

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT WITH
THE CALIFORNIA HIGHWAY PATROL FOR THE JOINT USE OF THE WEAPONS
FIRING RANGE**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILPITAS AS
FOLLOWS;**

WHEREAS, there has been submitted to the City Council of the City of Milpitas a proposed agreement to be entered into by and between the City of Milpitas and the California Highway Patrol; and

WHEREAS, said Agreement is attached as Exhibit A and is made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas that the agreement attached as Exhibit A is approved and that the City Manager be authorized and directed to execute for and on behalf of said City of Milpitas said Agreement.

PASSED AND ADOPTED this 6TH day of February 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Business Services Section
Contract Services Unit
P.O. Box 942898
Sacramento, CA 94298-0001
(916) 375-2965
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



December 20, 2006

Milpitas Police Department
1275 N. Milpitas Blvd.
Milpitas, CA 95035

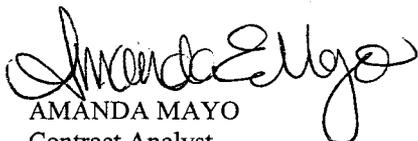
Subject: Agreement Number 6C340002-0

Complete the following marked item(s) and return to the above address within ten (10) business days:

- STD. 213, Standard Agreement with attached exhibits. Sign the first page of the STD. 213, sign the additional single STD. 213, and return both copies.
- STD. 213A, Standard Agreement Amendment. Sign the first page of the STD. 213A, sign the additional single STD. 213A, and return both copies.
- STD. 210, Short Form Contract. Sign and return both copies.
- Letter of Agreement. Sign and return both copies.
- STD. 204, Payee Data Record. Complete and return.
- CCC, Contractor Certification Clauses. Complete and return.
- Obtain and forward the liability insurance certificate required by the terms of the Agreement.
- Resolution, motion, order, or ordinance from the local governing body authorizing this Agreement.
- STD. 807, Payment Bond. Complete and return one copy.
- Other: Please note - changes in Exhibits A and B.

Contract status.

- The enclosed agreement is signed on behalf of the Department of California Highway Patrol. Process and when approved, return an original to this office.
- The enclosed approved agreement is for your records. You are now authorized to provide services.


AMANDA MAYO
Contract Analyst

Enclosures

Safety, Service, and Security

STANDARD AGREEMENT

STD. 213 (Rev 6/03) (CHP Automated)

CSU Initial: A.M.

AGREEMENT NUMBER	6C340002-0
REGISTRATION NUMBER	

- This Agreement is entered into between the State Agency and the Contractor named below
 STATE AGENCY'S NAME
 Department of California Highway Patrol
 CONTRACTOR'S NAME
 Milpitas Police Department
- The term of this Agreement is: 01/01/2007 through 12/31/2009
- The maximum amount of this Agreement is: \$25,200.00
 Twenty-Five Thousand Two Hundred Dollars And Zero Cents
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A - Scope of Work	2 page(s)
Exhibit B - Budget Detail and Payment Provisions	1 page(s)
Exhibit C* - General Terms and Conditions	306
Check mark one item below as Exhibit D:	
<input type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	page(s)
<input type="checkbox"/> Exhibit - D* Special Terms and Conditions	
Exhibit E - Additional Provisions	page(s)

Items shown with and Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
 These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language/default.html

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only EXEMPT FROM DEPARTMENT OF GENERAL SERVICES APPROVAL IN ACCORDANCE WITH THE STATE ADMINISTRATIVE MANUAL
<small>CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.)</small>		
Milpitas Police Department		
<small>BY (Authorized Signature)</small>	<small>DATE SIGNED (Do not type)</small>	
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small>		
<small>ADDRESS</small>		
1275 N. Milpitas Blvd. Milpitas CA 95035		
STATE OF CALIFORNIA		
<small>AGENCY NAME</small>		
Department of California Highway Patrol		
<small>BY (Authorized Signature)</small>	<small>DATE SIGNED (Do not type)</small>	
<small>PRINTED NAME AND TITLE OF PERSON SIGNING</small>		
T. Anderson Business Manager		
<small>ADDRESS</small>		
P.O. Box 942898, Sacramento, CA 94298-0001		

Exempt per:

STANDARD AGREEMENT

STD. 213 (Rev 6/03) (CHP Automated)

CSU Initial: A.M.

AGREEMENT NUMBER

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CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.)		
Milpitas Police Department		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
 PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
1275 N. Milpitas Blvd. Milpitas CA. 95035		
STATE OF CALIFORNIA		
AGENCY NAME		
Department of California Highway Patrol		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
 PRINTED NAME AND TITLE OF PERSON SIGNING		
T. Anderson Business Manager		
ADDRESS		
P.O. Box 942898, Sacramento, CA 94298-0001		

**EXHIBIT A
(Standard Agreement)**

SCOPE OF WORK

- Contractor agrees to provide weapons shooting range for monthly weapons training to Department of California Highway Patrol (CHP) San Jose Area, located at 2020 Junction Avenue, San Jose, CA 95131.

The parties hereto agree to indemnify, defend and save harmless the other party, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the other party in the performance of this Agreement.

- The services shall be performed at: If checked see attached for additional service locations

City of Milpitas Police Department
1275 North Milpitas Blvd.
Milpitas, CA 95035

- The services shall be provided during:
such times that are mutually agreeable to both parties.

- The project representatives during the term of this agreement will be:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		Milpitas Police Department	
NAME		NAME	
Sgt. R. Shaw		Lt. Henry Kwong	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
(408) 467-5400	(408) 467-5407	(408) 586-2400	(408) 586-2488

Direct all inquiries to:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		Milpitas Police Department	
SECTION/UNIT		SECTION/UNIT	
San Jose Area			
ATTENTION		ATTENTION	
Sgt. R. Shaw		Lt. Henry Kwong	
ADDRESS		ADDRESS	
2020 Junction Avenue, San Jose, CA 95131		1275 N. Milpitas Blvd., Milpitas, CA 95035	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
(408) 467-5400	(408) 467-5407	(408) 586-2400	(408) 586-2488

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK *(Continued)*

5. Detailed description of work to be performed:
 - A. The weapons range use shall be limited to CHP personnel assigned to the CHP San Jose Area.
 - B. Contractor agrees that CHP shall have the use of all on-site facilities located on the range for training programs without additional charge.
 - C. Contractor and CHP agree the weapons range shall be open and usable by members of CHP at such times that are mutually agreeable to both parties. Exclusive use of the facilities by CHP must be coordinated and mutually agreed to by both parties.
 - D. The CHP agrees that its members using the weapons range facilities under this Agreement shall be governed by the range safety rules established by Contractor.
 - E. Brass will be retained by Contractor.
 - F. The weapons range must be able to accommodate the following:
 - 1) .40 caliber pistol (loaded with Department-issued ammunition currently 180G).
 - a. Twelve (12) shoots per year, one (1) each month or two (2) every other month.
 - b. Two (2) qualification shoots which must be performed at the following distances:
2 yards, 4 yards, 7 yards, 10 yards, 15 yards, and 25 yards.
 - c. Ten (10) practice shoots, of which two (2) night shoots are recommended.
 - d. Use for make-up shoots at times mutually agreeable to both parties.
 - 2) Tactical rifle (.223 caliber).
 - a. Four (4) shoots per year (quarterly).
 - b. One (1) night shoot is required.
 - c. Maximum distance of 50 yards.
 - 3) Shotgun (00 buckshot).
 - a. Eight shoots per year (two quarterly).
 - b. Two (2) night shoots required.
 - c. Distance 15 yards maximum.
 - G. Inspection and test firing of weapons:
 - 1) All weapons are to be test fired after each required inspection by the Area Weapons Range Officer.
 - 2) Use of facility to test fire weapons will be coordinated between the Area Weapons Range Officer and the Contractor.
 - H. CHP reserves the right to cancel this Agreement with thirty days prior written notice.
 - I. This Agreement may be amended in writing with mutual consent of the parties hereto.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in duplicate not more frequently than monthly in arrears to:

Name: Sgt. Richard Shaw
Office: CHP San Jose Area
Address: 2020 Junction Avenue
San Jose, CA 95131-2187

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Rate Schedule

The CHP agrees to pay Contractor in arrears at a rate of Seven Hundred Dollars and zero cents (\$700.00) per month for use of the weapons shooting range for the CHP San Jose Area. The monthly rate consists of Two Hundred Fifty Dollars and zero cents (\$250.00) for rent and Four Hundred Fifty Dollars and zero cents (\$450.00) to off-set maintenance and improvement costs.

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
Milpitas Police Department		
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot

require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled:

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.