

**CONTRACT BETWEEN THE CITY OF LOS ANGELES AND DOOLEY
ENTERPRISES, INC. FOR AMMUNITION SUPPLIES FOR THE AIRPORT POLICE
FOR THE DEPARTMENT OF AIRPORTS FOR THE CITY OF LOS ANGELES**

THIS CONTRACT, made and entered into this _____ day of _____, 2014, at Los Angeles, California by and between the **CITY OF LOS ANGELES**, a municipal corporation, (“City”), acting by order of and through the Board of Airport Commissioners (“BOAC”), and **DOOLEY ENTERPRISES, INC** (“Contractor”).

RECITALS

That for and in consideration of the covenants and conditions hereinafter contained to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

WHEREAS, City desires ammunition supplies for the Los Angeles World Airport (LAWA) Police operations and related training; and

WHEREAS, Contractor is engaged in the business of providing the products and services of the type sought by LAWA; and

WHEREAS, City has determined it is in its best interest to contract for products and services from this provider.

NOW, THEREFORE, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, IT IS MUTUALLY AGREED as follows:

Section 1.0 Term of Contract.

1.1 The term of this Contract shall be for a period not to exceed three (3) years commencing December 1, 2014, and expiring on November 30, 2017, unless earlier terminated pursuant to Sections 5 and 6 below.

Section 2.0 Definitions.

2.1 It is understood that when the following words and phrases are used herein, each shall have the meaning set forth opposite the same:

BOARD: The Board of Airport Commissioners of the City of Los Angeles.

DEPARTMENT

OR LAWA: The Department of Airports of the City of Los Angeles.

EXECUTIVE

DIRECTOR: Executive Director of the Department of Airports, or her/his authorized designee.

Section 3.0 Contractor Scope and Fee.

3.1 Contractor shall provide the products and services (Services) specified in **Exhibit A** for the Department of Airport Police Department. Contractor agrees to provide the Services to City under the contractual terms and conditions set forth in **Exhibit A** and the Costs sheet from Contractor, which are attached hereto and incorporated by reference as **Exhibit A-1**. In the event of a conflict between the terms and conditions of this Contract and the terms and conditions of **Exhibits A and A-1**, all conflicts shall be resolved in favor of this Contract and all of its amendments over **Exhibits A and A-1**.

3.2 The compensation to Contractor shall not exceed Two Hundred Thousand (\$200,000) in any given year of the contract, nor exceed a total of Six Hundred Thousand (\$600,000) for the entire contract. The stated amount is deemed to include all provisions for Contractor's compensation for services, including, without limitation, travel costs, fringe benefits, all out of pocket expenses, and overhead costs.

3.3 Contractor shall attach to each billing an invoice and a status report specifying in detail the Services it has supplied to LAWA during the period covered by the invoice.

3.4 All requests for payment submitted pursuant to this Contract shall be certified by a duly authorized officer of Contractor. City reserves the right to require additional substantiation of any payment request submitted if, in the opinion of the Executive Director, such would be in the best interest of City. In order to verify charges incurred and invoiced by Contractor in the performance of this Contract, Contractor agrees to make pertinent books and records available to City's representative at LAWA's Office at the address listed below upon fifteen (15) days' notice. Contractor agrees to pay for all travel costs, housing, and other related expenses associated with the audit of said books, reports, accounts, and records by LAWA at Contractor's place of records if said place of records is outside of the greater Los Angeles metropolitan area. The aforesaid records shall not include any proprietary records of Contractor such as cost data.

3.5 Unless not applicable, timesheets (by total hours per day for each individual) shall be provided as back-up documents for services rendered.

3.6 City shall not be required to make payments for Services not yet provided or

received, nor for Services deemed unsatisfactory by City. The parties agree that the Executive Director shall make the final determination as to when Contractor's Services or any part thereof have been satisfactorily performed or completed or the Services provided to City to justify release of any given payment to Contractor under this Contract.

3.7 If a necessary change causes an increase in the scope of work or services to be performed or the Services to be provided by Contractor pursuant to this Contract, then the parties hereto shall first agree upon additional compensation, if any, to be paid to Contractor therefore, and this Contract shall be amended, in writing, prior to the performance by Contractor of said increased work or service.

3.8 The costs for Services under this agreement shall be as low as those currently charged the Contractor's most favored customers for comparable quantities under similar terms and conditions. If, at the time Services are provided to the City additional discounts are available to Contractor's other government and commercial customers based on volume guarantees, then, on condition that the City requests Contractor's then current list of lowest available costs from Contractor, the City will be offered the opportunity to have Services provided at such lower costs as those charged to Contractor's most favored customer based on similar terms and conditions.

Section 4.0 Staffing and Personnel. Staffing and Personnel.

This Section is Not Applicable to this Contract.

Section 5.0 Termination or Suspension of Services or Contract.

5.1 City, or the Executive Director if within his/her authority, may terminate this Contract, with or without cause, upon giving the Contractor a thirty (30) day advance written notice.

5.2 The Executive Director may, if within his/her authority: (1) require Contractor to terminate or suspend the performance of all, or a portion, of its services for any reason and/or (2) terminate any part of this Contract for any reason, upon giving Contractor thirty (30) days written notice prior to the effective date of such suspension or termination which date shall be specified in such notice.

5.3 In the event that this Contract or any portion thereof and/or Contractor's services, or any portion thereof is suspended or terminated by Executive Director as provided in Section 5.2, the City will compensate Contractor for services completed and satisfactorily performed, as determined by LAWA staff, subject to the terms under Section 3.0.

Section 6.0 Default and Right of Termination.

6.1 In the event a Contractor fails to abide by the terms, covenants and conditions of this Contract, City may, instead of immediately exercising its rights under Section 5, give

Contractor written notice to correct the defect or default. If the same is not corrected, or substantial steps are not taken toward accomplishing such correction, within five (5) days after City's mailing of notification, City may, at its sole discretion, (a) terminate this Contract forthwith upon giving Contractor a ten (10) day written notice, or (b) withhold any further payment for Contractor's services until such defect or default is corrected within the time specified by the City. If the default or defect is still not corrected within that time, City may terminate this Contract forthwith upon giving Contractor a ten (10) day written notice.

6.2 Notwithstanding anything herein to the contrary, the City has the right to terminate this Contract, with or without cause, upon thirty (30) days advance written notice to the Contractor.

Section 7.0 Notices.

7.1 Notice to City. Written notices to City hereunder, with a copy to the City Attorney of the City of Los Angeles, shall be given by registered or certified mail, postage prepaid, and addressed to:

**Department of Airports
1 World Way
Post Office Box 92216
Los Angeles, CA 90009-2216**

**Office of City Attorney
1 World Way
Post Office Box 92216
Los Angeles, CA 90009-2216**

[Optional: Name & Address of Division with Contract]

or to such other address as City may designate by written notice to Contractor.

7.2 Notice to Contractor. Written notices to Contractor hereunder, with a copy to the City Attorney of the City of Los Angeles, shall be given by registered or certified mail, postage prepaid, and addressed to:

**DOOLEY ENTERPRISES, INC
1198 N. Grove Street
Anaheim, CA 92806**

or to such other address as Contractor may designate by written notice to City.

7.3 The execution of any such notice by the Executive Director shall be as effective as to Contractor as if it were executed by the Board, or by Resolution or Order of said Board, and Contractor shall not question the authority of the Executive Director or the designee to execute any such notice.

7.4 All such notices, except as otherwise provided herein, may either be delivered personally to Executive Director with a copy to the Office of the City Attorney, Airport Division, in the one case, or to Contractor in the other case, or may deposited in the United States mail,

properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail.

Section 8.0 City Held Harmless.

8.1 In addition to the requirements of Section 25, Insurance herein, Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless City and any and all of its boards, commissioners, officers, directors, agents, employees, assigns and successors in interest (collectively "City Defendants") from and against any and all allegations, suits, proceedings, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, attorney's fees and costs of litigation) (collectively "Claims"), prosecuted by anyone (including Contractor and/or Contractor's agents, former and current employees, or competitors) by reason of, arising out of, related to, connected with or pertaining to (1) injury to, or death of, any person(s) (including Contractor and/or Contractor's agents or employees), or (2) damage to, or destruction of, any property (including property of Contractor and/or Contractor's agents or employees), or (3) Contractor's (and/or its employees' or agents') and/or Sub-Contractor's (and/or its employees' or agents') performance of the Contract, or (4) City's selection of Contractor over its competitors as the awardee of this Contract; whether or not contributed to by any act or omission of City, or of any of City's Boards, officers, agents or employees. If applicable, (a) where such Claims arise from or relate to Contractor's performance of a "Construction Contract" as defined by California Civil Code Section 2783, this paragraph shall not be construed to require Contractor to indemnify or hold City harmless to the extent such Claims are caused by the City's sole negligence, willful misconduct or active negligence; and/or (b) where such Claims arise from Contractor's design professional services as defined by California Civil Code Section 2782.8, Contractor's indemnity obligations shall be limited to Claims arising out of, pertaining to, or relating to the Contractor's negligence, recklessness or willful misconduct in the performance of the Contract.

8.2 In addition, Contractor agrees to protect, defend, indemnify, keep and hold harmless City Defendants, from and against any and all Claims arising out of any threatened, alleged or actual claim that any end product provided to the City by Contractor or the Contractor's response to the RFP, infringes any party's invention (patentable or not), patent, trademark, service marks, trade dress, copyright, trade secret, proprietary right, moral right, privacy, *sui generis* right, or other intellectual property rights, including , ideas, concepts, themes, processes, methods, algorithms, other proprietary information or intangible rights (hereinafter referred to collectively as "Intellectual Property Rights"). Contractor further agrees to, and shall, pay all damages, settlements, expenses and costs, including costs of investigation, court costs and attorney's fees, and all other costs and damages sustained or incurred by City arising out of, or relating to, the matters set forth above in this paragraph of the City's "Hold Harmless" agreement.

8.3 Should Contractor reasonably believe that (1) any of the Work Products (as

defined in Section 17) allegedly or actually infringes or is likely to infringe on any third party Intellectual Property Rights, or (2) any of the licenses procured on behalf of the City under this Contract is to expire, to be terminated or enjoined sooner than the term procured for, Contractor shall immediately notify City of such alleged, actual or potential infringement or license status. Upon City's request, Contractor shall, at Contractor's own expense:

- i) procure for the City the right or license to continue using the intellectual property at issue; or
- ii) replace the intellectual property at issue with a functionally equivalent, non-infringing product, if practicable.

Exercise of any of the above-mentioned options shall not cause undue business interruption to the City or its agents/consultants, or diminish the intended benefits and use of the Work Products by the City or its agents/consultants under the specifications herein.

8.4 In addition, Contractor agrees to defend, indemnify and hold harmless City Defendants from and against any and all Claims, made by anyone arising out of any allegations in connection with Contractor's use of any of its employees and/or subcontractors and/or consultants working under this Contract or in connection with Contractor's response to the RFP, including but not limited to allegations for tortious interference with contractual relations, aiding and abetting, unjust enrichment, violations of any party's Intellectual Property Rights. Contractor agrees to, and shall, pay all such damages, settlements, expenses and costs, including costs of investigation, court costs and attorney's fees, and all other costs and damages sustained or incurred by City.

8.5 In Contractor's defense of the City under Section 8, including but not limited to the negotiation, compromise, and settlement of any action, the City shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

8.6 Survival of Indemnities. The provisions under Section 8 shall survive the termination of this Contract. Rights and remedies available to the City hereinabove shall survive the termination of this Contract. Further, the rights and remedies are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

Section 9.0 Advertisements.

Contractor shall not, at any time, under any circumstances, install, place, or maintain any type of advertising, on Airports.

Section 10.0 Alternative Fuel Vehicle Requirement Program (for LAX Only).

Contractor shall comply with the provisions of the alternative fuel vehicle requirement program (the "Alternative Fuel Vehicle Requirement Program"). The rules, regulations and requirements of the Alternative Fuel Vehicle Requirement Program are attached as **Exhibit B** and made a material term of this Contract.

Section 11.0 Assignment or Transfer Prohibited.

11.1 Contractor shall not, in any manner, directly or indirectly, by operation of law or otherwise, hypothecate, assign, transfer or encumber this Contract, or any portion thereof or any interest therein, without the prior written consent of the City or the Executive Director if within his/her authority. This Contract shall not, nor shall any interest therein, be assignable as to the interest of Contractor by operation of law without the prior written consent of the City or the Executive Director if within his/her authority.

11.2 For purposes of this Contract, the terms "transfer" and "assign" shall include, but not be limited to, the following: (i) if Contractor is a joint venture, a limited liability company, or a partnership, the transfer of fifty percent (50%) or more of the interest or membership in the joint venture, the limited liability company, or the partnership; (ii) if Contractor is a corporation, any cumulative or aggregate sale, transfer, assignment, or hypothecation of fifty percent (50%) or more of the voting shares of Contractor; (iii) the dissolution by any means of Contractor; and, (iv) a change in business or corporate structure. Any such transfer, assignment, mortgaging, pledging, or encumbering of Contractor without the written consent of the City is a violation of this Contract and shall be voidable at the City's option and shall confer no right, title, or interest in or to this Contract upon the assignee, mortgagee, pledgee, encumbrancer, or other lien holder, successor, or purchaser.

11.3 In the event of a name change of Contractor, in which there is no transfer, assignment, mortgaging, pledging, or encumbering of Contractor as provided in Section 11.2, the Contractor must obtain the written consent of the Executive Director; and Contractor shall provide all related documents, as well as any other documents requested by LAWA. Failure to obtain the consent of the Executive Director under this section may result in the City's inability to pay and delay in paying the newly named entity.

11.4 When proper consent has been given by the City, or the Executive Director if within his/her authority, the provisions of this Contract shall be binding upon, and shall inure to the benefit of, the heir(s), successor(s), executor(s), administrator(s) and assign(s) of the parties hereto.

Section 12.0 Attorneys Fees.

If City shall, without any fault, be made a party to any litigation commenced by or against Contractor arising out of Contractor's use or occupancy of Airport, then Contractor shall pay all costs, expenses, and reasonable attorney's fees incurred by or imposed upon City in connection with such litigation. Each party shall give prompt notice to the other of any claim or

suit instituted against it that may affect the other party.

Section 13.0 Disabled Access.

13.1 As directly related to Contractor's responsibilities with regard to this Contract, Contractor shall be solely responsible for fully complying with any and all applicable present and/future rules, regulations, restrictions, ordinances, statutes, laws, and/or orders of any federal, state, and/or local governmental entity and/or court regarding disabled access including any services, programs, improvements or activities provided by Contractor. Contractor shall be solely responsible for any and all damages caused by, and/or penalties levied as the result of, Contractor's noncompliance. Further, Contractor agrees to cooperate fully with City in its efforts to comply with the Americans with Disability Act of 1990 and any amendments thereto, or successor statutes.

13.2 Should Contractor fail to comply with Section 13.1, if applicable, then City shall have the right, but not the obligation, to perform, or have performed, whatever work is necessary to achieve equal access compliance. Contractor will then be required to reimburse City for the actual cost of achieving compliance, plus a fifteen percent (15%) administrative charge.

Section 14.0 Environmentally Favorable Operations.

Contractor acknowledges for itself and any subcontractors that its operation of its activities under this Contract will be subject to all the Department's policies, guidelines and requirements regarding environmentally favorable construction, use and/or operations practices (collectively "LAWA Policies") as such LAWA Policies may be promulgated, revised and amended from time-to-time."

Section 15.0 First Source Hiring Program For Airport Employers (for LAX ONLY).

Contractor shall comply with the provisions of the First Source Hiring Program adopted by the Board. The rules, regulations, requirements, and penalties of the First Source Hiring Program are attached as Exhibit C and made a material term of this Contract.

Section 16.0 Independent Contractor.

16.1 It is the express intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of City. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee between Contractor and City or between Contractor and any official, agent, or employee of City. Both parties acknowledge that Contractor is not an employee of City.

16.2 Contractor shall retain the right to perform services for others during the term of this Contract, unless specified to the contrary herein or prohibited by conflict of interest or ethics