

January 3, 2012

Mr. JJ Etheridge  
Danna Safety Supply, Inc.  
4747 San Juan Avenue  
Jacksonville, Florida 32210

Re: Contract No. 1489

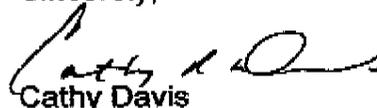
Dear Mr. Etheridge:

This letter shall serve as the City's formal notice of intent to extend the above referenced contract from January 1, 2012 to December 31, 2017 as stated in reference contract.

Please provide a current Insurance Certificate to cover the extension period. It may be faxed to me at 850-891-0967. The City looks forward to continuing its excellent working relationship with your firm.

Should you have any questions please feel free to contact me at (850) 891-8280.

Sincerely,



Cathy Davis  
Manager for Procurement Services

CD/va

Accepted:

Firm Name: Danna Safety Supply

Signature: [Handwritten Signature]

Date: January 6, 2012

12 JAN -9 PM 3:14  
CITY OF TALLAHASSEE  
COMMUNICATIONS CENTER

Vida Addison @ tal.gov com

850-891-8289

# CONTRACT

NO. 1489

THIS CONTRACT is executed this 10th day of April 2007, by and between the **CITY OF TALLAHASSEE**, a Florida municipal corporation, hereinafter called the “**City**” and **DANA SAFETY SUPPLY, INC.** hereinafter called the “**Contractor**”.

## WITNESSETH:

WHEREAS, the City issued RFP No. 0233-06-BM-TC (such document and all addenda thereto, if any, being hereafter referred to as “RFP”) seeking proposals for furnishing of certain light systems and components; after market vehicle accessories, and law enforcement/emergency vehicle equipment (“Vehicle Accessories”); and,

WHEREAS, the Contractor submitted a certain proposal submitted October 09, 2006 (“Proposal”) in response to that RFP; and,

WHEREAS, the City and the Contractor desire to enter into a contract for the purchase and installation of Vehicle Accessories, as more particularly set forth in this Contract;

NOW, THEREFORE, in consideration of the mutual promises and covenants, obligations, and terms hereinafter set forth, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, City and Contractor hereby agree as follows:

### **SECTION 1.0 PURCHASE AND INSTALLATION OF VEHICLE ACCESSORIES.**

1.1 Contractor shall provide and install Vehicle Accessories as may be ordered from time to time by the City. All Vehicle Accessories shall be priced, designed, constructed, equipped, and installed in accordance with the specifications set forth in the Proposal and applicable Change Orders executed by the parties unless otherwise stated in this Contract. All Vehicle Accessories and installations shall conform and comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations.

1.1.1 The Contractor and the City Fleet Management Division shall schedule the following two meetings with respect to each order received from the City:

- (i) A pre-production meeting to completely review the specifications of the Vehicle Accessories and installation prior to commencing assembly or production on each order. The Contractor shall be represented by qualified technicians/engineers to properly facilitate the design and construction requirements. This meeting can be

held at Fleet, by phone or at the installation facilities as directed by the Superintendent of Fleet Management for the City of Tallahassee.

- (ii) A final review and inspection shall be at the Fleet Management facilities; 400 Dupree Street when the City vehicle with installed Vehicle Accessories (“Completed Vehicle”) arrives and is considered by the Contractor to be complete. In addition to a complete inspection, City representatives will conduct a full performance test of each Completed Vehicle and of all integral systems. The Contractor shall provide all technical information and representative(s) reasonably required to assist the City in these inspections and shall make available to the City all reasonably required third-party certifications. A technician shall be available to complete any needed repairs or to replace items not meeting specifications. At the option of the City, these repairs shall be facilitated at either the City Fleet Management Division facilities or at the facilities of the installation manufacturer.

1.1.2 The City or the Contractor, at any time, may request changes in the specifications or requirements related to a particular Vehicle Accessory or installation. No changes shall become effective until reduced to writing and signed by duly authorized representatives of each party (“Change Order”). All such Change Orders shall include, as a minimum, the following information:

- (i) The specific changes to be made (i.e., equipment installation, equipment, equipment components, etc.);
- (ii) Changes, if any, in the time for delivery of the Completed Vehicle; and,
- (iii) Changes in the price of the Vehicle Accessories or installation services.

1.2 Installation. Should the City require Vehicle Accessories that cannot be provided by or purchased from the Contractor, the Contractor, at the request of the City, shall install such Vehicle Accessories.

## **SECTION 2.0 PURCHASE OF PARTS.**

2.1 The Contractor shall provide such parts for all Vehicle Accessories installed under this Contract as the City as may order from time to time. The Contractor shall provide original manufacturer part numbers. All parts ordered by the City shall be delivered FOB to the City Fleet Management Division within 24 hours

from placement of the order. Delays in shipment beyond the reasonable control of the Contractor shall be subject to Section 10.10; provided, however, the Contractor, in such event, shall promptly notify the City regarding the details of any such delay so the City can make a final determination regarding responsibility.

- 2.2.1 The Contractor shall maintain, at City Fleet Management Division facilities, an inventory of certain high volume of use and long lead-time parts for Vehicle Accessories purchased by the City (“Consignment Parts”). Consignment Parts shall remain the property of the Contractor until use by the City; however, the City, unless otherwise provided herein, shall bear the risk of loss of all Consignment Parts while in the custody of the City. The City, based on information provided by the Contractor, shall be responsible for monitoring the shelf life and condition of all Consignment Parts. The Contractor, at its cost, shall ensure that Consignment Parts that are used, are otherwise withdrawn from stock, are determined to be obsolete, or are identified as being out of date or in an unusable condition are promptly replaced in inventory. This inventory of Consignment Parts will be audited annually for reconciliation purposes. The City agrees to allow the Contractor to use the Consignment Parts for other customer applications so long as the Contractor promptly replaces such parts; however, the Contractor shall limit the volume of these transactions such that, in the opinion of the City, they do not cost the City additional inventory maintenance expenditures.

### **SECTION 3.0 TERM.**

The Term of this Contract shall be a period of five (5) years, commencing on January 1, 2007 unless earlier terminated in accordance with the terms of this Contract. Such term may be extended for an additional five (5) year period, subject to mutual agreement of the parties.

### **SECTION 4.0 CONTRACT PRICING AND PAYMENT.**

#### **4.1 Pricing.**

- 4.1.1 During the Term, the City shall pay the Contractor for Vehicle Accessories ordered by the City based upon the Contractor’s current pricing at the time a particular order is placed, less the stated discount set forth in the Proposal. The City shall pay the Contractor for installation of Vehicle Accessories, whether purchased from the Contractor or provided by the City, at the package prices or labor rates, as applicable, set forth in the Proposal, which rates may be modified from time to time by mutual agreement as set forth in an amendment to this Contract.

- 4.1.2 Notwithstanding Section 4.1.1 above, the prices offered to the City during the term of this Contract shall be no greater than the lowest price offered by the Contractor to any governmental customer. The City shall have the right to annually review and audit all Contractor contracts and sales records to verify that the Contractor is in compliance with this most favored pricing requirement. If the Contractor is found not to be in compliance, the City will notify the Contractor, in writing, of such fact, and the Contractor, within 30 days of its receipt of such notice, shall pay to the City the applicable price differential for all affected Vehicles purchased by the City, plus interest thereon at the rate of six percent (6%), for the period from the date of final acceptance of the affected Vehicles through the date of such notice from the City.
- 4.1.3 A standard warranty package, as described and set forth in the Proposal, is included in the price of all Vehicle Accessories.

4.3 Payment.

- 4.3.1 All Vehicle Accessory prices shall be F.O.B. City of Tallahassee, Fleet Management Division, 400 Dupree Street, Tallahassee, Florida.
- 4.3.2 All proper invoices shall be paid by the City in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes.
- 4.3.3 In addition to other remedies available under this Contract, the City shall have the right to deduct, offset against, or withhold from sums or payments otherwise due the Contractor any sums or amounts which the Contractor may owe to the City pursuant to provisions of this Contract, as a result of breach or termination of this Contract, or otherwise.

**SECTION 5.0 DELIVERY AND ACCEPTANCE.**

- 5.1 The Contractor shall deliver each Completed Vehicle in accordance with the schedule set forth in the Proposal or such other time period as may be agreed by the parties. The Contractor and the City agree that timely delivery by the Contractor is of the essence of this Contract, that the City will suffer damages in the event the Contractor fails to so perform, and that such damages may be difficult to precisely calculate or prove. As a result, the Contractor shall pay the City, as liquidated damages and not as a penalty, the amount of \$100 per day, or portion thereof, for each day of delay in delivery of each Completed Vehicle ordered by the City. Such liquidated damages shall be paid in addition to any other recourse that may be available to City in the event of such a breach.
- 5.2 The Contractor shall fully assemble, service, and adjust each Vehicle Accessory prior to installation and delivery, and the Contractor shall demonstrate, to the

satisfaction of the City, that each delivered Vehicle Accessory is in perfect mechanical condition.

- 5.3 Delivery of a Completed Vehicle to the City does not constitute acceptance for the purpose of payment or warranty start time. The City shall inspect and test each delivered Completed Vehicle to determine whether it meets all specifications and requirements set forth in this Contract and within ten (10) days following delivery, the City shall notify the Contractor, in writing, of either its final acceptance of the Completed Vehicle and Accessory or the failure of the Completed Vehicle or Accessory to meet certain specifications and requirements. In the latter case, the Contractor, within ten (10) days following its receipt of written notice from the City, shall deliver to the City a detailed proposal and schedule for corrective action. If the proposed corrective action is acceptable to the City, the Contractor will be given a written notice to proceed, and a new inspection, testing, and notice process shall commence upon completion of corrective action. If the proposed corrective action or schedule is not acceptable, or if approved corrective action is not timely completed, the City may refuse the Completed Vehicle. Each vehicle delivered or picked up by the Contractor for installation of Vehicle Accessories shall remain the responsibility of the Contractor, and the Contractor shall bear all risk of loss with respect thereto, until final acceptance of the Completed Vehicle by the City.
- 5.4 With each group of Vehicle Accessories, the Contractor shall deliver to the City, in an electronic format acceptable to the City (3) three copies of the technical and service manuals for such Vehicle Accessories.

## **SECTION 6.0 INDEMNIFICATION.**

- 6.1 The Contractor shall indemnify and save harmless the City, its officials and employees, from all losses, damages, costs, expenses, liability, claims, actions, and judgments of any kind whatsoever, including reasonable attorney's fees and costs of litigation, to the extent arising out of or caused by any act or omission of the Contractor, its subcontractors, or their respective employees, officers, directors, or agents, in the performance under this Contract. The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under any Workers' Compensation Act, Disability Benefit Act, or other Employee Benefit Act.
- 6.2 The Contractor shall, at its sole expense, defend any claim, suit or proceeding brought against the City, its official or employees, to the extend such claim, suit or proceeding is based on a claim that any Vehicle Accessories furnished under this Contract (collectively, "Infringing Work") constitutes infringement of any registered patent of the United States of America or county of manufacture, provided that City shall give the Contractor prompt written notice of any such

claim, suit or proceeding and shall give the Contractor authority, information and assistance in a timely manner for the defense of the same. The Contractor shall indemnify and hold the City, its officials or employees, harmless from and against all costs and damages awarded, and all attorney's fees incurred or awarded, in any suit or proceeding so defended. The Contractor will not be responsible for any settlement or proceeding made without its prior written approval. In case said Infringing Work is held to constitute an infringement and the use of said Infringing Work is enjoined, the Contractor shall, at its own expense and at its option, either (a) procure for City the right to continue using said Infringing Work, (b) replace said Infringing Work with substantially equivalent, equally functional, non-infringing work, parts or combination thereof, or (c) modify such Infringing Work so that it becomes non-infringing, while maintaining the same functionality.

## **SECTION 7.0 INSURANCE**

7.1 Prior to commencing work, Contractor shall procure and maintain at Contractor's own cost and expense for the duration of the Contract, the following insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the Scope of Services hereunder by Contractor, its agents, representatives, employees or sub-consultants. The cost of such insurance shall be borne by Contractor.

7.1.1 Contractor shall maintain the following coverage with limits no less than the indicated amounts:

- (a) *Commercial General/Umbrella Liability Insurance* - \$1,000,000 limit per occurrence for property damage and bodily injury. The certificate of insurance shall state the coverage is provided on a claims-made or preferably on an occurrence basis. The insurance shall include coverage for the following:
  - (i) Premise/Operations
  - (ii) Explosion, Collapse and Underground Property Damage Hazard (only when applicable to the project)
  - (iii) Products/Completed Operations
  - (iv) Contractual
  - (v) Independent Contractors
  - (vi) Broad From Property Damage
  - (vii) Personal Injury
- (b) *Business Automobile/Umbrella Liability Insurance* - \$1,000,000 limit per accident for property damage and personal injury.
  - (i) Owned/Leased Autos

- (ii) Non-owned Autos
  - (iii) Hired Autos
- (c) *Workers' Compensation and Employers'/Umbrella Liability Insurance* – Workers' Compensation statutory limits as required by Chapter 440, Florida Statutes. This policy should include Employers'/Umbrella Liability Coverage for \$1,000,000 per accident.

#### 7.1.2 **Other Insurance Provisions**

##### *(a) Commercial General Liability and Automobile Liability Coverage*

- (i) City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor or premises on which Contractor is performing Services on behalf of City. The coverage shall contain no special limitations on the scope of protection afforded to City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers.
- (ii) The Contractor insurance coverage shall be primary insurance as respects City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers. Any insurance or self-insurance maintained by City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers shall be excess of Contractor insurance and shall not contribute with it.
- (iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers.
- (iv) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(b) *Workers' Compensation and Employers' Liability and Property Coverage*

The insurer shall agree to waive all rights of subrogation against City, member of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers for losses arising from activities and operations of Contractor in the performance of Services under this Contract.

(c) *All Coverage*

- (i) Each insurance policy required by this Article shall be endorsed to state the coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to City in accordance with this Contract.
- (ii) If Contractor, for any reason, fails to maintain any insurance coverage that is required pursuant to this Contract, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Contract and obtain damages from Contractor resulting from said breach.
- (iii) Alternatively, City may purchase such required insurance coverage (but has no special obligation to do so), and without further notice to Contractor, City may deduct from sums due to Contractor any premium costs advanced by City for such insurance.

**7.1.3 Deductibles and Self-Insured Retention's**

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, members of its City Commission, boards, commissions and committees, officers, agents, employees and volunteers; or Contractor shall procure a bond guaranteeing payment of losses, related investigation, claim administration and defense expenses.

**7.1.4 Acceptability of Insurers**

Insurance is to be placed with Florida admitted insurers rated B+X or better by A.M. Best's rating service.

#### 7.1.5 Verification of Coverage

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon execution of the contract documents, the certificates and endorsements are to be received and approved by City before work commences.

### **SECTION 8.0 TERMINATION.**

- 8.1 The City may, by written notice to the Contractor, terminate this Contract in whole or in part, at any time, either for the convenience of City or because of failure of the Contractor to fulfill its obligations. Upon receipt of such notice, the Contractor shall immediately discontinue all work affected (unless the notice directs otherwise).
- 8.2 If the termination is for the convenience of the City, the Contractor shall be paid for Vehicle Accessories and installation finally accepted by the City as of the effective date of termination.
- 8.3 If the termination is due to the failure of the Contractor to fulfill its obligations under this Contract, the Contractor shall be liable to City for reasonable additional costs incurred by City as a result of such breach.
- 8.4 If, after notice of termination for failure to fulfill its obligations under this Contract, it is determined that Contractor has not so failed, the termination shall be deemed to have been effected for the convenience of City.
- 8.5 The rights and remedies of the parties provided in this Section 8 are in addition to any other rights and remedies such party may have at law, in equity, or under this Contract.

### **SECTION 9.0 WARRANTY AND MAINTENANCE.**

- 9.1 The Contractor hereby warrants all Vehicle Accessories and installation as set forth in its Proposal and the individual warranty documents delivered with order. The Contractor will respond, on-site in Tallahassee, for all warranty repairs within 24 hours following notice from the City.
- 9.2 The City prefers to have the Contractor complete all warranty work, and the City shall perform such work only in the event of exigent circumstances. The Contractor, within thirty (30) days of receipt of an invoice therefore, will pay the City for all such warranty work completed by the City in an amount equal to the

fully loaded costs for personnel performing such work. At the request of the Contractor, the City will provide documentation of such costs. The Contractor must authorize all such warranty repairs under exigent circumstances in advance. Authorization to proceed shall be within 24 hours or less of the request from the City of Tallahassee.

**SECTION 10.0 MISCELLANEOUS PROVISIONS.**

- 10.1 Time shall be of the essence in performance of this Contract: provided, however, that either party shall be excused from timely performance under this Contract to the extent that, but only to the extent that, such delay is the result of any cause beyond the reasonable control of, and not the result of negligence or the lack of diligence of, the part claiming such excuse from timely performance.
- 10.2 Failure to enforce or insist upon compliance with any of the terms or conditions of this Contract or failure to give notice or declare this Contract terminated shall not constitute a general waiver or relinquishment of the same or any other terms, conditions, or acts; but the same shall be and remain at all times in full force and effect.
- 10.3 If written notice to a party is required under this Contract, such notice shall be given by hand delivery, recognized overnight delivery service, or by first class mail, registered and return receipt requested, to Contractor as follows:

Dana Safety Supply, Inc.  
4737 San Juan Ave.  
Jacksonville, FL 32210  
Attn: J. C. Puryear

And to the City as follows:

City of Tallahassee  
Fleet Management Division  
400 Dupree Street  
Tallahassee, Florida 32304  
Attn: Fleet Superintendent

- 10.4 Contractor shall not assign any of their rights or obligations under this Contract without prior approval by the City.
- 10.5 Contractor shall be responsible for the actions of any and all of their subcontractors and consultants. Neither subcontractors nor any consultants shall interface directly with the City.

- 10.6 This Contract and every question arising hereunder shall be construed, interpreted, or determined according to the laws of the State of Florida. Venue for any action brought in relation to this Contract shall be placed in a court of competent jurisdiction in Leon County, Florida.
- 10.7 As required by Section 287.133, (2) (a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or a public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.010 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. Any person must notify the City within 30 days after a conviction of a public entity crime applicable to the person or to an affiliate of that person.
- 10.8 The language of this Contract shall be construed according to its fair meaning, and not strictly for or against either City or Contractor. The section headings appearing herein are for the convenience of the parties and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Contract. If any provision of this Contract is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Contract and all such other provision shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other of which would render the provisions valid, then the provision shall have the meaning which renders it valid.
- 10.9 Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race, color, religion, gender, age or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, creed, color, sex, marital status or national origin. The Contractor will post a copy of this pledge in a conspicuous place, available to all employees and job applicants and will place or cause to be placed a statement in all solicitations or advertisement for job applicants, including subcontracts, that the respondent is an "Equal Opportunity Employer".
- 10.10 Either party shall be excused from timely performance under this Agreement to the extent, but only to the extent, such delay is the result of any cause beyond the reasonable control of, and not the result of negligence or the lack of diligence on the part of, the party claiming such excuse from timely performance.

- 10.11 The Contractor shall make Vehicle Accessories and installation available to other governmental entities on the same terms and conditions as set forth in this Contract. Should any such governmental entity purchase Vehicle Accessories or installation on such basis utilizing this Contract, the Contractor shall report such purchase to the City and, within thirty (30) days following final payment for each order of such Vehicle Accessories or installation, shall provide a credit to the City, which can be used toward the purchase of parts equipment, and installation from the Contractor, in the amount of 0.5% of such purchase price of such Vehicle Accessories and installation. This provision shall apply to all purchases initiated during the term of this Agreement, even if such purchase continues and payment is received after the expiration of such term. The contractor may charge this as a transaction fee.
- 10.12 It is understood and agreed that this Contract, including exhibits and references (if any), is the entire Contract between the parties and supersedes all prior oral agreements and negotiations between the parties relating to the subject matter hereof. City and Contractor, by mutual agreement, may change or amend the terms and conditions of this Contract. All such changes or amendments shall be set forth in a written amendment to this Contract.
- 10.13 If any portion of this Contract, or any Exhibit or portion thereof, is held to be invalid by a court of law, such provision shall be considered severable, and the remainder of this Contract shall be construed and enforced in a manner consistent with the intent of the Parties.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized representative, effective the date first above written.

**CITY OF TALLAHASSEE**

Attest:

\_\_\_\_\_  
 Gary Herndon  
 City Treasurer-Clerk

By: \_\_\_\_\_  
 Cathy Davis  
 Manager For Procurement Services

**DANA SAFETY SUPPLY, INC**

\_\_\_\_\_  
 Witness as to the Contractor

By: \_\_\_\_\_  
 Jeffery E. Eason  
 V.P. C.E.O.

\_\_\_\_\_  
 Witness as to the Contractor

Approved as to form:

By: \_\_\_\_\_  
City Attorney