



## DEPARTMENT OF POLICE SERVICE



**Michael J. Gugliotti**  
*Chief of Police*

255 East Main Street  
Waterbury, Connecticut 06702



**Vernon Riddick**  
*Deputy Chief of Police*  
**Fernando Spagnolo**  
*Deputy Chief of Police*

January 29, 2013

Honorable Board of Aldermen  
C/O City Clerk  
City of Waterbury  
236 Grand St.  
Waterbury, CT 06702

Re: Agreement – City of Waterbury/TYCO Integrated Security, LLC

Dear Hon. Board Members,

I am respectfully requesting approval of the enclosed Agreement between the City of Waterbury and TYCO Integrated Security, LLC.

The purpose of this agreement is for purchase and installation of 11 closed circuit cameras at various points in the downtown area. I have also provided an Executive Summary of the agreement for your review.

I therefore request that this agreement be approved by the Board of Aldermen. I will be available at the next meeting to answer any questions that may arise regarding this agreement, or I may be reached at the Police Department at 574-6918.

Very truly yours,

Gary S. Roosa, Legal Advisor



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### **EXECUTIVE SUMMARY**

#### **PROFESSIONAL SERVICES AND SURVEILLANCE CAMERA PURCHASE AGREEMENT FOR PURCHASE, INSTALLATION AND WARRANTY OF SURVEILLANCE CAMERAS BETWEEN THE CITY OF WATERBURY AND TYCO INTEGRATED SECURITY, INC.**

##### **I. Contract Agreement**

- a. This contract provides for the purchase and installation 11 closed circuit cameras at various locations throughout downtown Waterbury. It also provides for the installation of one 24 channel video system to monitor said the cameras, A complete scope of services is attached to the contract as attachment A(7 pages)

##### **II. Contract Time**

- a. This agreement provides that the completion of work and services shall be within six (6) months from the commencement of services, but in any event no later than July 1, 2013.

##### **III. Compensation and Fee Schedule**

- a. The fee payable to TYCO shall be One hundred eighty nine thousand four hundred sixty eight and 00/100 (\$189,468.00). An itemized equipment list is attached to the contract as attachment A (1 page)
- b. Compensation shall be paid by the City within forty-five (45) days of receipt of TYCO invoice, and upon City's review and approval of TYCO'S invoice and review of work, services, all as required by the agreement or by Charter or Ordinance.

**IV Funding Source**

a. The total amount due under this contract is One hundred eighty nine thousand four hundred sixty eight and 00/100 (\$189,468.00). Funding for this project comes from the following sources:

1. \$89,468.00 from the Waterbury Police Department
2. \$100,000.00 from Waterbury Development Corporation

**PROFESSIONAL SERVICES AND SURVEILLANCE CAMERA  
PURCHASE AGREEMENT**  
for  
**PURCHASE, INSTALLATION AND WARRANTY OF SURVEILLANCE  
CAMERAS**  
between  
**THE CITY OF WATERBURY, CONNECTICUT**  
and  
**TYCO INTEGRATED SECURITY, LLC.**

**THIS AGREEMENT**, effective on the date signed by the Mayor, is by and between the CITY OF WATERBURY, City Hall, 235 Grand Street, Waterbury, Connecticut (the "City") and Tyco Integrated Security, LLC, located at 10 Research Parkway, Wallingford, CT 06492, a State of Delaware Limited Liability Company (the "Consultant/Vendor").

**WHEREAS**, the Consultant/Vendor submitted a proposal to the City pursuant to State of Connecticut Contract #09PSX0292, and per City of Waterbury Code of Ordinances §38.130, "Cooperative Purchasing Authorized", for purchase, installation and warranty of surveillance cameras; and

**WHEREAS**, the City accepted the Consultant/Vendor's proposal to price the purchase and installation of surveillance cameras, in accordance and consistent with said State contract; and

**WHEREAS**, the Consultant/Vendor is further committed to complete said purchase and installation of cameras, at agreed upon locations, in compliance with the Scope of Services or more specifically stated in Section 1 of this Agreement; and

**WHEREAS**, the City desires to obtain the Consultant/Vendor's services pursuant to the terms, conditions and provisions set forth in this agreement (the "Project").

**NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:**

1. **Scope of Services.** The Consultant/Vendor shall furnish all of the labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc necessary to complete the Project as specified in this agreement (also referred to herein as "Contract") and such shall be completed in a satisfactory manner, as reasonably determined by the City. All labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc. shall comply with any and all applicable Local, State and Federal laws, statutes, ordinances and regulations and with generally accepted professional standards. The Consultant/Vendor shall make such revisions or modifications to its work, at its own cost and expense, as the City may require in order to be deemed complete.

The Project consists of the purchase, installation, and warranty servicing of surveillance cameras at designated locations in the Waterbury downtown area, including New DV-Tel Solus VMS All in One Basic System bundle, with 24 IP video channels, an Amba Wireless Mesh Network System, and the specific cameras as described in Tyco's Scope of Work attached hereto and made part hereof, which shall include a DV-TelCP3211-181, CM-3111-01, and AV 8185 DN-HB, all as shown in **Attachment A** attached hereto and hereby made material provisions of this Contract. **Attachment A** shall consist of the following:

Tyco's Scope of Work,  
Equipment List and Pricing,  
Warranty Statement,  
Site Conditions Statement,  
System drawings.

The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). The City's record copy of the Contract Documents shall control and shall be effective and binding on the Contractor. In the event that any provision in the Contract Documents conflict with any other provisions, the provision in the component parts of the Contract Document stated above shall govern over any other component part.

**2. Consultant/Vendor Representations Regarding Qualification and Accreditation.** The Consultant/Vendor represents that, to the extent required by law, its employees are licensed to perform the scope of work set forth in this agreement. The Consultant/Vendor further represents that its employees have the requisite skill, expertise and knowledge necessary to perform the scope of work required under the terms of this agreement, including any supplementary work and the City relies upon these.

**A. Representations regarding Personnel.** The Consultant/Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with the City, unless use of City employees or of personnel having a contractual relationship with the City is approved by the City in writing. As set forth above, all the services required hereunder shall be performed by the Consultant/Vendor under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

**B. Representations regarding Qualifications.** The Consultant/Vendor hereby represents that, to the extent required by Federal, State and Local statutes, regulations, codes, ordinances, and policies, that the Consultant/Vendor and/or its employees be licensed, certified, registered, or otherwise qualified, the Consultant/Vendor and all employees providing services under this agreement, are in full compliance with those statutes, regulations and ordinances. Upon City request, the Consultant/Vendor shall

provide to the City a copy of the Consultant/Vendor's licenses, certifications, registrations, etc.

**3. Responsibilities of the Consultant/Vendor.** All data, information, etc. given by the City to the Consultant/Vendor and/or created by the Consultant/Vendor shall be treated by the Consultant/Vendor as proprietary to the City and confidential unless the City agrees in writing to the contrary and shall be used solely for the purposes of providing services under this agreement. The Consultant/Vendor agrees to forever hold in confidence all files, records, documents and other information which may come into the Contractor's possession during the term of this agreement, except where a disclosure is expressly stated as a requirement of this agreement. Notwithstanding the foregoing, where a Consultant/Vendor disclosure is required to comply with statute, regulation, or court order, the Consultant/Vendor shall provide prior advance written notice to the City of the need for such disclosure. The Consultant/Vendor agrees to properly implement the services required in the manner herein provided.

**A. Use of City Property.** To the extent the Consultant/Vendor is required to be on City property to render its services hereunder, the Consultant/Vendor shall have access to such areas of City property as the City and the Consultant/Vendor agree are necessary for the performance of the Consultant/Vendor's services under this agreement (the "Site" or the "Premises") and at such times as the City and the Consultant/Vendor may mutually agree. Consultant/Vendor shall perform all work in full compliance with Local, State and Federal health and safety regulations. All work hereunder shall be performed in a safe manner. Consultant/Vendor shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which City reasonably believes to be a hazard to persons or property within a reasonable period of time after written notice from the City, then immediately upon oral or written notice to any supervisory or similar personnel of Consultant/Vendor, City may, but shall not be required to, correct same at Consultant/Vendor's expense. City shall confirm in writing any oral notice given within five (5) days thereafter.

**B. Working Hours.** To the extent the Consultant/Vendor is required to be on City property to render its services hereunder, the Consultant/Vendor shall coordinate its schedule so that work on the Premises is performed during those hours the City sets forth in a written notice to the Consultant/Vendor, unless written permission is obtained from the City to work during other times. This condition shall not excuse Consultant/Vendor from timely performance under the Contract. The work schedule must be agreed upon by the City and the Consultant/Vendor.

**C. Cleaning Up.** To the extent the Consultant/Vendor is required to be on City property to render its services hereunder, the Consultant/Vendor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Consultant/Vendor, its employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the

project and all tools, scaffolding and surplus materials and shall leave the Premises "broom clean" or its equivalent, unless more exactly specified. In case of dispute, the City may remove the rubbish and charge the cost to the Consultant/Vendor.

**D. Publicity.** Consultant/Vendor agrees not to deliberately disclose the fact that the City has entered into or terminated this agreement or disclose any of the terms of the agreement or use City's name in connection with any publicity, unless City gives prior written consent to such use of City's name in each instance.

**E. Standard of Performance.** All workmanship, services, materials or equipment, either at the Premises or intended for it, shall conform in all respects with the requirements of this agreement. In all cases, the services, materials, equipment, reports, plans, specifications, deliverables, workmanship, etc. shall be equal to or better than the grade specified in Consultant/Vendor's proposal as stated in Schedule A. The standard of care and skill for all services performed by the Consultant/Vendor shall be that standard of care and skill ordinarily used by other members of the Consultant/Vendor's profession practicing under the same or similar conditions at the same time and in the same locality. The Consultant/Vendor's services rendered hereunder shall be rendered completely and by qualified personnel in accordance with standard industry practice.

**F. Consultant/Vendor's Employees.** The Consultant/Vendor shall at all times enforce strict discipline and good order among its employees, and shall not employ any unfit person or anyone not skilled in the work assigned.

**G. Due Diligence Obligation.** The Consultant/Vendor acknowledges its responsibilities to examine and to be thoroughly familiar with the City's proposal document, including, but not limited to the specifications, and any addenda thereto. The Consultant/Vendor hereby warrants and represents that prior to the submission of its proposal during the proposal process it reviewed or was afforded opportunity, by the City, to review all physical items, facilities, services or functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services or functions are included in this agreement and thereby warrants that:

(1) it conducted or had opportunity to conduct all Due Diligence prior to the submission of its proposal and, accordingly, any additional costs, services or products resulting from the failure of the Consultant/Vendor to complete Due Diligence prior to submission of its proposal shall be borne by the Consultant/Vendor. Furthermore the Consultant/Vendor had the opportunity during the proposal process to ask questions it saw fit and to review the responses from the City;

(2) its failure or omission to make investigation and verification of data shall, in no way, be cause for future claim of ignorance of such data or conditions nor shall such failure to investigate and verify be the basis for any claim whatsoever, monetary or otherwise;

(3) it is solely responsible for resolving any issues resulting from the failure to conduct Due Diligence and shall assume any costs that may result during the implementation of the Project, including, but not limited to, adherence to specifications and pricing for the Project.

(4) it was responsible for specifying any changes and disclosing any new costs prior to the submittal of its proposal. Thus, in the event any changes or costs are disclosed by the Consultant/Vendor, or otherwise required, during the performance of its services, the sole responsibility for any modification, delay and cost of such changes shall reside with the Consultant/Vendor.

(5) has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State and Local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work;

(6) has given the City written notice of any conflict, error or discrepancy that the Consultant/Vendor has discovered in the Proposal Documents; and

(7) agrees that the Proposal Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

**H. Reporting Requirement.** The Consultant/Vendor shall deliver periodic, weekly, written reports to the City's Using Agency setting forth (i) the issue date of the report, (ii) the time period covered by the report, (iii) a brief description of the work and services completed by the Consultant/Vendor and/or delivered by the Consultant/Vendor during the time period covered by the report, (iv) expressed as a percentage of the total work and services required under this contract, the percentage of the total work represented by the work and services described in subsection iii above, (v) expressed as a percentage of this contract's Section 6 total compensation, the percentage of the total compensation represented by the work and services described in subsection iii above, (vi) the Consultant/Vendor's declaration as to whether the entirety of the Consultant/Vendor's work and services required in this contract will be, or will not be, completed within the contract's Section 6 total compensation amount, and (vii) any and all additional useful and/or relevant information. Each report shall be signed by Ronald P. Marino, or his designated Project Manager.



NOTE: The Consultant/Vendor's failure to deliver any report required herein shall be deemed a material breach of this contract, the City hereby reserving the right to exercise all available legal remedy(ies) to address said breach.

**4. Responsibilities of the City.** Upon the City's receipt of Consultant/Vendor's written request, the City will provide the Consultant/Vendor with all documents, data and other materials the City agrees are necessary and appropriate to the service to be performed by the Consultant/Vendor hereunder and the City will endeavor to secure, where feasible and where the City agrees it is necessary and appropriate, materials or information from other sources requested by the Consultant/Vendor for the purpose of carrying out the services under this agreement.

**5. Contract Time.** Except for the Warranty Period as defined in Attachment A, the Consultant/Vendor shall complete all work and services required under this agreement ("Completion Date") within six (6) months from commencement of services hereunder, but in no event later than July 1, 2013.

Time is and shall be of the essence for all Project milestones and completion dates for the Project. The Consultant/Vendor further agrees that the Work shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion thereof within the Contract Time stated above. It is expressly understood and agreed, by and between the Consultant/Vendor and City, that the Contract Time is reasonable for the completion of the Work. The Consultant/Vendor shall be subject to City imposed fines and/or penalties in the event the Consultant/Vendor breaches the foregoing dates.

**5A. Liquidated Damages.** In the event the Consultant/Vendor does not finish the project by the Completion Date, and the City of Waterbury has not agreed in written form to an extension of the Completion Date, solely for reasons of delay that are not under the control of the Consultant/Vendor, then said Consultant/Vendor shall pay to the City of Waterbury liquidated damages in the amount of \$500.00 per day for each day the project is not completed and accepted by the City beyond said Completion Date.

**6. Compensation.** The City shall compensate the Consultant/Vendor for satisfactory provision of all of the goods and services set forth in this agreement as follows in this Section 6.

**A. Fee Schedule.** The fee payable to the Consultant/Vendor shall be One Hundred Eighty-Nine Thousand Four Hundred Sixty-Eight and 00/100 DOLLARS (\$189,468.00).

**B. Limitation of Payment.** Compensation payable to the Consultant/Vendor is limited to those fees set forth in Section 6.A. above. Such compensation shall be paid by the City within forty-five (45) days of receipt of the Consultant/Vendor's Invoice, and upon the City's review and approval of the Consultant/Vendor's invoices for payment and review of the work, services,

deliverables, etc. required in this agreement and review as may be further required by the Charter and Ordinances of the City. Consultant/Vendor's invoices shall describe the work, services, reports, plans, specifications, deliverables, etc. rendered and the compensation sought therefore in a form and with detail and clarity acceptable to the City.

The Consultant/Vendor and its affiliates are hereby provided with notice that the City reserves the right, in the City's sole discretion, to offset, withhold, or otherwise reduce City payment(s) to the Consultant/Vendor in an amount equaling the sum or sums of money the Consultant/Vendor and/or its affiliates is/are, or becomes delinquent or in arrears on, regarding the Consultant/Vendor's and/or its affiliate's real and personal tax obligations to the City.

**C. Review of Work.** The Consultant/Vendor shall permit the City to review, at any time, all work performed under the terms of this agreement at any stage of the work. The Consultant/Vendor shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the agreement, settlement of claims or any other matter pertaining to the Consultant/Vendor's demand for payment. The City shall not certify fees for payment to the Consultant/Vendor until the City has determined that the Consultant/Vendor has completed the work in accordance with the requirements of this agreement.

**D. Proposal Costs.** All costs of the Consultant/Vendor in preparing its proposal hereunder shall be solely borne by the Consultant/Vendor and are not included in the compensation to be paid by the City to the Consultant/Vendor under this agreement or any other agreement.

**E. Payment for Services, Materials, Employees.** The Consultant/Vendor shall be fully and solely responsible for the suitability, and compliance with the agreement, of all labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc. furnished to the City under this agreement. The Consultant/Vendor shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc., going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this project. Before final payment is made, the Consultant/Vendor shall furnish to the City an acknowledgement that all payments by Tyco incurred in connection with the project for services, materials, labor, and bonds have been fully paid.

**F. Liens.** Neither the final payment nor any part of the retained percentage, if any, shall become due until the Consultant/Vendor, if requested by the City, shall deliver to the City a complete release of all liens arising out of

this agreement, or receipts in full in lieu thereof, and, if required, in either case, an affidavit that so far as the Consultant/Vendor has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed; but the Consultant/Vendor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the Consultant/Vendor shall refund to the City all moneys that the City may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**7. This Section Intentionally Blank.**

**8. This Section Intentionally Blank.**

**9. Passing of Title and Risk of Loss.** Title to each item of equipment, material, reports, plans, specifications, supplies, services, etc. required to be delivered to the City hereunder shall pass to City upon City payment to the Consultant/Vendor for that item. Consultant/Vendor and its insurer shall assume the risk of loss or damage up to and including the date title passes, except that City shall be responsible for loss or damage caused by City's negligence.

**In the event any software is provided hereunder, the rights of the city with respect to such software shall be specified in the applicable software license agreement.**

**10. Indemnification.**

**A.** The Consultant/Vendor shall indemnify, defend, and hold harmless the City and its boards, the City's Board of Education (if applicable), commissions, agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the delivery of the labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc provided that any such claims, suits, damages, losses, judgments, costs or expenses (a) are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the services itself) including the loss of use resulting there from, and (b) is caused in whole or in part by any willful or negligent act or omission of the Consultant/Vendor, its employees, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

**B.** In any and all claims against the City or any of its boards, agents, employees or officers by the Consultant/Vendor or any employee of the Consultant/Vendor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph A, above, 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 Consultant/Vendor or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

C. The Consultant/Vendor understands and agrees that any insurance required by this agreement, or otherwise provided by the Consultant/Vendor, shall in no way limit the responsibility to indemnify, defend, keep and hold harmless the City as provided in this agreement.

**11. This Section Intentionally Blank.**

**12. Consultant/Vendor's Insurance.** The Consultant/Vendor shall not commence work under this agreement until all insurance required under this Section 12 has been obtained by the Consultant/Vendor and such insurance has been approved by the City. The Consultant/Vendor shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been so obtained and approved by the City. Insurance shall be provided by insurers that are satisfactory to the City, authorized to do business in the State of Connecticut, that have at least an "A-" Best's Rating, and are in an A.M. Best financial size category of VII or higher. The A.M. Best classifications are based on the most current A.M. Best Company ratings or an equivalent City approved rating system.

At no additional cost to the City, the Consultant/Vendor shall purchase and maintain the insurance coverages set forth below which shall protect the City from claims which may arise out of or result from the Consultant/Vendor's obligation under this agreement, whether such obligations are the Consultant/Vendor's or subcontractor or person or entity directly or indirectly employed by said Consultant/Vendor or subcontractor, or by any person or entity for whose acts said Consultant/Vendor or subcontractor may be liable.

The Consultant/Vendor's General, Automobile and Excess Liability Insurance policies shall be endorsed to add the City as an additional insured. The insurance afforded the additional insured shall be primary insurance and the coverage and limits provided under the Consultant/Vendor's policies shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless. If any insurance required herein is to be issued or renewed on a claims made form as opposed to an occurrence form, the retroactive date for coverage shall be no later than the commencement date of this agreement and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims ("Tail Coverage") shall be available for at least 60 months.

The following policies with stated limits shall be maintained, in full force and effect, at all times during which the services are to be performed by the Consultant/Vendor:

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A. General Liability Insurance: \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate

- B. Automobile Liability Insurance: \$1,000,000.00 combined single limit (CSL)
  - C. Workers' Compensation: Statutory Limits within the State of Connecticut
  - D. Excess Liability Insurance: \$3,000,000.00 aggregate limit
  - E. Employee Professional Services Liability Insurance: \$1,000,000.00 aggregate limit
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- A. General Liability Insurance: Providing coverage to protect the City for all damages arising out of bodily injuries, sickness to or death of all persons in any one accident or occurrence and for all damages arising out of destruction of property in any one accident or occurrence, and caused in whole, or in part, by the services, products, or equipment provided by the Consultant/Vendor pursuant to this Agreement.
- B. Automobile Liability Insurance: Providing coverage to protect the City with respect to claims for damage for bodily injury and or property damage arising out of ownership, maintenance, operation, use or loading and unloading of any owned or non-owned vehicle
- C. Workers' Compensation: Consultant/Vendor shall comply with all State of Connecticut statutes as it relates to workers' compensation.
- D. Excess General Liability Insurance: Comprehensive general liability umbrella insurance coverage.
- E. Employee Professional Services Liability Insurance: Professional liability insurance providing coverage to the Consultant/Vendor, and/or its employees for services rendered in connection with the installation and warranty service of the subject security camera system.

Failure to Maintain Insurance: In the event the Consultant/Vendor fails to maintain the minimum required coverage as set forth herein, the City may at its option purchase same, and offset the Consultant/Vendor's invoices for the cost of said insurance.

Cancellation: THE CITY OF WATERBURY SHALL RECEIVE WRITTEN NOTICE OF CANCELLATION FROM THE INSURER AT LEAST 30 CALENDAR DAYS PRIOR TO THE DATE OF ACTUAL CANCELLATION, REGARDLESS OF THE REASON FOR SUCH CANCELLATION.

Certificates of Insurance: At the time the Consultant/Vendor executes this agreement, it shall furnish to the City, subject to City approval, certificate(s) of insurance verifying the above coverages, including the naming of the City of Waterbury, as follows: "The City of Waterbury and its Board of Education (if applicable) are listed as additional insured as their interests may appear". The City's request for proposal number must be shown on the

certificate of insurance. The Consultant/Vendor must supply replacement/renewal certificates at least 30 days prior to the expiration of the policy(ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of not less than thirty (30) calendar days has been mailed to the Office of Corporation Counsel, 235 Grand Street, Waterbury, CT. 06702.

In the event of a claim or dispute, by or against either of the parties to this Agreement and upon request, the Consultant/Vendor shall deliver to the City a copy of the Consultant/Vendor's insurance policies, endorsements, and riders required by this Agreement.

**13. Conformance with Federal, State and Other Jurisdictional Requirements.** By executing this agreement, the Consultant/Vendor represents and warrants that, at all pertinent and relevant times to the agreement, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by the Consultant/Vendor of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: *EQUAL EMPLOYMENT OPPORTUNITY ACT*; *COPELAND ANTI-KICKBACK ACT*, as supplemented in the Department of Labor Regulations (29 CFR Part 3); *DAVIS-BACON ACT* as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); and the *HOUSING and COMMUNITY DEVELOPMENT ACT of 1974*, as amended; Title 31 of the State of Connecticut General Statutes. All applicable sections of the City Charter and Code of Ordinances are incorporated by reference and made a part hereof.

**A. Permits, Laws, Taxes and Regulations.** Permits and licenses necessary for the delivery and completion of the Consultant/Vendor's work and services shall be secured in advance and paid by the Consultant/Vendor. The Consultant/Vendor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work and services as specified.

**B. Taxes-Federal, State and Local.** The City is exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation, taxes that would otherwise be imposed upon the Contractor for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc. The Consultant/Vendor remains liable, however, for any applicable tax obligations it incurs. Moreover, the Consultant/Vendor represents that the proposal and pricing contained in this agreement do not include the amount payable for said taxes.

**C. Labor and Wages.** The Consultant/Vendor and its subcontractors shall conform to the labor laws of the State of Connecticut, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

The Consultant/Vendor is aware of the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages and other payments or contributions established by the State of Connecticut Labor Commissioner for work on public facilities. The provisions of the Act are incorporated by reference and made a part of this agreement. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in Conn. Gen. Statute 31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

The Contractor is aware of, and shall comply with, the provisions of both the Federal Davis-Bacon Act and the Federal American Recovery and Reinvestment Act of 2009, the provisions of both acts hereby incorporated by reference and made a part of this Contract. The Federal Davis-Bacon Act provides that Federal wage rate laws apply to certain federally funded contracts. The American Recovery and Reinvestment Act ("ARRA") provides that Federal wage rate laws apply to all ARRA funded contracts regardless of the contract's dollar value.

**14. Discriminatory Practices.** In performing this agreement, the Consultant/Vendor shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring non-discrimination in employment as herein specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this agreement. Said provisions with subcontractors shall require conformity and compliance with all Local, State and Federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

**A. Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this agreement shall be discharged or in any way discriminated against because such person has filed any complaint or

instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

**B. Equal Opportunity.** In its execution of the performance of this agreement, the Consultant/Vendor shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship status, age or handicap. The Consultant/Vendor agrees to comply with all Local, State and Federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors.

**15.1 Conformance With An Ordinance Concerning The Hiring Of Waterbury Residents On Certain Publicly- Funded Construction Projects.**

**A.** If applicable, the Contractor/Vendor and its Subcontractors shall comply with the specific requirements of "An Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects" (the "Good Jobs Ordinance"), as may be amended from time to time and as set forth in Chapter 34 of the Code of Ordinances of the City. While the principal provisions of the ordinance are summarized as set forth in paragraphs C-H below, the Contractor does hereby acknowledge that it has reviewed a copy of the Good Jobs Ordinance and that it has read the Ordinance and that Contractor is familiar with the obligations imposed on the Contractor by the Good Jobs Ordinance.

**B.** Failure of the Contractor or its Subcontractors to comply with the Good Jobs Ordinance shall be a material breach of this Agreement.

**C.** This paragraph shall apply to a Covered Project, as that term is defined in the Good Jobs Ordinance, in the City with a value of \$500,000.00 or greater and only to the extent permitted by federal and state law.

**D. Definitions.** For purposes of this paragraph:

(1) "Apprentice" shall be defined as it is in the Good Jobs Ordinance.

(2) "Construction work" shall be defined as it is in the Good Jobs Ordinance.

(3) "Subcontractor" shall include the Contractor's direct subcontractor providing construction work and all lower tiered (level) providers of construction work.

(4) "Resident" shall be defined as it is in the Good Jobs



Ordinance.

**E. Hiring Goals.** If this Agreement requires the Contractor to perform construction work, the Contractor shall have as its hiring goals:

- (1) at least thirty percent (30%) of its total worker hours performed by City Residents, and
- (2) at least twenty-five percent (25%) of construction trade jobs shall go to Apprentices, and
- (3) at least seventy percent (70%) of all "new hires" (as that term is defined in the Good Jobs Ordinance) shall be "economically disadvantaged" individuals (as that term is defined in the Good Jobs Ordinance), and
- (4) a minimum of five percent (5%) of the construction workforce labor hours will be local resident, minority artisans, and
- (5) a minimum of five percent (5%) of the construction workforce labor hours will be women, and
- (6) a minimum of ten percent (10%) of the total work hours shall be allocated for minorities, or
- (7) as may otherwise be required by any superseding Federal or State employment discrimination prohibition laws.

Moreover, each subcontractor shall each comply with the foregoing Hiring Goals.

**F. Good Faith Efforts.** The Contractor shall engage in a Good Faith Efforts to comply with the Hiring Goals. For the purposes of this paragraph, the term "Good Faith Efforts" shall have the same meaning as it does in the Good Jobs Ordinance.

The Contractor and each subcontractor shall individually implement Good Faith efforts to satisfy the Hiring Goals.

**G. Action Plan and Pre-Construction Meeting.** Not later than fourteen (14) business days prior to the scheduled commencement date for construction, the Contractor shall submit a written plan-of-action to the City and to the Administrator of the Good Jobs Ordinance defining how the Contractor, and each Subcontractor, shall implement Good Faith Efforts to fulfill the Hiring Goals. Each plan-of-action shall include the anticipated number of job positions required for the Work. Not later than five (5) business

day prior to the commencement date of construction, the Contractor must attend a mandatory "pre-construction" meeting with the City to review all plans-of-action and other relevant materials. No construction work shall proceed absent this pre-construction meeting.

**H. Other Contractor Obligations.** In addition to the foregoing, the Contractor shall ensure that all Subcontractor contracts and agreements expressly set forth and state as binding obligations therein, subject to appropriate party name change, the above Hiring Goals and Good Faith Efforts. The Contractor shall be accountable for and liable to the City for Contractor and Subcontractor compliance with Hiring Goals and Good Faith efforts.

(1) The Contractor shall be required to produce Contractor and Subcontractor documentation that may be required under the provisions of Good Jobs or that the City or the Administrator of the Good Jobs Ordinance reasonably believes will assist the City or the Administrator of the Good Jobs Ordinance with their evaluation of Hiring Goals and Good Faith Efforts.

(2) If this Agreement is subject to the Davis-Bacon Act or State Prevailing Wage law, the Contractor shall deliver weekly certified payroll records to the City within five (5) working days of the end of each payroll period. Moreover, the Contractor shall require each Subcontractor to create weekly certified payroll records.

(3) The Contractor's and Subcontractors' payroll records shall include the person-hours, the residential address, race, gender, hiring date, and apprentice (job) classification of all personnel employed under this Agreement and all Contracts and Sub-Contracts thereunder. The Contractor and Subcontractors shall mark their respective final payroll period records as being final and be signed by an authorized officer or employee.

## **15.2 Liquidated Damages Applicable To Paragraph 15.1**

**A.** If applicable, and if the City finds the Contractor, or a Subcontractor, has failed to achieve Hiring Goals during any five (5) day work period (Monday through Friday), the City shall:

(1) issue a written notice to the Contractor specifying the matters constituting such failure and the time period within which Good Faith Efforts documentation must be delivered to the City for its evaluation.

(2) if the Good Faith documentation is not provided or, if provided, it fails to demonstrate compliance with Good Faith Efforts, for

each full five (5) day work period of the Contractor or Subcontractor's failure to achieve Hiring Goals, the City shall as liquidated damages withhold from payment to the Contractor:

(a) if the contact is for an amount between \$500,000.00 and \$1,000,000.00, inclusive, the lesser of \$1,000.00 or one (1%) percent of the Value of the payment then payable to the Contractor;

(b) if the contact is for an amount between \$1,000,000.01 and \$5,000,000.00, inclusive, the lesser of \$2,000.00 or one (1%) percent of the Value of the payment then payable to the Contractor;

(c) if the contact is for an amount greater than \$5,000,000.00, the lesser of \$2,500.00 or one (1%) percent of the Value of the payment then payable to the Contractor.

(3) The foregoing liquidated damages provisions shall be expressly set forth, subject to appropriate party name adjustments, as material provisions in all Contracts that the Contractor has with Subcontractors and the Contractor is obligated hereunder to enforce compliance in such Contracts with Subcontractors.

(4) Any payment of liquidated damages hereunder shall not preclude a later claim, nor any later finding of a breach, or any payment of additional damages related to such later claim.

**16. Housing and Urban Development Section 3 Clause.** In the event this agreement is funded, in whole or in part, through Housing and Urban Development assistance, 24 C.F.R. §135.38 may apply and the Contractor shall then be required to comply with the following (referred to as the "Section 3 clause"):

**A.** The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted Projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

**B.** The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 135.

F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

## 17. Termination.

**A. Termination of Agreement for Cause.** In the event Consultant/Vendor shall fail to comply or perform in accordance with the terms of this Agreement, the City shall thereupon have the right to terminate this agreement by giving written notice to the Consultant/Vendor of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination to permit the Consultant/Vendor to cure the specified deficiencies. In the event of such termination, all finished or unfinished documents, data, studies, reports, specifications, deliverables, etc. prepared by the Consultant/Vendor under this agreement shall, at the option of the City, become the City's property, and the Consultant/Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

Notwithstanding the above, the Consultant/Vendor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this agreement by the Consultant/Vendor, and the City may withhold any payments to the Consultant/Vendor for the purpose of setoff until such time as the exact amount of damages due the City from the Consultant/Vendor is determined.

**B. Termination for Convenience of the City.** The City may terminate this agreement at any time for the convenience of the City, by a notice in writing from the City to the Consultant/Vendor. If this agreement is terminated by the City as provided herein, the Consultant/Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Consultant/Vendor covered by this agreement, less payments of compensation previously made.

**C. Termination for Non-Appropriation or Lack of Funding.** The Consultant/Vendor acknowledges that the City is a municipal corporation and that this agreement is subject to the appropriation of funds by the City sufficient for this agreement for each budget year in which this agreement is in effect. The Consultant/Vendor therefore agrees that the City shall have the right to terminate this agreement in whole or in part without penalty in the event sufficient funds to provide for City payment(s) under this agreement is not appropriated, not authorized or not made available pursuant to law, or such funding has been reduced pursuant to law.

**(1) Effects of Nonappropriation.** If funds to enable the City to effect continued payment under this agreement are not appropriated, authorized or otherwise made available by law, the City shall have the right to terminate this agreement without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to the Consultant/Vendor.

**(2) Effects of Reduced Levels of Funding.** If funding is reduced by law, or funds to pay the Consultant/Vendor for the agreed to level of the products, services and functions to be provided by the Consultant/Vendor under this agreement are not appropriated, authorized or otherwise made available by law, the City may, upon seven (7) business days written notice to the Consultant/Vendor, reduce the level of the products, services or functions in such manner and for such periods of time as the City may elect. The charges payable under this agreement shall be equitably adjusted to reflect such reduced level of products, services or functions and the parties shall be afforded the rights set forth in this agreement.

**(3) No Payment for Lost Profits.** In no event shall the City be obligated to pay or otherwise compensate the Consultant/Vendor for any lost or expected future profits.

**D. Rights Upon Cancellation or Termination.**

**(1) Termination for Cause.** In the event the City terminates this agreement, for cause, the Consultant/Vendor shall relinquish to the City any applicable interest, title and ownership including, but not limited to, perpetual use of any proprietary rights in and to the documents, data, studies, reports, specifications, deliverables, etc. provided to, in possession of, and properly invoiced and paid for by (except to the extent such invoiced amount is disputed) the City. With regard to third party products, the Consultant/Vendor shall transfer all licenses to the City which the Consultant/Vendor is permitted to transfer in accordance with the applicable third party license. The City shall have no financial obligation to compensate the Consultant/Vendor for such terminated documents, data, studies, reports, specifications, deliverables, etc. unless payment is otherwise approved by the City prior to such termination. The Consultant/Vendor shall be liable for costs incurred by the City, including but not limited to reasonable attorney fees and all court awarded fees and costs incurred in terminating this agreement in whole or in part.

**(2) Termination for Lack of Funding or Convenience.** In the event of termination by the City for lack of funding or convenience, the City shall pay the Consultant/Vendor for all documents, data, studies, reports, specifications, deliverables, etc. (including any holdbacks), installed and delivered to the City as of the Termination Date and the Consultant/Vendor shall relinquish to the City any applicable interest, title and ownership including, but not limited to perpetual use of any proprietary rights in and to said documents, data, studies, reports, specifications, deliverables, etc. in possession of and paid for by the City (except to the extent any invoiced amount is

disputed). The Consultant/Vendor shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience the City and the Consultant/Vendor may negotiate a mutually acceptable payment to the Consultant/Vendor for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this agreement pertaining to Changes in the Work.

**(3) Termination by the Consultant/Vendor.** The Consultant/Vendor may, by written notice to the City, terminate this agreement if the City materially breaches, provided that the Consultant/Vendor shall give the City thirty (30) calendar days prior written notice and an opportunity to cure by the end of said thirty day period. In the event of such termination, the Consultant/Vendor will be compensated by the City for work performed prior to such termination date and the Consultant/Vendor shall deliver to the City all deliverables as otherwise set forth in this agreement.

**(4) Assumption of Subcontracts.** In the event of termination, the City shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this agreement, including but not limited to any contracts, and may further pursue completion of the work under this agreement by replacement contract or otherwise as the City may in its sole judgment deem expedient.

**(5) Delivery of Documents.** In the event of termination, (i) the Consultant/Vendor shall promptly deliver to the City, in a manner reasonably specified by the City, all labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc and other tangible items furnished by, or owned, leased, or licensed by, the City, and (ii) the City shall pay the Consultant/Vendor for all services performed and deliverables completed and accepted (pro-rated for deliverables partially completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

**E. Ownership of Instruments of Professional Services.** The City acknowledges the Consultant/Vendor's documents, data, studies, reports, specifications, deliverables, etc. created and to be created pursuant to this agreement, including electronic files, are Instruments of Professional Services. Nevertheless, the final Instruments of Professional Services, including, but not limited to documents, data, studies, reports, specifications, deliverables, etc. prepared for the City under this agreement shall become the property of the City upon City payment for that Instrument of Professional Services and the City reserves the right to use the Instruments of Professional Services.

**18. Force Majeure.** Consultant/Vendor shall not be held responsible for delays nor be subject to liquidated damages when such delays are caused by conditions beyond its control, including without limitation:

A. Acts of God, fire, explosion, epidemic, cyclone, flood, war, strikes, revolution, civil commotion, or acts of public enemies.

B. Change of law and order, proclamation, regulation, ordinance, or governmental requirement.

C. Delays caused by the Consultant/Vendor's vendors, except where such delays are the result of lack of adequate coordination by the Consultant/Vendor.

Upon cessation of work for reason of force majeure delays, Consultant/Vendor shall use its best efforts to meet the schedule set forth in Section 5 of this agreement.

**19. Subcontracting.** The Consultant/Vendor shall not, without the prior written approval of the City, subcontract, in whole or in part, any of the Consultant/Vendor's services. Any subcontractor so approved shall be required to secure and maintain insurance coverage equal to or better than that required of the Consultant/Vendor and shall name the City as an additional insured party and said subcontractors shall deliver to the City a certificate of insurance evidencing such coverages. All subcontractors shall comply with all Federal, State and Local, laws, regulations and ordinances but such requirement shall not relieve the Consultant/Vendor from its requirement that all work and services provided or required hereunder shall comply with all Federal, State and Local, laws, regulations and ordinances.

The Consultant/Vendor shall be as fully responsible to the City for the acts and omissions of the Consultant/Vendor's subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Consultant/Vendor.

**20. Assignability.** The Consultant/Vendor shall not assign any interest in this agreement, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City; provided, however, that claims for money due or to become due the Consultant/Vendor from the City under this agreement may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

**21. Audit.** The City reserves the right to audit the Consultant/Vendor's books of account in relation to this agreement any time during the period of this agreement or at any time during the twelve month period immediately following the closing or termination of this agreement. In the event the City elects to make such an audit, the Consultant/Vendor shall immediately make available to the City all records pertaining to this agreement, including, but not limited to, payroll records, bank statements and canceled checks.



**22. Risk of Damage and Loss.** The Consultant/Vendor shall be solely responsible for causing the timely repair to and/or replacement of, City property or item(s) intended to become City property hereunder, where the need for repair or replacement was caused by the Consultant/Vendor, by someone under the care and/or control of the Consultant/Vendor, by any subcontractor of the Consultant/Vendor, or by any shipper or delivery service. The Consultant/Vendor shall be solely responsible for all costs and expenses, including but not limited to shipping, delivery, insurance, etc, associated with the foregoing repair and replacement obligation. Further, the Consultant/Vendor shall be solely responsible for securing the City's written acceptance of all completed repairs and replacements required hereunder. The City hereby retains sole discretion to determine whether a repair or a replacement is the proper remedy.

**23. Interest of Consultant/Vendor.** The Consultant/Vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Consultant/Vendor further covenants that in the performance of this agreement no person having any such interest shall be employed.

**24. Entire Agreement.** This agreement shall constitute the complete and exclusive statement of the Contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this agreement must be in writing and agreed to and executed by the City and the Consultant/Vendor.

**25. Independent Contractor Relationship.** The relationship between the City and the Consultant/Vendor is that of client and independent contractor. No agent, employee, or servant of the Consultant/Vendor shall be deemed to be an employee, agent or servant of the City. The Consultant/Vendor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this agreement. It is the express intention of the parties hereto, and the Consultant/Vendor hereby agrees and covenants, that it and any and all third party(ies) and subcontractor(s) retained by the Consultant/Vendor hereunder is/are not and shall not be deemed an employee of the City of Waterbury, but is/are and shall remain an independent contractor relative to the City and that nothing herein shall be interpreted or construed as creating or establishing the relationship of employer-employee between the City of Waterbury and the Consultant/Vendor or between the City of Waterbury and any third party(ies) or subcontractor(s). Thus, the Consultant/Vendor hereby covenants that it, its subcontractor(s) and third party(ies) shall not be entitled to the usual characteristics of employment, such as income tax withholding, F.I.C.A. deductions, pension or retirement privileges, Workers Compensation coverage, health benefits, etc. and that the Consultant/Vendor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, representatives, subcontractors and third party(ies).

**26. Severability.** Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this agreement, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as

possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this agreement shall be enforced as if this agreement was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the provision(s) in question as originally set forth in this agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

**27. Survival.** Any provisions of this agreement that impose continuing obligations on the parties shall survive the expiration or termination of this agreement for any reason.

**28. Contract Change Orders.** At the sole discretion of the City, a Change Order may be issued solely by the City to modify an existing party obligation set forth in this agreement where the scope of the Change Order is:

A. within the scope of the original agreement OR is made pursuant to a provision in the original agreement, AND

B. the Change Order monetary cost is charged solely against those funds encumbered for and at the time the contract was originally executed by the City, that is those funds set forth in the original contract as a not to exceed payment amount OR within the original contract's contingency / allowance / reserve amount (if any is stated therein).

Notwithstanding the foregoing, a Change Order shall not include (iii) an upward adjustment to a Consultant/Vendor's payment claim, or (iv) a payment increase under any escalation clause set forth in the original contract, or any Change Order, or any amendment. That the work and/or services contemplated are necessary does not, in itself, permit a Change Order. Should the need for a Change Order arise, the request shall be reviewed and approved by the City's Using Agency and any City designated representative(s). To be binding and enforceable, a Change Order shall thereafter be signed by both the Consultant/Vendor, any City designated representative(s), and a duly authorized representative of the City's Using Agency prior to the Consultant/Vendor's delivery of the services, etc. contemplated in said Change Order. All Change Orders are governed by the provisions of this agreement. Any contract change NOT fully complying with this Section 28 shall be effectuated solely by an amendment to this agreement complying with Section 38.073 of the City's "Centralized Procurement System" ordinance.

**29. Conflicts or Disputes.** This agreement represents the full and complete concurrence between the City and the Consultant/Vendor and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the agreement, the following documents shall be used as historical documents. Without regard to the order of precedence, to resolve such conflicts or disputes, the historical documents are (a) the referenced State contract #09PSX0292 and (b) the Consultant/Vendor's proposal are hereby fully incorporated by the foregoing reference.

**A. Procedure.** This procedure supersedes all statements to the contrary occurring either in proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

**B. Presumption.** This agreement or any section thereof shall not be construed against any party due to the fact that the agreement or any section thereof was drafted by such party.

**30. Disputes; Legal Proceedings; Waiver of Trial by Jury and Continued Performance.** The Consultant/Vendor agrees that it waives a trial by jury as to any and all claims, causes of action or disputes arising out of this agreement or services to be provided pursuant to this agreement. Notwithstanding any such claim, dispute or legal action, the Consultant/Vendor shall continue to perform services under this agreement in a timely manner, unless otherwise directed by the City.

**31. Binding Agreement.** The City and the Consultant/Vendor each bind themselves, and their successors, assigns and legal representatives to the other party to this agreement and to the successors, assigns and legal representatives of such other party with respect to all covenants of this agreement.

**32. Waiver.** Any waiver of the terms and conditions of this agreement by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this agreement.

**33. Governing Laws.** This agreement, its terms and conditions and any claims arising there from shall be governed by the laws of the State of Connecticut.

**34. Notice.** Except as otherwise specifically prohibited in this agreement, whenever under this agreement approvals, authorizations, determinations, notices, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the City's Using Agency or the Consultant/Vendor, and delivered in hand or sent by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

Consultant/Vendor: Tyco Integrated Security, LLC  
10 Research Parkway  
Wallingford, CT 06492  
Attn: Mr. Ronald P. Marino, National Account Manager

City: City of Waterbury  
c/o Waterbury Police Department  
255 East Main Street  
Waterbury, CT 06702  
Attn: Deputy Chief Fernando Spagnolo

**35. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.**  
The Person (the term "Person" shall herein be as defined in Section 38 of the City's Code of Ordinances) supplying the documents, data, studies, reports, specifications, deliverables, etc. under this Contract shall comply with all applicable Federal, State and Municipal statutes, regulations, charters, ordinances, rules, etc, whether or not they are expressly stated in this Contract, including but not limited to the following:

A. It shall be a material breach of this Contract, and, except as may be permitted by regulations or rulings of the City of Waterbury Board of Ethics it shall be a violation of the City's Code of Ordinances, for any Public Official, City Employee or Member of a Board or Commission who is participating directly or indirectly in the procurement process as set forth in the City's Code of Ordinances, including those participating in exempt transactions, to become or be the employee of any person contracting with the governmental body by whom the Official, Employee, or Board or Commission member is employed or is a member.

B. It shall be a material breach of this Contract, and it shall be a violation of the City's Code of Ordinances for any Person to offer, give, or agree to give any current or former Public Official, Employee or Member of a Board or Commission, or for such current or former Public Official, Employee or Member of a Board or Commission to solicit, demand, accept or agree to accept from another Person, a gratuity or an offer of employment in connection with any: decision; approval; disapproval; recommendation; preparation of any part of a program requirement or a requisition; influencing the content of any specification or procurement standard; or rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or Purchase Order, or to any solicitation or proposal therefore.

C. It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for any payment, Gratuity, or offer of employment to be made as an inducement for the award of a subcontract or order, by or on behalf of a subcontractor, the prime Consultant/Vendor or higher tier subcontractor or any Person associated therewith, under a Contract or Purchase Order to the City.

D. The value of anything transferred or received in violation of the City's Charter, Code of Ordinances, and/or regulations promulgated there under, by any Person subject to said Charter and/or Ordinances may be recovered by the City.

E. Upon a showing that a subcontractor made a kickback to the City, a prime Consultant/Vendor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively

presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

F. It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained anyone in violation of this subsection F, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection f shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

G. The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has (1) delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owed to the City; (2) filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; (3) delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and (4) filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection G shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

H. The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections A-G.

I. The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, all relevant provisions of the City's Charter and all relevant provisions of the City's Code of Ordinances, including without limitation Chapters 93, titled "Discriminatory Practices", Chapter 38 titled "Centralized Procurement System", and Chapter 39 titled "Ethics and Conflict of Interest", of said Code as may be amended from time to time.

J. The Contractor hereby acknowledges receipt of a copy of the Chapters 38 and 39 of City's Ordinance regarding Procurement, Ethics, and

Conflicts of Interest and has familiarized itself with said Code and hereby agrees to adhere to said Code. The text of Chapters 38 and 39 of said Code may be obtained from the Office of the City Clerk of the City and on the internet at the City Clerk's web site: <http://www.waterburyct.org/content/458/539/default.aspx> [click link titled "The City of Waterbury Code of Ordinances Passed 8/24/2009". For Chapter 38, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 38: CENTRALIZED PROCUREMENT SYSTEM". For Chapter 39, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 39: ETHICS AND CONFLICTS OF INTEREST"].

**K.** The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled, "Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects" and the State of Connecticut Legislature's Special Act No. 01-1.

**L.** Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto. In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

**M. Interest of City Officials.** No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

**N. Prohibition against Contingency Fees.** The Contractor hereby represents that it has not retained anyone to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage or contingency fee.

**O. Freedom of Information Notice.** Pursuant to State statute, in the event the total compensation payable to the Consultant/Vendor set forth in Section 6 herein is greater than \$2,500,000.00, the City is entitled to receive a copy of any and all Consultant/Vendor records and files related to the performance of this contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be disclosed by the City pursuant to the Act.

Professional Services Agreement (PSA) between the City of Waterbury, Connecticut and Tyco Integrated Security, LLC December 2012

IN WITNESS WHEREOF, the parties hereto execute this agreement on the dates signed below.

CITY OF WATERBURY

WITNESS:

\_\_\_\_\_

By: \_\_\_\_\_

Neil M. O'Leary  
Its Mayor

\_\_\_\_\_

Date: \_\_\_\_\_

TYCO INTEGRATED SECURITY, LLC

WITNESS:

Alison Sanchez

By: Steven J. Marres

~~Ronald P. Marino~~ STEVEN J. MARRES  
Its ~~National Accounts Manager~~  
AREA GENERAL MANAGER

12-26-2012

Date: 12-26-12

## **ATTACHMENT A**

- 1. Tyco Scope of Work (7 pages)**
- 2. Itemized Equipment List (1 page)**
- 3. Warranty Statement (1 page)**
- 4. Site Conditions Statement (page 7 of Scope of Work)**
- 5. System Drawings**



**ATTACHMENT A**

1. **Tyco Scope of Work (7 pages)**
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5. **System Drawings**



## SCOPE of WORK

Waterbury Police Department  
City Downtown Area Camera System

### CCTV SYSTEMS

#### System Overview:

Install new, the DV-Tel Solus VMS All-in-One Basic System bundle with 24 IP Video channels as described in system drawings and install the Aruba Wireless Mesh Network system as described in the system drawings. The cameras shall be covering general areas of the Downtown District, such as The Waterbury Green Park, Train Station, Grand St, and E Main Street to name a few.

The cameras that will be installed on this project will be:

1. DV-Tel CP3211-181 - Quasar Pan, Tilt & Zoom Vandal Outdoor IP HD 720p Camera 18x Optical zoom, 360 continuous pan, auto Iris/focus, D/N, WDR, IR Cut Filter, 1/2.8" CMOS Imager.
2. CM-3111-01 - Vandal Mini Dome Indoor/Outdoor Color IP HD Camera D/N, WDR, IR Cut Filter, 3.3-12mm, H.264/MPEG4 30 FPS total, HD720p, VF-auto Iris, CCD, Surface Mount.
3. AV8185DN-HB - Arecont Vision 8.0 Megapixel H.264/MJPEG 180° Camera, 6400x1200, 4 x 8mm MP Lens, Surface/hard-ceiling mount, Indoor/Outdoor, IP66, 12VDC/24VAC Heater/Blower

Each of these cameras were selected to match and work in synch with the head-end Solus VMS system, where each camera can be systematically controlled and the recording be programmed for peak efficiency.

There are 11 original camera locations included in this scope of work. They are:

1. Camera 1 (PTZ) located on the Grand St Parking Garage to view up and down Grand St, while having the ability to pan up and down Bank Street with camera 1. (DV-Tel CP3211-181)
2. Camera 2 (PTZ) located on the Grand St Parking Garage to view up and down Grand St. (DV-Tel CP3211-181)
3. Camera 3 (Fixed) shall be located on the Grand St Parking Garage and this shall be a fixed camera to view the areas as described in the system photographs. (CM-3111-01)
4. Camera 4 (PTZ) shall be installed on the building on the corner of Grand and Field St. The field of view shall include up and down Field and Leavenworth Streets as well as view the mayor's office outside complex front area. (DV-Tel CP3211-181)
5. Camera 5 (PTZ) shall be installed on the Sovereign Bank building. This camera shall have the ability to view up and down Leavenworth St as well as pan down Kendrick Ave. (DV-Tel CP3211-181)



6. Camera 6 (PTZ) shall be installed on the corner of E. Main St and Leavenworth St and have the ability to pan around the corner, up & down E. Main St and Leavenworth St as well as cover the entire Waterbury Green Park. The 18x Optical Zoom lens and day/night capabilities should be sufficient for night time viewing, given the correct lighting conditions exists. (DV-Tel CP3211-181)
7. Camera 7 (PTZ) shall be installed YMCA across the park from camera 6, to enhance the Waterbury Green Park camera coverage. (DV-Tel CP3211-181)
8. Camera 8 (PTZ) shall be installed on the top of the Plaza on the Green building on the corner of E Main and N Main Sts. From this vantage point, a complete overview of the green and surrounding area can be maximized for complete down looking vantage points surrounding the area. (DV-Tel CP3211-181)
9. Camera 9 (PTZ) shall be installed on the corner of Phoenix and E Main Sts. This camera shall be utilized for coverage down E Main and Brook Sts, as well as coverage for the front of the UCONN Campus building. (DV-Tel CP3211-181)
10. Camera 10 (PTZ) shall be installed on the intersection of Bank and Center Sts. This vantage point shall give this camera the ability to view the entire Bank and Center Sts area. This camera will overlap the camera coverage from camera 1 located on the Grand St Parking Garage. (DV-Tel CP3211-181)
11. Camera 11 (PTZ) shall be installed on the building at the corner of Scoville and S Main Sts. This camera shall overlook the Broadcast Building, up and down Scoville St, and Grand St. (DV-Tel CP3211-181)

Additions to the originally engineered system as described above:

1. Camera 12 (PTZ) shall be installed on the Train Station located on Meadow St. This camera shall oversee the Train Station Parking areas and Meadow Street. (DV-Tel CP3211-181)
2. Camera 13 (Fixed) shall be mounted on the front of the amphitheater in Library Park, to cover the entire 180 degree area of the park, from the amphitheater out to Grand St, during public gatherings and other festivities. The high megapixel camera has the ability to be optically zoomed to specific incidents, all the while, recording the entire 180 degree area. (AV8185DN-HB)
3. Camera 14 (Fixed) shall be mounted inside the amphitheater stage to cover the general area. (CM-3111-01)
4. Camera 15 (Fixed) shall be mounted in the rear of the amphitheater, to cover the rear entrance and surrounding area. (CM-3111-01)

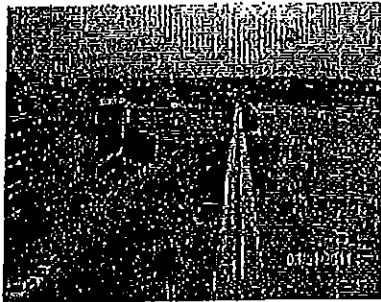
The following pictures are trying to show the general area of view, as well as the mounting locations of where the camera is to be mounted.



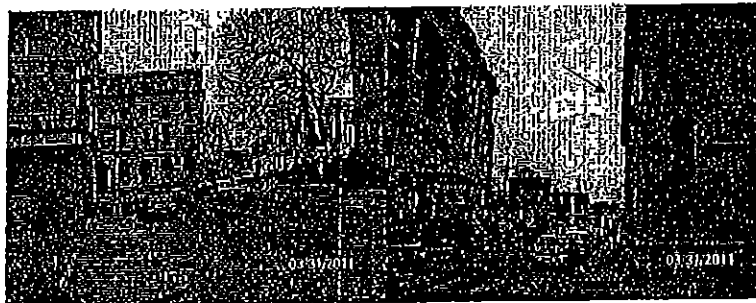
Camera #1



Camera #2



Camera #3



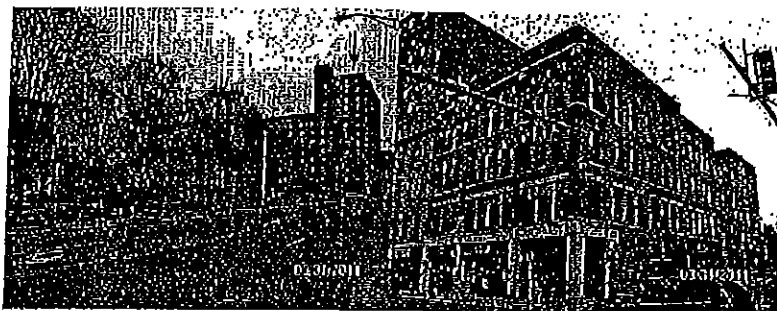
Camera #4

Camera #3



Camera #6

Camera #7



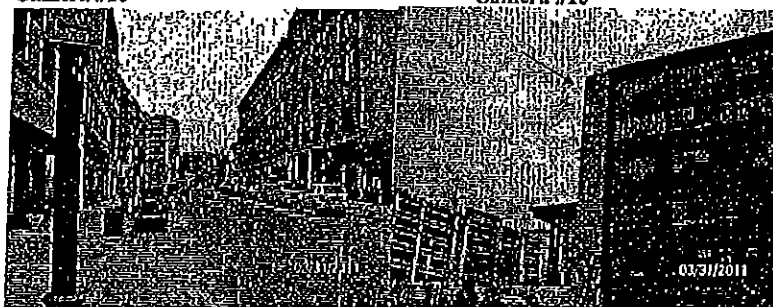
Camera #8

Camera #9



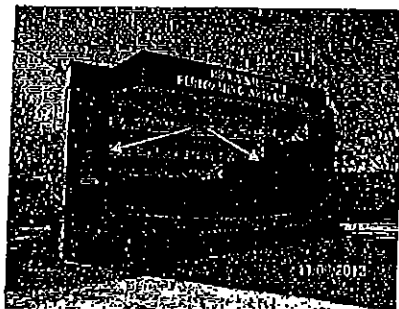
Camera #10

Camera #10

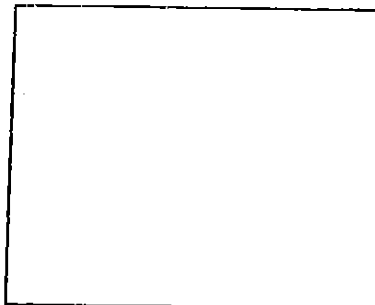


Camera #10

Camera #11



Camera #13, 14, & 15  
Red arrow - Site of NEMA enclosure  
Black arrow - rear fixed camera  
Green arrow - Arecont 180 degree camera  
Yellow arrow - camera inside pavilion



Camera #12 - Train Station camera  
No photo available



Site Conditions: The site conditions are generally downtown areas; we shall have a Police safety & traffic detail available, if needed at the camera install locations. The intent of the camera installations are to cover general areas around the downtown area, and placed to maximize the coverage of the camera itself. There may be areas where the wireless mesh node must be installed away from the actual camera, to be able to "see" the connecting node for proper communications path. Camera 10 is a prime example of this statement. The camera will need to be located to be able to cover the intersection of Center and Bank St and be able to look down the Center Street and up & down Bank Street. The wireless mesh node will need to be located at least 300 feet up towards Grand St, to be able to connect to the Grand Street node located on the Parking Garage. Most of the nodes shall be connecting to the Node #10, located on the Clock Tower by the Train station, so proper placement of the antennae must be followed at all times. There will be 2 Tesco NEMA enclosures for this project, and these shall be installed on the pavilion in Library Park and the Parking Garage on Grand St. These two locations are the only locations that have multiple cameras being installed. All other camera locations have a single camera and power supply associated with it. The wireless mesh node will connect directly to the camera. No need for a NEMA enclosure at these locations. The head end location shall be located in the parking garage on the first floor training area, in a data closet. There is a rack available for us to utilize.

Training Expectations: Train the customer on proper use of the recording system, to be provided by DV-Tel.





**City of Waterbury  
Itemized Equipment List**

THIS RIDER made this 07 th day of December, 2012, is part of and is to be attached to Agreement made the City of Waterbury / Waterbury Police Department, by and between Tyco Integrated Security, LLC, hereinafter called "Tyco", and 265 East Main St here in after called "Customer" for the Tyco System in the Premises of the Customer at Waterbury, State of CT 06702 in the City of Waterbury.

The Customer hereby requests, and Tyco agrees to install the following additional Services and/or Equipment

Furnish and install labor and material as listed below.

For:	Project Name	Unit Price	Unit Labor	Extended
1	<b>WIRELESS MESH SYSTEM</b>			
11	MSR2000, 2x2 QUAD RADIO 320mW, AC+DC (US ONLY)	\$3,890.40	\$570.65	\$46,871.64
11	WEATHERPROOF CABLE ASSEMBLY FOR OUTDOOR AP MODELS - 6M	\$208.05	\$128.81	\$3,661.47
2	ARUBA MST200 SINGLE 2X2 11n RADIO 320mW - US MODEL	\$1,685.36	\$570.65	\$4,612.02
2	HIGH POWER SINGLE PORT GB POE MIDSPAN, 60W OVER 4 PAIRS	\$137.68	\$128.81	\$828.88
9	6.5-5.9GHz, 14.0dBi, 2 ELEMENT MIMO PANEL ANTENNA	\$417.38	\$128.81	\$4,897.72
9	PAIR 5GHz ANTENNA, DIRECT MOUNT, POLE MOUNT	\$311.71	\$128.81	\$3,946.69
10	7D ANTENNA CABLE WITH 2N TYPE MALE CONNECTOR, 3 METERS	\$47.55	\$128.81	\$3,138.49
44	ARUBA OUTDOOR ANTENNA LIGHTNING ARRESTOR N-TYPE CONN	\$158.50	\$128.81	\$12,553.68
13	MSR2K INSTALL MATERIALS (ELECTRICAL TAPE, TIES, WRAPS)	\$28.42		\$343.46
1	USB CONSOLE CABLE, 1.5 MTRS APPLY TO ALL IN/OUTDOOR	\$18.91		\$18.91
2	Multi-Functional UPS w/ 4port M Switch, 18" Polycarb NEMA, 4 port POE, 24Vdc, 24VAc, 120VAc	\$3,487.82	\$538.95	\$8,013.53
1	<b>CAMERA SYSTEM</b>			
11	Outdoor PTZ 720P	\$2,583.75	\$507.24	\$34,000.93
3	Vandal Mini Dome Camera	\$1,008.66	\$507.24	\$4,641.71
1	8MP h.264 Day/Night 180 Deg	\$2,093.18	\$128.81	\$2,219.99
14	UL Listed and Approved 24V AC Outdoor Power Supply	\$187.91	\$253.62	\$8,181.44
2	Long Wall Mount Bracket CM-series	\$80.53	\$128.81	\$414.68
1	Wall out for Arecont	\$128.81	\$128.81	\$255.72
9	Corner Mount Adapter with Brac Box	\$258.69	\$128.81	\$3,451.51
1500	CAT 6, 23/4 pr, SOL, Unshielded, CMR, Non-Plenum, Gray, 1000' Box	\$0.28	\$2.54	\$4,224.32
1	<b>HEAD-END SYSTEM</b>			
1	Solus VMS ALL In One Basic System	\$8,074.21	\$507.24	\$8,581.45
1	One Year Gold Support	\$48.23		\$48.23
1	20" Widescreen Flat Panel	\$584.98	\$103.05	\$668.03
1	One (1) day formal on-site user operation training. Training to be performed on previously-installed ISOC system with existing client machines. Please allow a 4 week lead time for training to be scheduled.	\$5,015.15		\$6,015.15
1	Lift Rental Per Month	\$6,891.89		\$6,891.89
1	This Design is for a total of 10 users connected to the system at one time. The software can be installed on any number of computers, but no more than 10 users can be connected to view cameras			
1	The Customer is required to acquire ALL permissions to access, private 110VAC unswitched power for camera, power supplies, etc.			
1	The Customer is responsible for all proper lighting, as well as foliage removal, in the event nature overtakes the camera views			
1	Customer to provide the Laptop for any cruiser installation			
1	Customer to provide a Police Traffic and Safety Detail during installation on or around public streets.			
1	If any building is of historical nature, the City of Waterbury is responsible for any and all clearances			
1	The Waterbury Police Department will be responsible for contacting the building owners for a supply for the needed 110VAC in each camera and/or Node location for both city & private buildings. Tyco is to provide cabling from 110VAC power to devices.			
1	Tyco requests that the Waterbury Police Department notify the building owners that in the event a roof penetration is needed to mount the roof mount cameras, that the building owner needs to contact their roofing company to seal any penetrations			
15	tyco electrician to run and provide Power to 110VAC source at each camera/equipment location	\$734.97		\$11,024.49
1	<b>Project Management</b>	\$3,714.35		\$3,714.35
1	Drafting	\$619.07		\$619.07
1	Programming	\$3,043.48		\$3,043.46
1	Tech Supervision	\$6,088.92		\$6,088.92

The customer hereby agrees to pay Tyco, its Agents or Assigns, the sum of (\$ 189,468.00) One Hundred Eighty Nine Thousand Four Hundred Sixty Eight Dollars and No Cents PLUS APPLICABLE TAX(ES) payable upon signing of this Agreement and the balance payable upon completion of the installation, and to pay in addition the additional sum of \$(                     ) PLUS APPLICABLE TAX(ES) No Dollars and No Cents per annum payable in advance.

### Warranty

(a) Any part of the equipment (as distinguished from the software) provided under this Agreement, including the wiring, which proves to be defective in material or workmanship within one (1) year of (i) the date of completion of installation, if Tyco was responsible for installation of the equipment, or (ii) the date of shipment of the equipment if Tyco was not responsible for the installation ("Warranty Period"), will be repaired or replaced, in Tyco's sole discretion, with a new or functionally equivalent part. Labor and materials required to repair or replace such defective components will be furnished at no charge during the Warranty period. Warranty Services will be furnished between 8:00 A.M. and 4:30 P.M. Monday through Friday, except holidays, unless otherwise agreed in advance by the parties. If Tyco was not responsible for installation of the equipment, then (i) warranty service will be provided at a facility to be specified by Tyco and Customer shall be responsible for shipping charges and (ii) Tyco will have no responsibility for installation or maintenance of the repaired/replaced equipment.

(b) The following "Conditions" are not covered by Warranty: (1) Damage or extra service item needed resulting from accidents, acts of God, lightning, riots, floods, terrorism, acts of War, alteration, misuse, tampering or abuse, adjustments, repairs or maintenance not done by Tyco or from parts, accessories, attachments or other devices not furnished by Tyco, or other cause not related to a defect in material or workmanship; (2) Customer's failure to properly follow operating instructions provided by Tyco; (3) Adjustments necessitated subsequent to completion of installation by Tyco (if applicable) and acceptance by Customer due to misalignment of video cameras, improper adjustment of monitor brightness and/or contrast tuning dials or changes in lighting conditions in the area viewed by camera(s); (4) Trouble due to interruption of commercial power or to the phone service or to use of Non-Traditional Telephone Service; (5) Battery failure; (6) Devices designed to fail in protecting the System, such as, but not limited to, fuses and circuit breakers or (7) Equipment changes requested by Customer. If Customer request service under the Warranty and Tyco determines that one of the "Conditions" had led to the inoperability or apparent inoperability of the System or any component, Tyco may bill Customer for the service call (if applicable) whether or not Tyco actually works on the System. If repairs are required due to one of the above "Conditions", Tyco will charge Customer for such work at its then applicable rates.

(c) THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER'S EXCLUSIVE WARRANTY REMEDY IS REPAIR OR REPLACEMENT AS SPECIFIED ABOVE. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR EXEMPLARY DAMAGES OF ANY KIND OR NATURE, (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS) REGARDLESS OF WHETHER ANY CLAIM FOR SUCH DAMAGES IS BASED ON TORT, STRICT LIABILITY, WARRANTY, CONTRACT OR OTHER LEGAL THEORY. Notwithstanding the above, the Customer retains the right to claim consequential and/or special damages from Tyco, based upon its breach of this Agreement, or any acts or omissions, including negligence on the part of Tyco, or any of its agents, servants, or employees.

Electronic Security Services Limitation of Liability – It is understood that Tyco is not an insurer and that the amounts payable to Tyco hereunder are based on the value of the services and equipment provided and are unrelated to the value of Customer's property, the property of others located in Customer's premises, or the risk of loss to which that property may be subject, excluding any claims based upon Tyco's breach of this Agreement, or any acts or omissions, including negligence on the part of Tyco, or any of its agents, servants, or employees. Customer agrees to look exclusively to its insurer to recover for injuries or damage in the event of loss or injury due directly or indirectly to occurrences, or consequences therefrom, that Tyco's equipment or service is intended to avert, detect and/or record ("Detection Events"). Tyco makes no guaranty or warranty, including any implied warranty of merchantability or fitness, that the equipment or service supplied will avert or prevent Detection Events. Customer agrees that, subject to the exclusions stated herein, Tyco shall be exempt from liability for loss, damage or injury arising from or due to Detection Events. In the alternative, should Tyco be found liable for loss, damage or injury arising from a Detection Event due to failure of equipment or service in any respect, its liability shall be limited to consequential and/or special damages proximately caused by Tyco, or any of its agents, servants, or employees.

Mutual SAFETY Act Waiver – Certain of Tyco's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5(e), to the maximum extent permitted by law, Tyco and Customer hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2, when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

