controlled access through the use of two remote controlled metal gates. Control of these gates is maintained from the dispatch office. Finally, the property is lit by lighting obtained from the Los Angeles Department of Water and Power.

Mr. Acosta realizes that an important aspect of the impounding of vehicles is knowledge of the lien sale rules and regulations. In that respect, the Company utilizes the services of Ritter Lien Sales, Inc. After vehicles have cleared lien the Company sells them in an auction format.

Pepe's Tow conducts towing, recovery, storage, and emergency roadside service for a variety of governmental and private clients. A summary of accounts is as follows:

- (1) Long-term contract with annual renewal with the Central and East Los Angeles Divisions of the California Highway Patrol. The work for this contract consists of general towing and roadside service of vehicles
- (2) Informal, long-term working arrangement with the United States Secret Service.
- (3) Informal, long-term working arrangement with the Union Pacific Police Department.
- (4) Informal, long-term working arrangement with the Amtrak Police Department.
- (5) Informal, long-term working arrangement with the CTIP division of the California Highway Patrol (investigative hold and impound of primarily stolen vehicles and big rigs (with cargo)).

- (6) Informal, long-term working arrangement with the TRAP division of the Los Angeles County Sheriff's Department (investigative hold and impound of primarily stolen vehicles and big rigs (with cargo)).

III. PURCHASE OF LOS ANGELES TOW

Mr. Acosta is currently in the process of purchasing Gary Bains, Inc., dba Los Angeles Tow (hereinafter the "target company"). Mr. Acosta plans to continue operating the target company as a Heavy Duty Official Police Garage for the City of Los Angeles. Based upon Mr. Acosta's 25 years of experience of owning and operating Pepe's Tow, and his long time working relationship with several governmental agencies (as outlined above), the transition of ownership of Los Angeles Tow, will be seamless and efficient.

IV. LOCATION OF LOS ANGELES TOW

Los Angeles Tow currently operates from 220 N. Broad Avenue in the City of Los Angeles (hereinafter the "property"). The property consists of a 40,000 square foot parcel which is zoned M2. The property has a 200 square foot office building, which has a release office and a dispatch area. Furthermore there is a 5,000 square foot warehouse, which is used as a secure evidence facility. In addition, the property is equipped with 32 cameras, which are connected to a DVR with 45 days storage capacity. Lastly, the property is completely fenced, well lit, and completely paved with concrete.

As part of the sale agreement, Mr. Bains will assign all of his rights to the lease of this property to Mr. Acosta. The landlord, Ms. Gail Le Meur, has also agreed to this assignment. Currently, the lease of the property ends on February 1, 2017; however, there is an option for another five-year extension.

V. EQUIPMENT

All equipment at the property, with the exception of the tow trucks, will be transferred to Mr. Acosta. Specifically, the phone, computer dispatch and accounting (with VIC), and security systems in operation at the property are included in the sale and will become property of Mr. Acosta upon closing.

As explained above, Mr. Acosta has mostly Peterbilts (the "Gold Standard") running his fleet. Mr. Acosta plans to base his fleet at the property to conform to the requirements of the South Bureau Heavy Duty Official Police Garage Contract.

Mr. Acosta will be using the following tow equipment to fulfill the obligations of the South Bureau Heavy Duty Official Police Garage Contract:

1. 2001 Peterbilt 60 Ton Rotator, Heavy Duty
2. 2001 Peterbilt Century 7035 Integrated, Heavy Duty
3. 2002 Peterbilt Century 9055 Integrated, Heavy Duty
4. 2005 Peterbilt Century 9055 Integrated, Heavy Duty
5. 1996 Peterbilt Tractor which pulls a 410 Landoll (Lowbed)
6. 2014 Peterbilt Century with Detachable Tow Unit, Model S.D.U.
7. 2000 Peterbilt Vulcan 330 20 ton Medium Duty
8. 2007 Peterbilt 335 22 foot Steel Bed Flatbed

VI. PERSONNEL

Office employees will be as follows:

Osbaldo J. Navarro, General Manager
Bertha Maldonado, Office Manager
Jacob Hernandez, Night Manager and Nighttime Dispatcher
Maricela Hernandez, Weekend Dispatcher
Mehtab Bains, Weekend Nighttime Dispatcher

Tow drivers will be as follows:

Jose Acosta Jr.
Daniel Montalvo
Oscar Rodriguez
Osbaldo J. Navarro
Oswaldo Martinez
Edward Durazo
Hector Guzman
Ronald Jeffries

VII. FINANCIAL STATEMENT

Mr. Acosta's Financial Statement is provided on the pages following this document. As can be seen by the Statement, Mr. Acosta is in a financial position where he can readily close this sale after the proper approvals have been given. In addition, he has ample resources to outlast any downturn in the business.

VIII. CONCLUSION

Mr. Acosta has carefully analyzed his purchase of Los Angeles Tow. He believes it will be a synergistic acquisition and will complement his Central and East Los Angeles operations. Mr. Acosta believes his operation of Los Angeles Tow will become a model for others to follow.

AGREEMENT RELATING TO PURCHASE AND SALE OF STOCK

THIS AGREEMENT is entered into by and among **JOSE ACOSTA JR.** (the "Buyer"), **GARY BAINS** (the "Seller"), and **GARY BAINS, INC. dba LOS ANGELES TOW** (the "Corporation").

RECITALS:

As of the date of execution of this Agreement, there are 1000 shares of common stock of the Corporation which are issued and outstanding, consisting of 1000 shares of common stock which are owned by Gary Bains. Gary Bains is referred to in this Agreement as the "Seller".

Subject to the terms of this Agreement, Buyer wishes to buy from Seller, and Seller wishes to sell to Buyer, all of his 1000 outstanding shares.

The parties are stipulating that the aggregate net fair market value of the Outstanding Shares is [REDACTED], and the Buyer is willing to purchase and the Seller is willing to sell the Outstanding Shares at that price.

NOW, THEREFORE, IN CONSIDERATION OF the mutual promises and covenants set forth herein, the parties agree as follows:

1. **Definitions.** For purposes of this Agreement, and except when otherwise indicated by the context, the following terms shall have the indicated meanings:
 - (a) "Closing" refers to the consummation of the purchase and sale transactions contemplated under this Agreement. "Closing Date" refers to the actual date when Closing takes place.
 - (b) "Buyer" refers to Jose Acosta Jr.
 - (c) "Seller" refers to Gary Bains.

- (d) "Transfer" refers to and includes any form of sale, exchange, gift, bequest, disposition, assignment, pledge, hypothecation, encumbrance or other conveyance of any kind, including both voluntary and involuntary conveyances, and also including conveyances by operation of law.
- (e) "Performance Date" refers to the first date upon which Buyer shall have fully performed all obligations to Seller under the terms of this Agreement.
- (f) "Corporation's Business" refers to all aspects of the business being conducted by Corporation from the present day to immediately prior to Closing.

2. Payment of Purchase Price. The Aggregate Purchase Price shall be paid by Buyer to Seller as follows:

- (a) Buyer shall pay to Seller a payment of [REDACTED] immediately upon execution of this Agreement.
- (b) Buyer shall pay to Seller a payment of [REDACTED] immediately after approval of the transfer by the Los Angeles Police Commission. Non-payment of the required payment after 48 hours of approval shall be deemed a material breach of this Agreement and the initial payment shall be deemed forfeited to the Seller.
- (c) Buyer shall pay to Seller the remaining payment of \$ [REDACTED] immediately after approval of the transfer by the Public Safety Committee of the Los Angeles City Council. Non-payment of the required payment after 48 hours of approval shall be deemed a material breach of this Agreement and the prior two payments shall be deemed forfeited to the Seller.

3. Purchase.

Upon the payment of the Purchase Price and Transfer of the Shares, as set for below, Buyer shall own and Seller shall sell and transfer the Corporation and its Business, including without limitation: (i) all the Outstanding Shares of the Corporation, (ii) all the good will of the Business, (iii) all contracts with third parties, (iv) any accounts receivable and all impounded vehicles in inventory as of the date of closing, (v) all permits, licenses, approvals, authorizations necessary for the operation of the Business and (vi) the domain name "LATOW.NET."

4. Transfer of Shares.

At Closing, Corporation shall: (i) transfer and issue to Buyer on the books of the Corporation all of the Outstanding Shares, (ii) issue to Buyer a separate stock certificate

evidencing the ownership by Buyer of the 1000 outstanding Common Shares being purchased by Buyer from Seller. The transfer of the Shares by Seller to Buyer (the closing) will take place at Los Angeles Tow, 220 Broad Avenue, Los Angeles, CA 90744 at 5:00 p.m. local time, five calendar days after all monies due have been paid to Seller. At closing, each of the parties shall be obligated to take each and all of the actions required of that party under the terms of this Agreement.

5. Limited Warranties.

Seller warrants that the Corporation is a corporation duly organized, validly existing and in good standing under the laws of California. Seller warrants that the Corporation has good and marketable title to all the transferred assets, free and clear of all liens, claims and encumbrances. Seller warrants to Buyer that at Closing Seller shall have good title to the Outstanding Shares, free and clear of all security interests, encumbrances, liens, equities, charges, conditions of sale, leases, assessments, restrictions, reservations, obligations, title retention documents or other burdens of any kind. Seller has full power to transfer the Shares to Buyer without obtaining the consent or approval of any other person or governmental authority. All current and accrued taxes which may become a lien against any of the Outstanding Shares prior to Closing shall have been paid by the Seller prior to Closing.

6. No Tangible Personal Property Included in Sale.

No trucks, automobiles, machinery, equipment, tools, drawings, and all other tangible personal property owned by, in possession of, or used by Corporation in connection with its respective business and work in progress are included in this Agreement. Buyer will supply his own automobiles, machinery, equipment, tools, and drawings immediately upon closing to run the Corporation's Business.

7. Insurance Coverage.

Seller carries casualty and general liability insurance in amounts commercially reasonable for a company engaged in the operation of the Business. Seller carries workers' compensation insurance in at least the amount required by law. The premiums on all such insurance policies have been paid and such policies shall remain in full force and effect through the Closing.

8. Time Of The Essence To This Agreement.

Time is of the essence to this Agreement.

9. No Brokers.

No party has employed any broker, finder or agent, or incurred any liability for fees or commissions to any such person, in connection with this Agreement.

10. Miscellaneous.

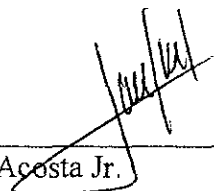
All notices provided for herein shall be in writing and shall be deemed to be duly given if and when hand delivered to the person entitled to receive the notice or (if earlier) on the third day after being deposited in the United States mail, registered and return receipt requested, postage prepaid, to the last known address of the party entitled to receive the notice. The paragraph headings set forth in this Agreement are set forth for convenience purposes only, and do not in any way define, limit or construe the contents of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that holding shall not invalidate or render unenforceable any other provision of this Agreement, and the remainder of this Agreement shall be interpreted as if the invalid or unenforceable provision did not exist. If any provision of this Agreement is capable of more than one interpretation, one of which would render the provision invalid, then that provision shall be given the interpretation which renders it valid. Any party who violates any of the terms, provisions and conditions of this Agreement shall save the other parties harmless from any and all claims, demands, and actions which may arise out of or by reason of that violation, in addition to being subject to the other remedies, liabilities and obligations which may be imposed upon the violating party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, successors-in-interest, administrators, beneficiaries, distributees and assigns. This Agreement contains the entire understanding of the parties relating to the subject matter of this Agreement. There are no representations, agreements, arrangements, or understanding, whether oral or written, between and among the parties relating to the subject matter of this Agreement which are not fully expressed herein, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, warranties, representations and understandings, if any, between the parties. No change or modification of this Agreement shall be valid or binding upon the parties hereto, and no waiver of any term or condition hereof shall be deemed to be a waiver of that term or condition in the future, unless that change, modification or waiver is in writing and signed by all parties. This Agreement shall be governed by and construed in accordance with the laws of the state of California. Each of the parties hereby irrevocably submits to the jurisdiction of the courts of Los Angeles County, California, and agrees that any legal proceedings with respect to this Agreement shall be filed and heard in the appropriate court in Los Angeles County, California. In the event of any suit or action among the parties to enforce any rights or conditions of this Agreement, the prevailing party shall be entitled to be reimbursed by the losing party for any reasonable attorney fees (including attorney fees on appeal) as determined by the court or courts. This agreement may be executed in any number of counterparts, and each counterpart shall be deemed an original Agreement for all

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purposes when signed by the parties. All rights and remedies provided under this Agreement are cumulative to one another and to all other rights and remedies under applicable law or in equity, and no election or exercise of any one right or remedy available to a party shall in any manner operate to prejudice or impair any other right or remedy provided at law or in equity or otherwise available to that party. The failure by a party at any time or times to enforce any right or remedy available under this Agreement strictly in accordance with the terms of this Agreement shall not operate as a waiver of that right or remedy or any other available right or remedy.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated next to their respective signatures.

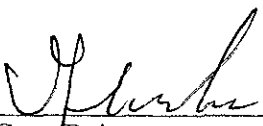
BUYER: JOSE ACOSTA JR.

By  Nov. 20, 2014
Jose Acosta Jr. Dated

CORPORATION: GARY BAINS, INC.

By  11-20-14
Gary Bains, Chief Executive Officer Dated

SELLER: GARY BAINS

By  11-20-14
Gary Bains Dated