



**MASTER AGREEMENT**  
**CONTRACT NUMBER MA# 106-498336**  
**BETWEEN**  
**CITY OF ANAHEIM**  
**AND**  
**BPS TACTICAL, INC.**  
**FOR**  
**EXTERNAL LOAD BEARING VESTS**

This Agreement **MA# 106-498336** for External Load Bearing Vests (hereinafter referred to as “Contract”) is made and entered into as of the date fully executed by and between the **City of Anaheim**, a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter City of Anaheim, (hereinafter referred to as “City”), with a place of business at 200 S. Anaheim Blvd., Anaheim, CA 92805 and **BPS Tactical, Inc.** (hereinafter referred to as “Contractor”), with a place of business at 2165 W. Colton Ave, Mentone, CA 92359, with City and Contractor sometimes individually referred to as “Party”, or collectively referred to as “Parties”.

**ATTACHMENTS**

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Work  
Attachment B – Pricing, Payment and Compensation

**RECITALS**

**WHEREAS**, the City of Anaheim, issued a Request for Bid (RFB) BID # 9822 for External Load Bearing Vests; and

**WHEREAS**, the City, a municipal corporation duly organized and validly existing under the laws of the State of California and the Charter City of Anaheim, Central Purchasing Office, on behalf of the Anaheim Police Department, desires to enter into Contract MA# 106-498336 with Contractor for External Load Bearing Vests; and

**WHEREAS**, the Contractor agrees to provide External Load Bearing Vests further set forth in this Contract and subsequent attachments effective on the date of execution, for a one-year base period, and up to four one-year optional renewals; and,

**WHEREAS**, the Contractor agrees to provide the services based on the quote, attached hereto as Attachment A; and

**WHEREAS**, the City agrees to pay Contractor based on the schedule of fees set forth in Pricing, Payment, and Compensation, attached hereto as Attachment B; and,

**NOW, THEREFORE**, the Parties mutually agree as follows:

## ARTICLES

### **I. General Terms and Conditions:**

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another County.
- B. Entire Contract:** This Contract contains the entire Contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on City unless authorized by City in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any City employee or agent, including but not limited to installers of software, shall not be valid or binding on City unless accepted in writing by City's Purchasing Agent or designee.
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on City unless authorized by City in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment.
- E. Delivery:** Time of delivery of commodities and services is of the essence in this Contract. City reserves the right to refuse any commodities and services and to cancel all or any part of the commodities not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed scope of work. Acceptance of any part of the order for commodities shall not bind City to accept future shipments nor deprive it of the right to return commodities already accepted at Contractor's expense. Over shipments and under shipments of commodities shall be only as agreed to in writing by City. Delivery shall not be deemed to be complete until all commodities or services have actually been received and accepted in writing by City.
- F. Acceptance Payment:** Unless otherwise agreed to in writing by City, 1) acceptance shall not be deemed complete unless in writing and until all the commodities/services have actually been received, inspected, and tested to the satisfaction of City, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold City and its indemnities as identified in Article "Z" harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by City by reason of the failure of the

goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold City and City Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.
- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of City. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of City shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, City has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of Contractor. Exercise by City of its right to terminate Contract shall relieve City of all further obligation.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived, and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of City. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through City.
- N. Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to City's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion, and coordination of all documentation and other commodities/services furnished by Contractor under this Contract.

Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall

at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of City required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

- O. Bonding and Insurance Requirements:** Some procurements may require bonding and/or insurance. Specific requirements will be stated in the applicable bid documents. In the event bonding is required, bonds shall be submitted in a form acceptable to the City (samples will be included in the documents). Checks or letters of credit will not be accepted in lieu of bonding. When work will be performed on City property, the City's standard insurance requirements (shown below) will apply, unless otherwise indicated in the bid specifications.

**Workers' Compensation Insurance** as required by California law and Employers Liability Insurance in an amount not less than \$1,000,000. This requirement may be satisfied by execution of a waiver confirming exemption from the California workers compensation statutory requirements if there are no statutory employees.

**Commercial General Liability Insurance**, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, and Independent Contractor's Liability, in an amount not less than \$2,000,000 per occurrence. Such insurance shall be written on a primary basis and may include a deductible or self-insurance retention of not more than \$10,000 per occurrence or claim, provided that such deductible or SIR is disclosed to the City, in writing, at the inception of this Contract and approved by the Risk Manager for the City.

**Commercial Automobile Liability Coverage, as required by California law**, including—as applicable—owned, non-owned, and hired autos, in an amount not less than \$2,000,000 per occurrence, combined single limit. Such insurance shall be written on a primary basis and may include a deductible or self-insurance retention of not more than \$10,000 per occurrence or claim, provided that such deductible or SIR is disclosed to the City, in writing, at the inception of this Agreement and approved by the Risk Manager for the City.

Contractor is responsible for satisfaction/payment of all deductibles and Self-Insured Retentions (SIR).

Contractor may satisfy these requirements with primary and excess/umbrella coverage subject to review and acceptance by the Risk Manager for City.

City's Risk Manager is authorized to amend the requirements or approve exceptions to the above requirements as set forth herein in the event such reductions or Contractor generated exception requests or amendments as to form is/are in City's best interest.

Each insurance policy or certificate of insurance required by this Contract shall contain the following clauses:

"In the event of any payment under this policy, we waive our right of recovery against the City of Anaheim and their respective officers, officials, and employees."

Each insurance policy or certificate of insurance required by this Agreement, excepting policies for workers' compensation, shall contain the following clauses or endorsements:

"It is agreed that any insurance maintained by the City of Anaheim shall apply in excess of, and not contribute with coverage provided by this policy."

"The City of Anaheim, their officers, officials, and employees are added as additional insureds per the Insurance Services Office Inc. form endorsement known as CG 20 11 01 96 ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES, or, as an alternative, either an endorsement or insurance policy language which provides coverage, terms, and conditions to said additional insureds which are equal to or better than the coverage, terms, and conditions provided by the CG 20 11 01 96 endorsement."

Any insurance required under this Agreement must be written by an insurance company admitted to do business in California.

City of Anaheim to be named as Additional Insured. All policies shall provide for a minimum of 30 days written notice of any change or cancellation. Insurance policies to be in a form and written through companies acceptable to the City.

Insurance certificates should state:

City of Anaheim  
Attn: Central Purchasing Office  
Email: [insurance@anaheim.net](mailto:insurance@anaheim.net)

**P. Changes:** Contractor shall make no changes in the work or perform any additional work without City's specific written approval.

**Q. Change of Ownership/Name, Litigation Status, Conflicts with City Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and City agrees to an assignment of Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of City.

City reserves the right to immediately terminate Contract in the event City determines that the assignee is not qualified or is otherwise unacceptable to City for the provision of services under Contract.

In addition, Contractor has the duty to notify City in writing of any change in Contractor's status with respect to name changes that do not require an assignment of Contract. Contractor is also obligated to notify City in writing if Contractor becomes a party to any litigation against City, or a party to litigation that may reasonably affect Contractor's performance under Contract, as well as any potential conflicts of interest between Contractor and City that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from City any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to City of its status in these areas whenever requested by City.

Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with City interests. In addition to Contractor, this obligation shall apply to Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence City staff or elected officers in the performance of their duties.

**R. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory

performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to City within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

- S. **Confidentiality:** Contractor agrees to maintain the confidentiality of all City and City-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by City in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by City. Contractor acknowledges that City is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold City and City Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. **Freight:** Prior to City's express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each Party shall bear their own attorney's fees, costs and expenses.
- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
- Y. **Employee Eligibility Verification:** Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by City, and hold harmless, City, its agents, officers, and employees from employer sanctions and any other

liability which may be assessed against Contractor or City or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

- Z. Hold Harmless and Indemnification:** Contractor agrees to indemnify, defend and hold harmless the City (including its officers and employees) from and against any and all claims of any kind or nature presented against the City arising out of Contractor's (including Contractor's employees, representatives, products, and subcontractors) performance under any purchase order or agreement, excepting only such claims, costs, or liability which may arise out of the sole negligence of the City.

The obligations set forth in this indemnification provision (i) shall be in effect without regard to whether City, Contractor, or any other person maintains, or fails to maintain, insurance coverage, or a self-insurance program, for any such Claims and (ii) shall survive the termination of this Agreement.

- AA. Audits/Inspections:** Contractor agrees to permit the City's authorized representative (including auditors from a private auditing firm hired by City) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of Contract including, but not limited to, the costs of administering Contract. City will provide reasonable notice of such an audit or inspection. City reserves the right to audit and verify Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to City to audit records and interview staff of any subcontractor related to performance of this Contract.

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to City's Project Manager.

- BB. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon budget approval for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, City may immediately terminate or modify this Contract without penalty.

- CC. California Public Records Act:** Contractor and City agree and acknowledge that all information and documents related to the award and performance of this Contract may be subject to disclosure pursuant to the California Public Records Act, California Government Code Section 7920.000 et seq. Contractor shall not respond to any California Public Records Act request directed at City; all responses shall be handled by City.

#### **Additional Terms and Conditions:**

1. **Scope of Contract:** This Contract specifies contractual terms and conditions by which City will procure External Load Bearing Vests from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as "Attachment A".

2. **Term of Contract:** This Contract shall commence upon execution of all necessary signatures and be effective for one (1) year, with the option to renew for four (4) additional one-year terms , unless otherwise terminated by City.
3. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without prior written approval of the Purchasing Agent or designee.
4. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph “Z” above, indemnify, defend, and hold City harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
5. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
6. **Americans with Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
7. **Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.
8. **Breach of Contract:** The failure of Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event City may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
  - a. Terminate Contract immediately, pursuant to Article K herein; and
  - b. Afford Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach; and
  - c. Discontinue payment to the Contactor for and during the period in which Contractor is in breach; and
  - d. Offset against any monies billed by Contractor but unpaid by City those monies disallowed pursuant to the above.
9. **Conflict of Interest – Contractor’s Personnel:** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of City. This obligation shall apply to Contractor; Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and



subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence City staff or elected officers from acting in the best interests of City.

10. **Conflict of Interest – City Personnel:** City Council policy prohibits its employees from engaging in activities involving a conflict of interest. Contractor shall not, during the period of this Contract, employ any City employee for any purpose.
11. **Contractor's Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by City and shall not be changed without the written consent of City's Project Manager, which consent shall not be unreasonably withheld.

Contractor's Project Manager shall be assigned to this project for the duration of Contract and shall diligently pursue all work and services to meet the project timelines. City's Project Manager shall have the right to require the removal and replacement of Contractor's Project Manager from providing services to City under this Contract. City's Project Manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within five (5) business days after written notice by City's Project Manager. City's Project Manager shall review and approve the appointment of the replacement for Contractor's Project Manager. City is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under Contract.

12. **Contractor's Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These records shall be stored for a period of three (3) years after final payment is received from City.
13. **Contractor Work Hours and Safety Standards:** The Contractor shall ensure compliance with all safety and hourly requirements for employees in accordance with federal, state, and City's safety regulations and laws.
14. **Conditions Affecting Work:** Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to City. City assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by City are expressly stated in Contract.
15. **Data – Title To:** All materials, documents, data or information obtained from City data files or any City medium furnished to Contractor in the performance of this Contract will at all times remain the property of City. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of City. All materials, documents, data or information, including copies, must be returned to City at the end of this Contract.
16. **Default – Re-Procurement Costs:** In case of Contract breach by Contractor, resulting in termination by City, City may procure the commodities and services from other sources. If the cost for those commodities and services is higher than under the terms of the existing Contract, Contractor will be responsible for paying City the difference between Contract cost and the price paid, and City may deduct this cost from any unpaid balance due Contractor. The price paid by

City shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.

17. **Disputes – Contract:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the City's Project Manager, as specified in Article 25 "Notices", such matter shall be brought to the attention of the City Purchasing Agent by way of the following process:

- a. The Contractor shall submit to the Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless City, on its own initiative, has already rendered such a final decision.
- b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to Contract, Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects Contract adjustment for which Contractor believes City is liable.
- c. In the event a dispute in which the welfare of City residents is at stake and/or immediate procurement action is required to prevent serious economic or other hardship to the City, the CPM, or designee may

Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of commodities and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of City shall be expressly identified as such, shall be in writing, and shall be signed by City Purchasing Agent or his designee. If City fails to render a decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. Nothing in this section shall be construed as affecting City's right to terminate Contract for cause or termination for convenience as stated in Article K herein.

18. **Drug-Free Workplace:** Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. Contractor will:

- 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, as required by Government Code Section 8355(a)(1).
- b. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
  - i. The dangers of drug abuse in the workplace; and
  - ii. The organization's policy of maintaining a drug-free workplace; and
  - iii. Any available counseling, rehabilitation and employee assistance programs; and
  - iv. Penalties that may be imposed upon employees for drug abuse violations.

- c. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
    - i. Will receive a copy of the company's drug-free policy statement; and
    - ii. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.
  - d. Failure to comply with these requirements may result in suspension of payments under Contract or termination of Contract or both, and Contractor may be ineligible for award of any future City contracts if City determines that any of the following has occurred:
    - i. Contractor has made false certification, or
    - ii. Contractor violates the certification by failing to carry out the requirements as noted above.
19. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if the City of Anaheim is declared a disaster area by city, county, state or federal government, Contract may be subjected to unusual usage. Contractor shall service City during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by Contractor shall apply to serving City's needs regardless of the circumstances. If Contractor is unable to supply the goods/services under the terms of Contract, then Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from Contractor shall show both the emergency purchase order number and Contract number.
20. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Project Manager and key personnel attached hereto, prior to submission to the City. Contractor agrees that City review is discretionary, and Contractor shall not assume that the City will discover errors and/or omissions. If the City discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the City or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after City approval thereof, City approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the City and Contractor, and the reports, files or documents will be returned to Contractor for correction.
21. **Equal Employment Opportunity:** Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental

handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

22. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
23. **News/Information Release:** Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from City through City's Project Manager.
24. **Notices:** Any and all notices, requests, demands, and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the Assigned Buyer, except through the course of the Parties' Project Managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor: **BPS Tactical, Inc.**  
Attn: Bill Blankenship  
Address 2165 W. Colton Ave.  
Mentone, CA 92359  
Telephone: (909) 794-2435  
Email: [admin@bpstactical.com](mailto:admin@bpstactical.com)

City Project Manager: **Anaheim Police Department**  
Attn: Ploy Siriyotin  
Telephone: 714-765-1597  
Email: [psiriyotin@anaheim.net](mailto:psiriyotin@anaheim.net)

Assigned Buyer: **City of Anaheim/Central Purchasing Office**  
Attn: Esther Robles  
Address 200 S. Anaheim Blvd. Suite 620  
Anaheim, CA 92805  
Telephone: (714) 765-4093  
Email: [erobles@anaheim.net](mailto:erobles@anaheim.net)

25. **Order Dates:** Orders may be placed during the term of the Contract even if delivery may not be made until after the term of the Contract. The Contractor must clearly identify the order date on all invoices to City and the order date must precede the expiration date of the Contract.
26. **Ownership of Documents:** City has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the City and may be used by the City as it may require without additional cost to the City. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the City.
27. **Permits and Licenses:** Contractor shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with the permitted operation as set out herein. No permit approval or consent given hereunder by City in its governmental capacity shall affect or limit Contractor's obligations hereunder, nor shall any approvals or consents given by City as a party to this Contract, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.
28. **Precedence:** Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.
29. **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by Contractor without the express written consent of County. Any attempt by Contractor to subcontract any performance of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.
30. **Substitutions:** The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior City written approval.
31. **Usage:** No guarantee is given by City to Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. Contractor agrees to supply services and/or commodities requested, as needed by City of Anaheim, at rates/prices listed in Contract, regardless of quantity requested.



## **CONTRACT SIGNATURE PAGE**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Contract to be executed on the dates hereinafter respectively set forth.

**DATE OF EXECUTION:** \_\_\_\_\_  
**CITY OF ANAHEIM**  
a municipal corporation  
By: \_\_\_\_\_  
**Kari Bouffard, Purchasing Agent**

**DATE OF EXECUTION:** \_\_\_\_\_  
**BPS TACTICAL, INC.\***  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

**DATE OF EXECUTION:** \_\_\_\_\_  
**BPS TACTICAL, INC.\***  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

**ATTEST:**  
**APPROVED AS TO FORM:**  
**ROBERT FABELA, CITY ATTORNEY**  
By: \_\_\_\_\_  
By: \_\_\_\_\_  
**City Clerk of Anaheim**  
Title: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

\* If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For City purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above-described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signee to bind the corporation.

## **ATTACHMENT A** **SCOPE OF WORK**

### **I. GENERAL INFORMATION**

The City of Anaheim is comprised of 13 departments and over 3,200 employees throughout the City. The City's core businesses are public safety, public utilities, public works, housing and community development, community services, and economic development.

Contractor shall provide External Load Bearing Vests in accordance with the terms, conditions, and attachments. Additionally, Contractor shall be required to provide or have access to all necessary equipment, machinery, transportation, and other implements to provide the materials and services herein.

### **II. PRODUCT REQUIREMENTS**

Contractor shall provide the following:

#### **A. External Load Bearing Vests:**

1. Designed to mimic a Class B uniform shirt for professional appearance.
2. Equipped with functional front buttons, a Velcro closure system, and FirstSpear tubes for adjustability and ease of wear.
3. Tailored to fit each officer and their ballistic panels securely.
4. Includes attachment points for body-worn camera mounts.
5. Durable and secure construction for essential equipment, including radios, handcuffs, tasers, handgun magazines, and additional items.
6. Options for additional side pouches to provide customization based on officers' needs.

#### **B. Fitting Sessions:**

1. On-site fitting conducted at the Anaheim Police Department's main station facility.
2. Accommodate groups of 8 or more officers per session.
3. Ensure proper fitting for safety, comfort, and optimal performance.
4. Tailoring to fit individual officers and their issued ballistic panels.
5. Provide adjustments as needed during initial fitting sessions to ensure a secure and ergonomic fit.

6. Provide training or instruction as needed on proper use, adjustment, and maintenance of the vest carriers and pouches.
7. Offer consultation to ensure the vest setup optimally supports each officer's operational needs.

### **III. PERFORMANCE REQUIREMENTS**

1. All vest carriers and pouches must meet APD's specifications for professional appearance, durability, and functionality.
2. Products must be constructed to withstand regular use under field conditions without degradation.
3. Vendor shall ensure all fitting services are conducted professionally and efficiently at APD's designated facility.
4. Fitting sessions must minimize disruption to APD operations.



**ATTACHMENT B**  
**PRICING, PAYMENT AND COMPENSATION**

1. **Compensation:** This is a time and materials Contract between City and Contractor for External Load Bearing Vests as set forth in Attachment A, "Scope of Work".

Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein for equipment, supplies, accessories, provided in accordance with the Scope of Work. **City shall have no obligation to pay any sum in excess of the rates specified herein unless authorized by amendment in accordance with Articles "C" Amendment and "P" Changes, of the City's Contract Terms and Conditions.**

2. **Pricing List:** Fees quoted shall be all inclusive of all labor, services, skills, supervision, delivery, mileage, fuel surcharge, travel time, materials, necessary tools, routine equipment and for any unreasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.

Description	Price
<b>External Load Bearing Vest Carrier</b> - Color: LAPD Blue; Fabric: Vest shall be made from Invista Cordura (1000 Denier with UV inhibitor additive added to the dye to prolong the life of color), mil-spec webbing, Velcro brand hook & loop fasteners, and YKK zippers. Pockets shall be lined with 1050 denier ballistic nylon where needed for strength and durability. All pockets shall be edge bound with 5030 mil-spec binding tapes and double-needle stitched; Features: External Load Bearing Vest includes sewn on chest pockets and additional pouches for handcuffs, radio, collapsible baton, magazines (minimum 2) and an accessory pouch; Vest carrier has eyelets for attachment of department issued for Officer's metal badge.; Vest carrier has internal cut outs for proper concealment of Officer's radio wiring; Vest carrier has side flap openings that wrap to the front of the body; Circumference Cummberbund; Fabrics and webbings are custom dyed to a LAPD Blue color specifications with added UV inhibitor additive.; All vest covers shall close from back to front with Velcro elastic and internal side adjustment with approximately 27" of Velcro attachment or Firstspear Tubes closure on each side; Vest shall have no visible MOLLE; Vest shall have an appearance of a Class B uniform shirt; Vest shall be custom fit to vest panel; Vest covers and other products shall be constructed of all U.S. Made Materials and made to the exact specifications of the Anaheim Police Department. All vest covers shall be a sewn-on style with sewn-on pockets. Each vest cover must be custom-made to fit each officer and their ballistic vests; sizes are custom and unique, not generic small, medium, large, etc	<b>\$658.90</b>
Add a third open top magazine holder with Kydex insert for retention to the vest cover (turns double open top magazine pocket into triple open top magazine pocket)	<b>\$0.00</b>
Add FirstSpear tubes closures to both sides of vest cover	<b>\$49.90</b>
<b>Per Vest</b>	<b>\$708.80</b>

- **Year One (1) : Contract amount not to exceed \$200,000**
- **Year Two (2): If renewed, Contract amount not to exceed \$65,000**
- **Year Three (3): If renewed, Contract amount not to exceed \$65,000**
- **Year Four (4): If renewed, Contract amount not to exceed \$65,000**
- **Year Five (5): If renewed, Contract amount not to exceed \$65,000**

3. **Price Increase/Decreases:** No price increases will be considered during the term of the Contract. City requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required for consideration of such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to City of Anaheim. City may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of Contract. Adjustments increasing Contractor's profit will not be allowed.
4. **Firm Discount and Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to City during the term of this Contract not otherwise specified and provided for within this Contract.
5. **Payment Terms – Payment in Arrears:** Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to City of Anaheim and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with Contractor.

Billing shall cover services and/or goods not previously invoiced. Contractor shall reimburse City of Anaheim for any monies paid to Contractor for goods or services not provided or when goods or services do not meet Contract requirements.

Payments made by City shall not preclude the right of City from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

6. **Taxpayer ID Number:** Contractor shall include its taxpayer ID number on all invoices submitted to City for payment to ensure compliance with IRS requirements and to expedite payment processing.
7. **Payment – Invoicing Instructions:** Contractor will provide an invoice on Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
  - a. Contractor's name and address
  - b. Contractor's remittance address, if different from 1 above
  - c. Contractor's Taxpayer ID Number
  - d. Name of City Agency/Department
  - e. Delivery/service address
  - f. Contract MA #106-498336
  - g. Agency/Department's Account Number
  - h. Date of order
  - i. Product/service description, quantity, and prices
  - j. Sales tax, if applicable
  - k. Freight/delivery charges, if applicable
  - l. Total