

AGREEMENT FOR PURCHASE AND
INSTALLATION OF ACCESS CONTROL AND VIDEO SECURITY SYSTEM

This AGREEMENT is made this _____ day of _____, 2014 between the Nampa Development Corporation, 9 - 12th Ave. S. Nampa, ID 83651, ("OWNER") and _____, ("CONTRACTOR").

WHEREAS, OWNER has agreed to purchase from CONTRACTOR the following equipment:

Access Control and Video Security System, as set forth in the Request for Proposals and as specified in CONTRACTOR's Bid Proposal, dated _____, 2014 ("BID PROPOSAL")

hereafter "EQUIPMENT" for the sum of _____ (\$_____), which amount represents the total price of all Equipment, Software, Work, and other components comprising the System(s), exclusive of OWNER Furnished Products, provided that the Purchase Price amount may be adjusted in accordance with the terms and conditions contained herein relating to the costs, including variation or modification thereof, of the Equipment, Software, System, and/or Work.

WHEREAS CONTRACTOR has supplied OWNER with the following documents:

1. BID PROPOSAL

all of which are collectively hereafter referred to as the "CONTRACT DOCUMENTS."

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledge by both parties, the CONTRACTOR and OWNER hereby agree as follows:

1. The CONTRACT DOCUMENTS are contractual and binding and incorporated herein as if set forth in full. CONTRACTOR sells the EQUIPMENT to OWNER and OWNER buys the EQUIPMENT from CONTRACTOR pursuant to the CONTRACT DOCUMENTS. To the extent any term or condition specified in this Agreement conflicts with the CONTRACT DOCUMENTS, this Agreement shall govern.

2. CONTRACTOR RESPONSIBILITIES:
CONTRACTOR's services shall be performed in accordance with the degree of professional skill and care required by applicable law and as expeditiously as is consistent with professional skill and care and the orderly progress of the Project.

CONTRACTOR shall coordinate and cooperate with ESI and other trades to ensure satisfactory work progress.

CONTRACTOR will install all equipment in accordance with the manufacturers' instructions unless otherwise approved by the OWNER. Where these instructions are exceeded by any applicable national and local regulations, ordinances, and codes, such regulations, ordinances, and codes shall apply.

CONTRACTOR is not responsible for the operation or the performance of equipment supplied by others outside this contract. The CONTRACTOR does not warrant that equipment supplied by others either can be connected to or can work satisfactorily with our system, except as specified in the Contract Documents.

The CONTRACTOR will consult with the OWNER and OWNER's representatives or authorized agents in order to review and evaluate the related architectural plans and systems requirements for the project.

CONTRACTOR'S REPRESENTATIONS: The CONTRACTOR is not, and does not represent to be, a licensed architect, electrician, electrical engineer, mechanical engineer, or structural engineer and shall not perform, nor be responsible for the performance of, the work of such persons. All information, drawings, schematics, specifications, or other documents containing references to, or depictions of, architectural, electrical, or mechanical attributes which are supplied to the OWNER by the CONTRACTOR hereunder will be provided for the sole purpose of indicating the CONTRACTOR's suggestions related to the Work, and the CONTRACTOR shall have no liability whatsoever, including liability for the OWNER's reliance thereon, except as such information, drawings, documents, specifications, or other documents may relate to the performance of the System.

3. **DELIVERY:** CONTRACTOR shall deliver the EQUIPMENT to OWNER on or before delivery dates as set forth in the tasks schedule proposed in the Contract Documents ("Delivery Dates") or as further negotiated and updated by the parties.

CONTRACTOR agrees that (1) if the EQUIPMENT is not delivered to OWNER by the Delivery Dates or (2) if the EQUIPMENT is delivered to OWNER by the Delivery Dates but is incomplete or not operating properly, CONTRACTOR may be assessed the sum of \$200 per day, as liquidated damages, for each and every day following the Delivery Dates in which the EQUIPMENT remains undelivered, incomplete, or non-operational.

CONTRACTOR agrees to the assessment of the liquidated damages, and further agrees that that liquidated damages may be withheld by OWNER from the BID AMOUNT owing by OWNER to CONTRACTOR.

Delays by other trades, OWNER's schedules, approval of CONTRACTOR's drawings and submittals, change orders, or non-availability of specific equipment shall be cause for reasonable extensions of completion date. CONTRACTOR shall not be liable for any default or delay caused by any third party impeding production or delivery of the products ordered.

4. **OWNER'S RESPONSIBILITIES:**
The OWNER shall provide information in a timely manner regarding requirements for and limitations on the OWNER's objectives, schedule, constraints and criteria.

The OWNER shall provide electrical outlets, and electrical conduit for the operation of the Equipment as specified by CONTRACTOR in the Construction Documents. Further, the OWNER shall be responsible for compliance with all applicable laws and codes regarding the installation and subsequent use of the electrical circuits. The OWNER shall be solely

responsible for any unforeseen costs resulting from existing conditions at the Project site, including, but not limited to, the conditions or locations of electrical outlets or other OWNER-furnished connections, including cabling.

At the time of signing of this agreement, the OWNER shall have identified and provide information to the CONTRACTOR of all other equipment and connections that will interface with the Equipment to be provided by the CONTRACTOR related to this project, with the understanding that any omissions to the information provided to date may result in additional charges from the CONTRACTOR in order to accommodate such changes or omissions.

The OWNER shall provide access to the Project site during normal business hours to allow CONTRACTOR to perform its services in a timely and orderly manner. Further, the OWNER shall provide suitable and secure locations at the Project site for storage of the Equipment prior to installation.

5. OWNER shall pay CONTRACTOR the BID AMOUNT in the manner set forth in the CONTRACT DOCUMENTS, less any liquidated damages pursuant to this Agreement.

Payment terms and schedule are agreed as follows:

- Twenty-five percent (25%) of contract price billed upon acceptance. No equipment shall be ordered until initial payment has been received.
 - Twenty-five percent (25%) of contract price billed upon completion of infrastructure (wiring)
 - Forty percent (40%) of contract price billed upon substantial completion of equipment installation.
 - Final ten percent (10%) of contract price plus the balance of any approved change orders due upon substantial completion and final OWNER acceptance of the project.
- Invoices will be to: **Nampa Development Corporation, 9 - 12th Ave. S. Nampa, ID 83651**

6. CHANGES IN THE SCOPE OF WORK

Costs resulting from material changes in the Scope of Work of this project by the OWNER, additional requirements or restrictions placed on CONTRACTOR by the OWNER, or changes in the configuration of the Equipment described herein, will be added to, or subtracted from, the contract value depending upon the changes required.

When CONTRACTOR becomes aware of the nature and impact of the change, a CONTRACT CHANGE ORDER will be submitted for review and approval by the OWNER, prior to continuing work. Contract Change Order cost calculations will be commensurate with the materials and labor rates provided within the base contract. Change Orders will be broken out with Materials and Labor separate and a limit of 10% OH&P.

Such changes shall be billed at 100% of the approved value upon completion of the change, and shall not be subject to the progressive payment schedule as outlined within this agreement.

7. RETURN POLICY & RESTOCKING CHARGES

Under no circumstances shall the Equipment be returned by the OWNER without CONTRACTOR's Return Merchandise Authorization (RMA) number.

The following conditions apply to systems included in this Agreement: No custom equipment returns will be allowed. Return of equipment damaged by the OWNER, or any of their representatives will not be accepted.

- Equipment returned for any reason, other than warranty repair or defect, must be in original "as-new", undamaged and untarnished condition include, at the time of return, all supplied accessories in original "as-new", undamaged and untarnished condition, and include, at the time of return, all original packaging, manuals and documentation for any returns to be accepted. It shall be the OWNER's responsibility to provide storage for such packaging should they wish to retain such subsequent to equipment delivery.
- Equipment which cannot be returned to the original manufacturer/vendor will not be accepted.

Restocking charges for equipment subject to return shall be invoiced to the OWNER as follows:

- Costs of any restocking fees to be charged by the Equipment vendor to CONTRACTOR to re-stock the items in question.
- Labor charges associated with removal, project administration, project management, system re-engineering, system re-programming, system re-drafting, handling of goods, etc.

8. All equipment furnished by CONTRACTOR shall be accompanied by each manufacturer's standard warranty. CONTRACTOR hereby warrants the fitness of the EQUIPMENT for the purposes for which it is purchased by OWNER; CONTRACTOR hereby warrants the EQUIPMENT from all failures, parts, and labor, unless the same were caused by OWNER, for a period no less than one-year from the date of acceptance by the OWNER.
9. INSURANCE: CONTRACTOR shall, at its own expense, carry all workers compensation insurance to protect CONTRACTOR's employees and comprehensive general liability insurance necessary for the protection of the CONTRACTOR and the OWNER. This will cover injury to persons or property arising from acts of the CONTRACTOR during the progress of the work. Any sub-CONTRACTORS will be required to provide similar insurance coverage.

CONTRACTOR shall not be responsible for any on-site damage solely caused by the OWNER or his agents, or by Acts of God beyond the control of the CONTRACTOR. The CONTRACTOR shall submit a Certificate of Insurance naming the OWNER as additional insured prior to starting work on the Library site.

10. All bonds will be maintained in full force by CONTRACTOR until final acceptance of the EQUIPMENT has been issued by the OWNER.
11. INTELLECTUAL PROPERTY. The parties agree that Contractor shall be solely entitled to all patent rights and all copyrights to any products, tools, devices, manuals, plans, drawings, customized programs and software, and anything else subject to patent or copyright (the "Intellectual Property") invented, generated, developed, or otherwise produced by Contractor or its agents, representatives, employees, and subcontractors in connection with the performance of the Services, and shall at all times remain the property of the Contractor.
12. In the event an action is brought to enforce any of the terms or provisions of this Agreement or the CONTRACT DOCUMENTS, or enforce forfeiture thereof for default by either of the parties hereto, the successful party to such action or collection will be entitled to recover from the losing party a reasonable attorney fee, together with such other costs as may be authorized by law.
13. SEVERABILITY. In the event any of the provisions of this Agreement or the CONTRACT DOCUMENTS shall be deemed illegal or unenforceable, such determination shall not operate to invalidate any of the remaining provisions of this Agreement or the CONTRACT DOCUMENTS, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.
14. This Agreement and the CONTRACT DOCUMENTS are established under the laws of the State of Idaho and shall be governed and construed in accordance with the laws of the State of Idaho, and all questions concerning their validity and construction shall be determined under such laws.
15. All covenants, agreements, and representations contained in this Agreement and the CONTRACT DOCUMENTS shall not be deemed to be merged into or waived by the instruments at closing, but shall expressly survive such closing and be binding upon the parties obligated thereby.

16. Standard Terms and Conditions:

STANDARD AND SPECIAL TERMS. In addition to the terms and conditions contained herein, there may also be special terms and conditions in the Request for Proposal, which apply to this Agreement.

AMENDMENTS. The terms of this contract shall not be waived, altered, modified, supplements or amended in any manner whatsoever without prior written approval of the OWNER.

WAIVER. Failure of the OWNER to enforce any provision of this contract shall not be a waiver or relinquishment by the OWNER of its right to such performance in the future nor of the right to enforce any other provisions of this contract.

HOLD HARMLESS. CONTRACTOR shall indemnify, defend, and hold harmless the City and its officers, employees, agents, and members from all claims, suits, or actions of any nature arising out of or related to the activities of CONTRACTOR, its officers, subcontractors, agents, or employees under this contract.

COMPLIANCE WITH APPLICABLE LAW. CONTRACTOR agrees to comply at its own cost with all federal, state, county, and local laws, ordinances, and regulations applicable to work to be done under this contract. The CONTRACTOR agrees to comply with all federal and state laws prohibiting discrimination on the basis of race, sex, national origin, religion, age, or handicap, and the provisions of the American Disabilities Act.

DELIVERY. All deliveries shall be F.O.B. Destination with all transportation and handling charges paid by CONTRACTOR. Responsibility and liability for loss or damage shall remain with CONTRACTOR until final inspection and acceptance when responsibility shall pass to the OWNER except as to latent defects, fraud, and CONTRACTOR's warranty obligations.

INSPECTIONS. Goods or goods and services furnished under this contract shall be subject to inspection and test by the OWNER. If the OWNER finds goods or services furnished to be incomplete or not in compliance with solicitation specifications, the OWNER may reject the good or goods and services and require CONTRACTOR to either correct them without charge, or provide at a reduced price, whichever is equitable under the circumstances. If CONTRACTOR is unable or refuses to cure any defects within a time deemed reasonable by the OWNER, the OWNER may reject the goods or services and cancel the contract in whole or in part.

PAYMENT OF CONTRACTOR CLAIMS. If CONTRACTOR fails, neglects, or refuses to pay promptly, as due, any claim for labor or services furnished to the CONTRACTOR or any subcontractor by any person in connection with the goods, or services if applicable, provided under this contract, the OWNER may pay such claim and charge the amount of the payment against funds due or to become due to the CONTRACTOR under this contract. The payment of a claim by the OWNER pursuant to this paragraphs shall not relieve the CONTRACTOR or its surety, if any, from obligation with respect to any unpaid claims.

PAYMENT. Payment will be made of all invoices and retainer amounts within forty-five days following the date the invoice is received.

ASSIGNMENT/SUBCONTRACTS/SUCCESSORS. CONTRACTOR shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the OWNER. No such written approval shall relieve CONTRACTOR of any obligations of this contract, and any transferee or subcontractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liability to the OWNER under the contract as if no such assignment, transfer, or subcontract had occurred. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties to the contract and their respective successors and assigns.

SAFETY AND HEALTH REQUIREMENTS. Goods or services provided under this contract shall comply with all Federal Occupational Safety and Health Administration (OSHA) requirements.

MATERIAL SAFETY DATA SHEET. The CONTRACTOR shall provide the OWNER with a Material Safety Data Sheet for any goods provided under this contract which may release, or otherwise result in exposure to a hazardous chemical under normal conditions.

ACCESS TO RECORDS. The CONTRACTOR shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles and shall maintain any other records relating to this contract in such a manner as to clearly document CONTRACTOR's performance hereunder. The OWNER and their duly authorized representatives shall have access to such fiscal records and to all other books, documents, papers, plans, and writings of CONTRACTOR which relate to this contract to perform examination and audits and make excerpts and transcripts.

CONFIDENTIALITY. The OWNER is a public entity subject to the Idaho Public Records Act, Idaho Code §§ 9-337 through 9-350. The OWNER will provide reasonable opportunity for CONTRACTOR to object to disclosure pursuant to a public records request, to the extent, if any, that CONTRACTOR claims confidentiality, trade secrets, or other reasons for non-disclosure of public records associated with this Agreement. CONTRACTOR will hold harmless and indemnify the OWNER with respect to any legal action brought about in relation to a public records dispute associated with this Agreement based upon CONTRACTOR's objection and assertion of a basis for non-disclosure.

BREACH OF CONTRACT. Should CONTRACTOR breach any provisions of this contract, the OWNER reserves the right to cancel this contract upon written notice to CONTRACTOR. CONTRACTOR shall be liable for any and all damages suffered by the OWNER as the result of CONTRACTOR's breach of contract, including, but not limited to incidental and consequential damages.

FORCE MAJEURE. Neither the OWNER nor CONTRACTOR shall be held responsible for delay or default caused by fire, riot, acts of god, terrorist acts, acts of political sabotage, or war where such cause was beyond, respectively, the OWNER, or CONTRACTOR's reasonable control. CONTRACTOR shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the contract.

TERMINATION. This contract may be terminated by mutual consent of both parties or by the OWNER at its discretion. The OWNER may cancel an order for goods or goods and services at any time with written notice to CONTRACTOR, stating the extent and effective date of termination. Upon receipt of this written notice, CONTRACTOR shall stop performance under this contract as directed by the OWNER. If this contract is so terminated, CONTRACTOR shall be paid in accordance with the terms of the contracts for goods delivered or services rendered, and accepted.

17. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.
18. This Agreement and the CONTRACT DOCUMENTS shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the OWNER and CONTRACTOR execute, or cause to be executed by their duly authorized officials, this AGREEMENT, on the date first written.

(CONTRACTOR)

By: _____

Print Name: _____

Title: _____

Date: _____

Nampa Development Corporation
(OWNER)

By: _____

Print Name: _____

Title: _____

Date: _____