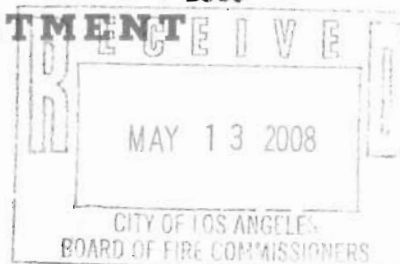


LOS ANGELES FIRE DEPARTMENT



DOUGLAS L. BARRY
FIRE CHIEF

MAY 20 2008



May 9, 2008

BOARD OF FIRE COMMISSIONERS
FILE NO. 08-072

TO: Board of Fire Commissioners

FROM: Douglas L. Barry, Fire Chief DLB

SUBJECT: FIREFIGHTING HELITANKER AIRCRAFT PROFESSIONAL SERVICES
AGREEMENT – ERICKSON AIR-CRANE INCORPORATED

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

Recommendations: That the Board:

1. Approve the attached Professional Services Agreement (Agreement) in the amount of \$2,482,000.
2. Direct the Commission Executive Assistant to transmit the Agreement to the Mayor for approval, subject to approval to form by the City Attorney.

Summary:

Attached for the Board's consideration is an agreement between the City of Los Angeles and Erickson Air-Crane Incorporated (Erickson) to secure firefighting helitanker aircraft services. The Agreement provides the Fire Department (Department) a helitanker with a 2000-gallon water container capability to augment the Department's air resources for combating wildfires. The Agreement is for one year with an option to extend the term of the Agreement for one additional year. The Agreement terms provide for a 170-day performance period including 70-flight hours. The \$2,482,000 cost reflects an increase of \$130,800 (5%) over last year. Also, flight hours in excess of the 70 prepaid flight hours, will be invoiced at a rate of \$5,250 per hour.

The Bureau of Emergency Services is currently in discussions with Erickson to initiate the performance period from August 2008 to January 2009. The Office of the City Attorney has preliminarily reviewed and approved the attached Agreement.

Background:

The City of Los Angeles has over 135 square miles of densely brush covered mountainous terrain. Many areas provide limited access for fire engines to take defensible positions to adequately protect residential communities and structures in wind driven brush fires. During October and November 2003, Southern California was ravaged by one of the worst set of firestorms in the state's history. In 2007, major brushfires erupted throughout Southern California, which again threatened lives, structures and property. Aerial assault resources were critical in the successful efforts employed bringing the firestorms and subsequent major brush fires under control. The Southern California brush fire season traditionally extends from July through February each year and is responsible for catastrophic fires causing the loss of lives, multi-million dollar casualty losses and wholesale disruption to commerce. Current ongoing drought conditions have fire agencies throughout the region assessing and evaluating incident preparedness.

The Department's aircraft resources include four Bell 412 Type II water-dropping helicopters with a capacity of 350 gallons, and one Bell 206-L command ship (no water dropping capability). Regional resources, which may be available to assist the Department in the event of a major brush fire, include two leased Type I Helitankers, one by California Department of Forestry (CDF) and the other by Los Angeles County Fire Department (LACOFD). Additionally, LACOFD leases two super-scooper aircraft and has an aerial fleet of two Firehawks and several smaller water-dropping helicopters similar to the Department's. However, regional resources are not guaranteed, as they are subject to conflicting priorities, deployment issues, and periodic grounding for service and maintenance at the time of the request.

In 2000, the City of Los Angeles became the first large, urban city in the United States to contract for firefighting aircraft services to augment its air attack assets. The Department evaluated numerous aircraft typings and identified the Type I Helitanker (Helitanker) as the appropriate vehicle to supplement its current air assets. The Helitanker has a 2,000-gallon tank capacity and the ability to replenish its tanks in less than 120 seconds from a variety of water sources, such as ocean, reservoirs, and swimming pools. It provides a formidable asset during the critical early stages of wind-driven brush fire control and mitigation.

The Department issued a Request for Proposal (RFP) in December 2006, seeking a contractor to provide firefighting helitanker aircraft services and received one responsive proposal. Erickson was the only vendor to respond to the RFP. Erickson's proposal was subsequently reviewed and evaluated by a multi-agency, subject-matter expert grading team that recommended awarding the bid to the vendor.

The current Agreement term expires June 30, 2008. The Fiscal Year (FY) 2008/09 Agreement incorporates the same terms and conditions, including performance period and prepaid flight hours as the current Agreement, with the exception of cost, which increases \$130,800 to \$2,482,000. Also, flight hours in excess of the 70 prepaid flight hours, will be invoiced at a rate of \$5,250 per flight hour.

The Mayor's proposed FY 2008/09 budget contains full funding for this contract.

Conclusion:

Approval of the contract is a vital component of fire protection and mitigation during the ongoing brush fire seasons. The Helitanker is a crucial, proven tool in achieving the optimum commitment plan undertaken by the Department to ensure fire/life safety throughout the City of Los Angeles.

Board report prepared by Michael L. Prendergast, Senior Management Analyst, Bureau of Emergency Services.

Attachment

**AGREEMENT NO.
BETWEEN
THE CITY OF LOS ANGELES
AND
ERICKSON AIR-CRANE INCORPORATED**

THIS Agreement Number _____ between the City of Los Angeles (hereinafter referred to as the "City"), a municipal corporation, acting by and through the Los Angeles Fire Department (hereinafter referred to as the "Fire Department"), and Erickson Air-Crane Incorporated, a Delaware corporation (hereinafter referred to as the "Contractor"), is entered into with reference to the following:

WHEREAS, the City contracts the services of a qualified company to provide firefighting helitanker aircraft services (hereinafter referred to as "helitanker") during the City's annual brush fire season to augment the air attack assets the Fire Department could bring to bear on a brush fire incident; and

WHEREAS, the City desires to restate the contract and to extend the term for one (1) additional year, from July 1, 2008 to June 30, 2009, subject to the availability of City funds and the Contractor's satisfactory performance of all the terms of the Agreement; and

WHEREAS, the City, acting through the Fire Department, issued a request for proposals on December 21, 2006, seeking a contractor to provide temporary brush fire season firefighting helitanker aircraft services, and received one (1) responsive proposal; and

WHEREAS, the City has evaluated the responsive proposal and selected the contractor's proposal as the best-value and availability of the desired helitanker aircraft services, and has negotiated with the Contractor to provide the services specified herein; and

WHEREAS, the parties entered into Agreement C-111921 for the period of July 18, 2007 through June 30, 2008; and

WHEREAS, the parties wish to enter into an agreement for services covering the 2008 to 2009 fire season.

NOW, THEREFORE, in consideration of the above premises, and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

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SECTION 1. PARTIES TO AGREEMENT, REPRESENTATIVES, AND NOTICES

A. The parties to this Agreement are:

1. City – The City of Los Angeles, a municipal corporation, having its principal offices at 200 North Spring Street, Los Angeles, California 90012.
2. Contractor – Erickson Air-Crane Incorporated, a Delaware corporation, having its principal offices at 3100 Willow Spring Road, Central Point, Oregon 97502.

B. The representatives of the parties who are authorized to administer this Agreement and to whom formal notices, demands, and communications will be given are as follows:

1. The CITY's representative will be as follows, unless otherwise stated in this Agreement:

Douglas L. Barry, Fire Chief
Los Angeles Fire Department
200 North Main Street, 18th Floor
Los Angeles, California 90012

With copies to:

Mario D. Rueda, Deputy Chief
Commander, Bureau of Emergency Services
Los Angeles Fire Department
200 North Main Street, 18th Floor
Los Angeles, California 90012
(213) 978-3880

2. The CONTRACTOR's representative will be:

Lanny Allmaras, Firefighting Marketing and Sales
Erickson Air-Crane Incorporated
3100 Willow Springs Road
Central Point, Oregon 97502
(541) 664-5544

C. Formal notices, demands, and communications to be given hereunder by either party will be made in writing and must be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, and will be deemed communicated as of the date of receipt.

- D. If the name or the address of the person designated to receive the notices, demands, or communication, or the address of such person is changed, written notice will be given, in accord with this section, within five (5) working days of said change.

SECTION 2. TERMS OF THE AGREEMENT

- A. The term of this Agreement will commence on July 1, 2008 and will terminate on June 30, 2009, subject to funding provided in the City's FY 2008-09 budget when adopted, unless otherwise terminated by the Fire Department as provided for in SECTION 10 of the this Agreement.
- B. Notwithstanding any other provision of this Agreement, including any exhibits or attachments incorporated therein, and in order for the CITY to comply with its governing legal requirements, the CITY shall have no obligation to make any payments to CONTRACTOR unless the CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in said Agreement. Contractor agrees that any services provided by Contractor, purchases made by Contractor or expenses incurred by Contractor in excess of said appropriation(s) shall be free and without charge to the CITY and the CITY shall have no obligation to pay for said services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until the CITY appropriates additional funds for this Agreement.
- C. The City may, at its sole discretion, and through the Fire Department, amend the Agreement to extend for one (1) additional year, subject to funding provided in the City's adopted budget.
- D. Due to the need for the Contractor's services to be provided continuously on an ongoing basis, Contractor may have provided services prior to the execution of this Agreement. To the extent that said services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.
- E. Upon the City submitting written notification to the Contractor to commence performance, the base services period for FY 2008-09 will begin on July 1, 2008 and will end one hundred and seventy (170) days later. Services required beyond that date, but before the contract expires, will be compensated at the rate stated in Section 6.C.
- F. The Contractor and the Fire Department Air Operations Section will hold a Pre-Work Conference within forty-eight (48) hours of the arrival of the helitanker and the Contractor's crew at the Van Nuys Airport.

- G. The City may, at its discretion, and by the Fire Chief, extend the specific service period in any one (1) Fiscal Year by written authorization.

SECTION 3. CONTRACTOR'S OBLIGATIONS

Upon written notification by the City to the Contractor to commence performance, the Contractor will perform the helitanker services as set forth below.

A. Minimum Aircraft Capabilities

The Contractor will provide a helitanker, as required by the Fire Department that is equipped and has the following capabilities:

1. Fixed-water tank and functioning self-filling snorkel pump with the ability to draw two thousand (2,000) gallons of water of either fresh or salt water within one hundred and twenty (120) seconds. The helitanker must be capable of lifting two thousand (2,000) gallons of water or retardant minimum or performance limited load as per temperature and density attitude limitations allow at mean sea level.
2. The Federal Aviation Administration (FAA) and the National Air Tanker Board must approve the tank system. The water tank must utilize an on-board Class "A" foam injection system capable of metering foam concentrate to create a foam solution ranging from 0.1% to 0.3%. A seventy-five (75) gallon concentrate tank must be provided so that a minimum of twenty-eight (28) water drops utilizing a 0.1% "A" foam solution can be made without refilling the concentrate tank.
3. The helitanker and accessories shall be in airworthy and operable condition; and present a neat and clean appearance. Upholstery, paint, Plexiglas shall be in good condition.
4. Equipped and in airworthy condition sufficient to pass all LAFD/USFS aircraft inspections, and, certified and listed in the national air tanker system, as applicable.

B. Pilots and Aircraft Support

1. The Contractor must provide pilots who possess a current USFS issued Helicopter Pilot Qualification card and have experience fighting brush fires.
2. Aircraft, pilots, mechanical support and all other support needs for the aerial firefighting mission must be provided by the Contractor as a

complete stand-alone package with no sub-contractors or third-party providers.

3. The Contractor will provide a fuel tender vehicle and driver for incident needs and will make all other arrangements necessary to dispense fuel to the helitanker.
4. The Contractor will provide materials and supplies (including but not limited to lube oils, hydraulic fluid, filter, parts, etc.) mechanical support staff, and other support functions, sufficient to maintain the helitanker in airworthy condition as specified above.

C. Cooperation

During times of facility construction or repair, the contractor is responsible for ascertaining the nature and extent of any simultaneous, collateral, and essential work to be done by others on the work site to which the helitanker is assigned. The Department, its work-personnel and contractors, and others, must have the right to operate within or adjacent to the work site to perform work. The Department, its contractors, work-personnel, the Contractor, and others will coordinate their operations and cooperate to minimize interference.

The Contractor must absorb in its Proposal all costs involved in its part as a result of coordinating its work with others. The Contractor will not be entitled to additional compensation from the Department for damages or delays resulting from such simultaneous, collateral, or essential work. If necessary to avoid or minimize such damage, or delay, the Contractor must redeploy its work force to other parts of the work site.

D. Operations Outside of the City

The Contractor may be called upon to support water-dropping operations outside the City's boundaries based upon mutual aid agreements between the City and other jurisdictions. Operation outside of the City will be at the discretion of the Fire Department. The Fire Department reserves the right to suspend outside operations by the Contractor to address the Fire Department's immediate needs within the City.

E. Housing Expense

Charges for the off-site housing of the Contractor's flight and maintenance personnel will be at the Contractor's expense.

F. Option to Request Additional Helitanker

During the term of this Agreement the City may request a second helitanker, related crew and services ("Second helitanker") to the extent that funds are approved by the City Council. In the event that funding is approved, the Fire Department will provide written notice to the Contractor and request the Second helitanker. The Contractor will provide the Second helitanker under the terms and conditions of this Agreement. The parties will amend the Agreement to reflect the increased funding.

SECTION 4. FIRE DEPARTMENT RESPONSIBILITIES

A. The Fire Department will be provided the following items:

1. The Fire Department will provide aircraft fuel, whether through repayment or by fuel dispensed, at the heliport where the helitanker will be based. Although the fuel will be provided, the Contractor is responsible for providing a fuel tender vehicle and driver for incident needs and must make all other arrangements necessary to dispense fuel to the helitanker; and
2. All Class "A" foam.

B. Location of the Helitanker

The daily standby facility will be located at the Van Nuys Airport adjacent to the Fire Department's Air Operations Section, with the Air Operations Section Commander providing day-to-day supervision. The Fire Department will provide an office to helitanker personnel, during standby hours. The Fire Department will provide water, telephone, fax, and other incidentals, as needed and as approved by the Fire Department.

SECTION 5. JOINT RESPONSIBILITIES

A. Meetings

Both parties agree to attend formal meetings and informal consultations with the each other on an as-needed basis to discuss and agree on needed actions regarding helitanker operations.

B. Annual Scheduling of Performance Period

Both parties agree to meet on an annual basis, no later than April 15th, to begin discussions regarding the scheduling of the performance period for the following fiscal year.

SECTION 6. COMPENSATION AND METHOD OF PAYMENT

A. Base Price

The City will pay a base price amount not to exceed \$2,482,000 to the Contractor, which includes a specific service period of 24.29 weeks (170 days) and seventy (70) flight hours in FY 2008-09; this is pursuant to funding provided in the City's FY 2008-09 budget.

B. Normal Standby Hours and Hourly Flight Rate

1. Under the base price, the Contractor will provide the helitanker, pilots, mechanical support, and other support functions for a minimum of ten (10) hours per day. Emergency operations may be conducted from dawn to dusk. Extended-phase fires may require operations during daylight hours that extend beyond the ten (10) hour standby time. Flight hours extending beyond the ten (10) hour standby period will be deducted from the seventy (70) flight hours provided for in the base price amount under this Amendment, and the Contractor will bill the Fire Department at the hourly flight rate of \$5,250 per hour if the seventy (70) flight hours included in the base has been exceeded.
2. The hourly flight rate provided for in this Amendment will not include pilot orientation, proficiency, or training flight time.
3. The hourly flight rate specified in Section 6.B.1 will not be charged until the annual contract base price flight time minimums have been exceeded.

C. Service During Term After Base Services Period Ends

1. In the event that the City requires service beyond one hundred and seventy (170) days, the amount to be paid for each weekly (seven-day period) extension will be \$102,200 and include 2.90 flight hours or for a daily extension rate of \$14,600 per day including 0.41 flight hours.
2. The Contractor will provide the helitanker, pilots, mechanical support, and other support functions for a minimum of ten (10) hours per day. Emergency operations may be conducted from dawn to dusk. Extended-phase fires may require operations during daylight hours that extend beyond the ten (10) hour standby time.

D. Operations Outside of the City

In the event that the City requests that the Contractor provide services outside of the City's boundaries pursuant to Section 3, the City will compensate the

Contractor for flight time exceeding the cumulative accrued minimum flight hours at the hourly rate specified in Section 6.

E. Method of Payment

1. The City will make payment to the Contractor for the services performed after the receipt and approval of the invoices by the City's Representative. The City will not unreasonably withhold approval of invoices. In the event any invoice is not approved, the City's Representative will immediately send a notice to the Contractor setting forth therein the reason(s) said invoice was not approved. Upon receipt of such notice, the Contractor may re-invoice the City for the accepted portion of the invoice or cure the defects identified in the City Representative's notice. The City will pay the revised invoice as soon as practicable after its submission. If the City's Representative contests all or a portion of an invoice, the City's Representative and the Contractor will use their best efforts to resolve the disputed portion or portions of the invoice.

The invoice must include the following information:

- a. Name and address of company or firm;
- b. Name and address of the Fire Department;
- c. Date of the invoice and period covered;
- d. Reference to contract number;
- e. Description of completed task and amount due for the task;
- f. Payment terms, total due, and due date;
- g. Certification by a duly authorized officer;
- h. Discounts and terms; and
- i. Remittance Address (if different from company address)

All invoices will be submitted on the Company's letterhead, contain the company's official logo, or contain other unique and identifying information such as name and address of company or individual. Evidence that tasks have been completed, in the form of a report, brochure, or photograph, must be attached to all invoices. Invoices must be submitted within thirty (30) days of service, or monthly. Invoices are considered complete when appropriate documentation of services provided is signed off as satisfactory by the City's Representative or their designee.

Invoices and supporting documentation will be prepared at the sole expense and responsibility of the Contractor. The City will not compensate the Contractor for any costs incurred for invoice preparation. The City may request, in writing, changes to the content and format of the invoices and supporting documentation to substantiate costs at any time.

2. Notwithstanding any other provision of this Amendment, any changes or additions thereto, including changes that will increase the City's total obligation will be accomplished only by a properly authorized written amendment to this Agreement. The City will not recognize any changes or additions made without the City's written authorization and the City will not be obligated to make any payment for such changes or additions.

SECTION 7. RESPONSIBILITY TO PROVIDE SERVICES IN ACCORDANCE WITH APPLICABLE STANDARDS AND REQUIREMENT TO POSSESS ALL VALID PERMITS AND LICENSES

Contractor warrants that the work performed hereunder will be completed in a manner consistent with professional standards among those firms in the Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain valid licenses and permits required to perform the services described herein.

SECTION 8. COMPLIANCE WITH STATUTES AND REGULATIONS

Contractor, in the performance of this Agreement, will comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor will comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

SECTION 9. LIMITATION OF CITY'S OBLIGATION TO MAKE PAYMENTS TO CONTRACTOR

Notwithstanding any other provision of this Agreement, including any exhibits or attachments incorporated therein, and in order for the City to comply with its governing legal requirements, the City shall have no obligation to make any payments to Contractor unless the City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in said Agreement. Contractor agrees that any services provided by Contractor, purchases made by Contractor or expenses incurred by Contractor in excess of said appropriation(s) shall be free and without charge to the City and the City shall have no obligation to pay for said services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until the City appropriates additional funds for this Agreement.

SECTION 10. TERMINATION

1. Termination for Convenience

- a. The City may terminate this Agreement for City's convenience at any time by giving Contractor thirty (30) days written notice thereof. Upon receipt of said notice, Contractor will immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The City will pay Contractor its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by Contractor to effect such termination. Thereafter, Contractor will have no further claims against the City under this Agreement. All finished or unfinished documents and materials procured for or produced under this Agreement will become City property upon date of such termination.

2. Termination for Breach of Agreement

- a. If Contractor fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance, the City may give Contractor written notice of such default. If Contractor does not cure such default or provide a plan to cure such default that is acceptable to the City within the time permitted by the City, then the City may terminate this Agreement due to Contractor's breach of this Agreement.
- b. If a federal or state proceeding for relief of debtors is undertaken by or against Contractor, or if Contractor makes an assignment for the benefit of creditors, then the City may immediately terminate this Agreement.
- c. If Contractor engages in any dishonest conduct related to the performance or administration of this Agreement or violates the City's lobbying policies, then the City may immediately terminate this Agreement.
- d. In the event City terminates this Agreement as provided in this Article, the City may procure, upon such terms and in such manner as the City may deem appropriate, services similar in scope and level of effort to those so terminated, and Contractor will be liable to the City for all of its costs and damages, including, but not limited to, any excess costs for such services.
- e. All finished or unfinished documents and materials produced or procured under this Agreement will become City property upon date of such termination.

- f. If, after notice of termination of this Agreement under the provisions of this Article, it is determined for any reason that Contractor was not in default under the provisions of this Article, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties will be the same as if the notice of termination had been issued pursuant to the preceding section in this Article, titled "Termination for Convenience".
- g. The rights and remedies of the City provided in this Article will not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

SECTION 11. STANDARD PROVISIONS FOR CITY CONTRACTS

The Contractor will comply with the *Standard Provisions for City Contracts* (Rev.10/03), attached hereto as Attachment A and hereby incorporated into and made a part of this Agreement.

SECTION 12. ENTIRE AGREEMENT

A. Complete Agreement

- 1. This Agreement contains the full and complete Agreement between the two (2) parties. No verbal contract or conversation with any officer or employee of either party will effect or modify any of the terms and conditions of this Agreement.
- 2. Except as herein amended, all other terms and conditions remain in full force and effect.

B. Number of Pages and Attachments

This Agreement is executed in four (4) copies, each of which is deemed to be an original. This Agreement, includes twelve (12) pages, and constitutes the complete understanding and agreement between the parties.

THE PARTIES SIGNING ON BEHALF OF THE CONTRACTOR AFFIRM THEY ARE LEGALLY AUTHORIZED TO SIGN ON BEHALF OF THE CORPORATION.

[Signature page follows.]

IN WITNESS WHEREOF the parties hereto have executed this agreement on the date indicated

ERICKSON AIR-CRANE INCORPORATED

DATE: _____

BY: _____

Name: _____

Title: _____

DATE: _____

BY: _____

Name: _____

Title: _____

THE CITY OF LOS ANGELES

DATE: _____

BY: _____

DOUGLAS L. BARRY
Fire Chief

APPROVED AS TO FORM:

ATTEST:

ROCKARD J. DELGADILLO
City Attorney

FRANK T. MARTINEZ
City Clerk

BY: _____

LAUREL L. LIGHTNER
Assistant City Attorney

BY: _____

Deputy City Clerk

DATE: _____

DATE: _____

City Business License Number:

162768-85

Internal Revenue Service ID Number:

93-1307561/JGH-97-844221

Agreement Number:
