

**Use of Force and Defense Tactics Consulting Agreement**  
**City of North Port, Florida and RRB Systems International**

This Consulting Agreement, dated effective \_\_\_\_\_, 2017 (this "Agreement"), is made and entered into by and between the City of North Port, Florida, 4970 City Hall Blvd, North Port, Florida 34286 ("City of North Port") and Rapid Rotation Baton, Inc., a Florida corporation d/b/a RRB Systems International, 3057 Tipperary Drive, Tallahassee, Florida 32309 (the "Consultant").

**ARTICLE 1 - SCOPE**

1.1 Services - The City of North Port has engaged Consultant to provide services in connection with the City of North Port Police Department's ("Department") use of force and defense tactics. Consultant will perform a quarterly review of the Department's use of force records, develop courses and provide seminars and training to staff of the Department regarding use of force. Additionally, Consultant will provide to the Department expert witness services, responses to media inquiries, policy review and recommendations regarding use of force (collectively, the "consulting services").

1.2 Time and Availability - Consultant will devote 100 hours during the term of this Agreement in performing the services for the Department as stated herein. Consultant shall have discretion in selecting the dates and times it performs such consulting services throughout the month giving due regard to the needs of the Department's business. If the Department deems it necessary for the Consultant to provide more than 100 hours in any one contract year, Consultant is not obligated to undertake such work until the Consultant and City of North Port have agreed on a rate of compensation.

1.3 Confidentiality - In order for Consultant to perform the consulting services, it may be necessary for the Department to provide Consultant with Confidential Information (as defined below) regarding the Department's business and products. The Department will rely heavily upon Consultant's integrity and prudent judgment to use this information only in the best interests of the Department and the City of North Port.

1.4 Standard of Conduct - In rendering consulting services under this Agreement, Consultant shall conform to high professional standards of work and business ethics. Consultant shall not use time, materials, or equipment of the Department or the City of North Port without the prior written consent of the Department or the City of North Port. In no event shall Consultant take any action or accept any assistance or engage in any activity that would result in any university, governmental body, research institute or other person, entity or organization acquiring any rights of any nature in the results of work performed by or for the Department or the City of North Port.

1.5 Outside Services - Consultant shall not use the service of any other person, entity or organization in the performance of Consultant's duties without the prior written consent of an officer of the Department. Should the Department consent to the use by Consultant of the services of any other person, entity or organization, no information regarding the services to be

performed under this Agreement shall be disclosed to that person, entity or organization until such person, entity or organization has executed an agreement to protect the confidentiality of the Department's Confidential Information (as defined below) and the Department's absolute and complete ownership of all right, title and interest in the work performed under this Agreement.

1.6 Reports - Consultant shall periodically provide the Department with written reports of its observations and conclusions regarding the consulting services. Upon the termination of this Agreement, Consultant shall, upon the request of Department, prepare a final report of Consultant's activities.

## **ARTICLE 2 - INDEPENDENT CONTRACTOR**

2.1 Independent Contractor - Consultant is an independent contractor and is not an employee, partner, or co-venturer of, or in any other service relationship with, the City of North Port. The manner in which Consultant's services are rendered shall be within Consultant's sole control and discretion. Consultant is not authorized to speak for, represent, or obligate the Department or the City of North Port in any manner without the prior express written authorization from an officer of the Department.

2.2 Insurance - Consultant shall maintain liability insurance at no less than the following limits:

Each Occurrence Liability: \$1,000,000  
Personal & Advertising Injury Liability: \$1,000,000  
General Aggregate Liability: \$1,000,000  
Professional Liability Per Claim Liability: \$1,000,000  
Professional Liability Aggregate Liability: \$1,000,000

2.3 Taxes - Consultant shall be responsible for all taxes arising from compensation and other amounts paid under this Agreement, and shall be responsible for all payroll taxes and fringe benefits of Consultant's employees. Neither federal, nor state, nor local income tax, nor payroll tax of any kind, shall be withheld or paid by the City of North Port on behalf of Consultant or its employees. Consultant understands that it is responsible to pay, according to law, Consultant's taxes and Consultant shall, when requested by the City of North Port, properly document to the City of North Port that any and all federal and state taxes have been paid.

2.4 Benefits - Consultant and Consultant's employees will not be eligible for, and shall not participate in, any employee pension, health, welfare, or other fringe benefit plan, of the City of North Port. No workers' compensation insurance shall be obtained by City of North Port covering Consultant or Consultant's employees.

## **ARTICLE 3 - COMPENSATION AND PAYMENT PROCESS FOR CONSULTING SERVICES**

3.1 Compensation - The City of North Port shall pay Consultant the total amount of \$15,000.00 for services rendered to the City of North Port under this Agreement in accordance with Section 3.2 below in equal monthly payments calculated as follows:

\$15,000 divided by the number of whole months remaining in the term of this Agreement from the effective date of this agreement.

3.2 Payment Process – Invoices shall be submitted on or after the first Friday of the month following the month Consultant provided services to the Department. Consultant shall submit invoices by US Mail or electronically to:

Business Manager  
North Port Police Department  
4980 City Hall Boulevard  
North Port, Florida 34286  
Fax: (941) 429-7389  
Email: jayres@northportpd.com

The Business Manger shall process and send payment of each such invoice in accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, *et seq.*, to:

RRB Systems International  
3057 Tipperary Drive  
Tallahassee, Florida 32309

or another address as provided in writing to the Department by the Consultant.

#### **ARTICLE 4 - TERM AND TERMINATION**

4.1 Term - This Agreement shall be effective as of \_\_\_\_\_, 2017, and shall continue in full force until and including September 30, 2017.

4.2 Termination - The City of North Port may terminate this Agreement for "Cause," after giving Consultant written notice of the reason. Cause means: (1) Consultant has breached the provisions of Articles 1, 5 or 6 of this Agreement in any respect, or materially breached any other provision of this Agreement and the breach continues for 30 days following receipt of a notice from the City of North Port; (2) Consultant has committed fraud, misappropriation or embezzlement in connection with the City of North Port's business; (3) Consultant has been convicted of a felony, or (4) Consultant's use of narcotics, liquor or illicit drugs has a detrimental effect on the performance of its responsibilities as an independent contractor, as determined by the City of North Port.

4.3 Responsibility upon Termination - Any equipment provided by the Department to the Consultant in connection with or furtherance of Consultant's services under this Agreement, including, but not limited to, computers, laptops, and personal management tools, shall, immediately upon the termination of this Agreement, be returned to the Department.

4.4 Survival - The provisions of Articles 5, 6 and 7 of this Agreement shall survive the termination of this Agreement and remain in full force and effect thereafter.

## ARTICLE 5 - CONFIDENTIAL INFORMATION

5.1 Obligation of Confidentiality - In performing consulting services under this Agreement, Consultant may be exposed to and will be required to use certain "Confidential Information" (as hereinafter defined) of the City of North Port. Consultant agrees that, except as required by law, Consultant will not and Consultant's employees, agents or representatives will not, use, directly or indirectly, such Confidential Information for the benefit of any person, entity or organization other than the City of North Port, or disclose such Confidential Information without the written authorization of the City Manager or designee, either during or after the term of this Agreement, for as long as such information retains the characteristics of Confidential Information.

5.2 Definition - "Confidential Information" means information and public records that are exempt from disclosure under the Florida Statutes, not generally known, and proprietary to the City of North Port or to a third party for whom the City of North Port is performing work, including, without limitation, information concerning any patents or trade secrets, confidential or secret designs, processes, formulae, source codes, plans, devices or material, research and development, proprietary software, analysis, techniques, materials or designs (whether or not patented or patentable), directly or indirectly useful in any aspect of the business of the City of North Port, any vendor names, customer and supplier lists, databases, management systems and sales and marketing plans of the City of North Port, any confidential secret development or research work of the City of North Port, or any other confidential information or proprietary aspects of the business of the City of North Port. All information which Consultant acquires or becomes acquainted with during the period of this Agreement, whether developed by Consultant or by others, which Consultant has a reasonable basis to believe to be Confidential Information, or which is treated by the City of North Port as being Confidential Information, shall be presumed to be Confidential Information.

5.3 Property of the City of North Port - Consultant agrees that all plans, manuals and specific materials developed by the Consultant on behalf of the City of North Port in connection with services rendered under this Agreement, are and shall remain the exclusive property of the City of North Port. Promptly upon the expiration or termination of this Agreement, or upon the request of the Department or the City of North Port, Consultant shall return to the Department or the City of North Port all documents and tangible items, including samples, provided to Consultant or created by Consultant for use in connection with services to be rendered hereunder, including without limitation all Confidential Information, together with all copies and abstracts thereof.

5.4 Public Records - In accordance with Florida Statutes Section 119.0701, Consultant shall comply with all public records laws, and shall specifically:

(1) Keep and maintain public records required by the City of North Port to perform the service.

a. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).

b. "Public records" means and includes those items specified in Florida Statutes Section 119.011(12), as amended from time to time, and

currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City of North Port. Consultant's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.

(2) Upon request from the City of North Port's custodian of public records, provide the City of North Port at no cost, with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law. All records kept electronically must be provided to the City of North Port upon request from the City of North Port's custodian of public records, in a format that is compatible with the information technology systems of the City of North Port.

(3) Ensure that Project records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and, if Consultant does not transfer the records to the City of North Port following completion of the contract, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.

(4) Upon completion of this Agreement, transfer, at no cost, to the City of North Port all public records in Consultant's possession or keep and maintain public records required by the City of North Port to perform the service. If Consultant transfers all public records to the City of North Port upon completion of the contract, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Consultant keeps and maintains public records upon the completion of the contract, Consultant shall meet all applicable requirements for retaining public records.

(5) IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, (941) 429-7056 OR HOTLINE 429-7270; EMAIL padkins@cityofnorthport.com.

(6) Failure of Consultant to comply with these requirements shall be a material breach of this Agreement. Further, Consultant may be subject to penalties under Florida Statutes Section 119.10.

## **ARTICLE 6 - RIGHTS AND DATA**

6.1 Data - All drawings, models, designs, formulas, methods, documents and tangible items prepared for and submitted to the City of North Port by Consultant in connection with the services rendered under this Agreement shall belong exclusively to the City of North Port and shall be deemed to be works made for hire (the "Deliverable Items"). To the extent that any of the Deliverable Items may not, by operation of law, be works made for hire, Consultant hereby

assigns to the City of North Port the ownership of copyright or mask work in the Deliverable Items, and the City of North Port shall have the right to obtain and hold in its own name any trademark, copyright, or mask work registration, and any other registrations and similar protection which may be available in the Deliverable Items. Consultant agrees to give the City of North Port or its designees all assistance reasonably required to perfect such rights.

## **ARTICLE 7 - RIGHT TO INJUNCTIVE RELIEF**

Consultant acknowledges that the terms of Articles 5 and 6 of this Agreement are reasonably necessary to protect the legitimate interests of the City of North Port, are reasonable in scope and duration, and are not unduly restrictive. Consultant further acknowledges that a breach of any of the terms of Articles 5 or 6 of this Agreement will render irreparable harm to the City of North Port, and that a remedy at law for breach of the Agreement is inadequate, and that the City of North Port shall therefore be entitled to seek any and all equitable relief, including, but not limited to, injunctive relief, and to any other remedy that may be available under any applicable law or agreement between the parties. Consultant acknowledges that an award of damages to the Department does not preclude a court from ordering injunctive relief. Both damages and injunctive relief shall be proper modes of relief and are not to be considered as alternative remedies.

## **ARTICLE 8 - GENERAL PROVISIONS**

8.1 Construction of Terms - If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, that provision shall be severed and shall not affect the validity or enforceability of the remaining provisions.

8.2 Governing Law and Venue - This Agreement shall be governed by and construed in accordance with the internal laws (and not the laws of conflicts) of the State of Florida and the exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in Sarasota County, Florida.

8.3 Complete Agreement - This Agreement constitutes the complete agreement and sets forth the entire understanding and agreement of the parties as to the subject matter of this Agreement and supersedes all prior discussions and understandings in respect to the subject of this Agreement, whether written or oral.

8.4 Modification - No modification, termination or attempted waiver of this Agreement, or any provision thereof, shall be valid unless in writing signed by the party against whom the same is sought to be enforced.

8.5 Waiver of Breach - The waiver by a party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any other or subsequent breach by the party in breach.

8.6 Successors and Assigns - This Agreement may not be assigned by either party without the prior written consent of the other party; provided, however, that the Agreement shall be assignable by the City of North Port without Consultant's consent in the event the Department or the City of North Port is acquired by or merged into another governmental entity. The benefits

and obligations of this Agreement shall be binding upon and inure to the parties hereto, their successors and assigns.

8.7 No Conflict - Consultant warrants that Consultant has not previously assumed any obligations inconsistent with those undertaken by Consultant under this Agreement.

8.8 Notice – All notices under this Agreement shall be in writing and shall be given to the party entitled thereto by personal service or by certified or registered mail, return receipt requested, to the address maintained by the Department, the City of North Port and the Consultant or at such other address as such party may specify in writing. The responsible party and respective address for the Department and Consultant are:

Department or City of North Port:

Chief Kevin Vespia  
North Port Police Department  
4980 City Hall Blvd  
North Port, Florida 34286

Consultant:

Roy R. Bedard  
Rapid Rotation Baton, Inc.  
3057 Tipperary Drive  
Tallahassee, Florida 32309

## **ARTICLE 9 - LIABILITY AND INDEMNIFICATION**

Consultant shall be fully liable for the actions of its directors, officers, members, or subcontractors, and the employees and agents of each of them; provided, however, that Consultant shall not be liable for actions or omission of the Department and other parties.

Consultant shall fully indemnify, defend and hold harmless the City of North Port, its commissioners, employees, and agents from all demands, claims, suits, actions, judgments, damages, fines, fees, taxes, assessments, penalties, losses, expenses, costs of every type and description, and reasonable attorneys' fees (at both trial and appellate levels), of any nature or kind whatsoever caused by, or arising out of or related to the performance or breach of this Agreement by Consultant, its officers, directors, members, or subcontractors, and employees or agents of any of them.

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IN WITNESS WHEREOF, the Parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF NORTH PORT, FLORIDA**

**RAPID ROTATION BATON, INC.**

By: \_\_\_\_\_  
Jonathan R. Lewis, ICMA-CM, City Manager

By: \_\_\_\_\_  
Roy R. Bedard, President

ATTEST:

By: \_\_\_\_\_  
Patsy C. Adkins, City Clerk, MMC

APPROVED AS TO FORM AND CORRECTNESS:

By: \_\_\_\_\_  
Mark Moriarty, City Attorney