

## **CONTRACT FOR VIDEO SECURITY SYSTEM UPGRADE & EXPANSION**

THIS AGREEMENT made and entered into as of October 17, 2007, by and between the City of Hallandale Beach (hereinafter referred to as the "City"), located at 400 South Federal Highway, Hallandale Beach, FL, 33009, and Aware Digital, Inc., a Florida corporation, (hereinafter referred to as the "CONTRACTOR"), with offices located at 1835 E Hallandale Beach Blvd. #479, Hallandale, FL 33009.

### **WITNESSED:**

WHEREAS, the City issued, on 8/14/2007, a Request for Proposals for the provision of Video Security System Upgrade Expansions for the City, RFP# FY2006-2007-004 (hereinafter referred to as the "RFP"), attached hereto as Attachment A;

WHEREAS, the CONTRACTOR submitted a proposal to the City dated DATE, attached hereto as Attachment B, to provide Video Security System Upgrade Expansions;

WHEREAS, the CONTRACTOR desires to enter into an agreement with the City to perform such functions;

NOW THEREFORE, in consideration of the terms and conditions contained herein, the City and the CONTRACTOR have negotiated the terms and conditions of the proposal and agree as follows:

### **ARTICLE 1** **DEFINITIONS**

The following terms, as used throughout this Agreement, shall have the meaning set forth below:

INTENTIONALLY OMITTED

### **ARTICLE 2** **TERM**

The term of this Agreement shall be for a period commencing as stipulated in the notice of award letter which is distributed by the City of Hallandale Beach. This contract shall remain in effect for three (3) years, provided the services rendered by the proposal during the contract period are satisfactory and the funding is available as appropriate on an annual basis. The price offered by the bidder in its bid proposal shall be based on service for the stipulated contract period, and two (2) additional one (1) year renewals. These options shall be automatically exercised unless either party advises the other of its intention to terminate this Agreement no earlier than sixty (60) days prior to the expiration of the then current term or option period.

Notwithstanding the preceding paragraph, the CONTRACTOR recognizes that funds for payment for the services rendered under this Agreement must be appropriated annually by the City Commission. If such funds are not appropriated the contract shall be automatically terminated.

**ARTICLE 3**  
**SCOPE OF SERVICES TO BE PROVIDED TO THE CITY**

The City has employed the CONTRACTOR to provide Video Security System Upgrade Expansions services to the City. The services to be provided by the CONTRACTOR are set forth more fully in the City's Request for Proposal (RFP) #FY2006-2007-004 and the response, received, incorporated herein by reference. The following terms have been negotiated by the City and the CONTRACTOR.

- 1) Purchase of video security equipment and related materials. (As detailed in the attached itemized invoices and list of materials.)
- 2) Installation of required video security equipment as specified in the attached RFP response.
- 3) Service and maintenance of required video security equipment as specified in attached RFP Response.

**ARTICLE 4**  
**ADDITIONAL SERVICES**

- 4.1 Attachment A. A description of the services to be provided are more fully specified in the RFP annexed hereto as Attachment A, which is incorporated by reference into this Agreement.
- 4.2 Attachment B. The services to be provided by CONTRACTOR are further described in the submitted proposal annexed hereto as Attachment B, which is incorporated by reference into this Agreement.
- 4.3 The entire system to be installed by Aware Digital as described in this Agreement and its attachments includes maintenance, at no additional cost, for one year from the date when the entire system (with the exclusion of Hallandale Adult Community Center, Foster Park and the Cemetery) is completed. The maintenance includes all parts, software, and labor. After the initial year of included maintenance a service agreement in the amount of \$26,231.15 per year will remain in place for the duration of this Agreement, subject to the terms of Article 2 above.

**ARTICLE 5**  
**CONSORTIUM, SUBCONTRACTS, PARTNERS**

5.1 **Signatories.** The CONTRACTOR and the City are the only signatories to this Agreement. Nothing contained herein shall be construed to create any contractual relationship between the City and any persons, or agents directly or indirectly employed by the CONTRACTOR hereunder. The CONTRACTOR agrees that it is fully responsible and liable to the City under this Agreement for any acts or omissions of the employees, consortium partners, representatives, agents, and any other persons directly or indirectly engaged in the performance of services under this Agreement.

**ARTICLE 6**  
**PERSONNEL**

6.1 **Competence of Staff.** The CONTRACTOR agrees to employ an adequate staff of competent professional and nonprofessional persons as may be required hereunder. The CONTRACTOR has provided the City with resumes of key personnel assigned to the engagement for City approval in the RFP response. Each of the employees assigned to perform services hereunder shall have the proper skill, training and background so as to be able to perform in a competent and professional manner.

The City shall have the limited right to reject for cause any persons assigned by the CONTRACTOR to perform contract work for reasons deemed suitable to the City. The City shall not exercise such right in violation of City, State or Federal Law.

In the event that any CONTRACTOR employee is found to be unacceptable to the City for cause, including, but not limited to, demonstration that he or she is not qualified, the City shall notify the CONTRACTOR in writing of such fact and the CONTRACTOR shall immediately remove said employee unless otherwise agreed and, if requested by the City, promptly provide a replacement acceptable to the City.

**6.2 Staff Assigned.** The CONTRACTOR agrees that it will use its reasonable efforts to assure that the persons outlined in the RFP response will continue their assignment throughout the term of this agreement.

**6.3 Responsibility for Personnel.** All personnel performing services hereunder shall be employees or partners of the CONTRACTOR, and the CONTRACTOR alone is responsible for their work, personal conduct while performing work, labor or services under this Agreement, as well as for their direction and compensation. Nothing included in this Agreement shall impose any liability or duty upon the City to persons, firms, or corporations employed or engaged by the CONTRACTOR as coordinators, consultants, or independent contractors or in any other capacity, or as employees, servants or agents of the CONTRACTOR, to make the City liable to any person, corporation, association or any government for the acts, omissions, liabilities, obligations and taxes of whatever nature, including, but not limited to employment insurance and payroll taxes, of the CONTRACTOR or its coordinators, consultants, employees, servants, agents or independent contractors.

## **ARTICLE 7** **INSURANCE REQUIREMENTS**

Contractors shall procure and maintain for the duration of and in full compliance with the contract insurance against claims for injuries to persons and damage to property which may arise from or in connection with their performance hereunder by the contractor, his agents, representatives, employees and subcontractors. The cost of such insurance shall be included in the proposal.

### **I. Minimum Scope of Insurance**

- A. Commercial General Liability, including:
  - 1. Premises and Operations.
  - 2. Products and Completed Operations.
  - 3. Blanket Contractual Liability,  
(See Hold Harmless Agreement and #VII below).
  - 4. Independent Contractors.
  - 5. Broad Form Property Damage.
  - 6. Personal Injury Liability.

- 7. Incidental Medical Malpractice.
- 8. Fire Legal Liability
- B. Workers' Compensation Insurance.
- C. Employer's Liability Insurance.

## II. Minimum Limits of Insurance

- A. Commercial General Liability:  
  
\$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- B. Auto Liability:  
  
\$300,000 combined single limit per occurrence for bodily injury and property damage arising from the operations of all Owned Automobiles, Nonowned Automobiles and Hired Automobiles.
- C. Workers' Compensation:  
  
Workers' Compensation Insurance as required by the State of Florida. If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.
- D. Employer's Liability:  
  
\$100,000 limit per occurrence,  
  
\$500,000 annual aggregate for disease,  
  
\$100,000 limit for disease of an individual employee.

## III. Deductibles and Self-Insured Retentions

- A. Deductibles/Self-Insurance Retentions Defined:  
  
All deductibles and self-insured retentions must be shown clearly on the Certificates of Insurance and approved by the City.
- B. Retention Levels:  
  
The City has the option to reduce or eliminate any deductible or self-insured retention maintained by the contractor.

## IV. Other Insurance Provisions

The policies shall contain the following provisions:

- A. Additional Insured Certificate Holder and Breach of Warranty Clause:

All insurances shall include as Additional Insured and Certificate Holder the City of Hallandale. There are not to be any special limitations on the protection being provided to the City, its officials, officers, employees or volunteers.

B. Insurance is Primary:

The insurance coverage's shall be primary insurance with respect to the City's, its officials', officers', employees', and volunteers' insurances. Any insurance and self-insurance maintained by the City, its officials, officers, employees, or volunteers shall be excess of the insurances and shall not contribute with it.

C. Coverage Guaranteed:

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

D. Occurrence Basis:

The insurances shall be on an occurrence basis as opposed to a claims-made basis. In other words, claims which occur during the policy period can be reported months or years later and still be paid, if they occur during the policy period. Claims-made policies cover only claims which occur and are made during the policy period. In the event occurrence based insurance is not available, use of claims-made insurance may be considered acceptable in limited circumstances, subject to written approval by the Risk Manager.

E. 30 Days Notice:

The following clause shall be included in all policies: This policy shall not be suspended, voided, or cancelled by either party, or a reduction or revision in coverage or limits of coverage except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City.

F. Separation of Insured:

The definition of insured shall read as follows: "The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability". The company, in this context, being the insurance company.

1. If no such definition of the insured is quoted in the insurance, the contractor must provide "Cross Liability Clause" or "Severability of Interests Clause" endorsements for all liability insurances.

V. Acceptability of Insurance Company

A. Best Rating:

Insurance coverage must be with a company with a Best rating A.VII or better.

B. Florida State Licensed:

All insurance policies and bonds herein required of the contractor shall be written by a company authorized and licensed to do insurance business in the State of Florida and be executed by agents licensed as agents by the State of Florida.

VI. Verification of Coverage

A. Certificates and Endorsements Provided:

The contractor shall furnish the City with a certificate of insurance specifically stating the bid number and title and with original endorsements affecting coverage. The certificates and endorsements must be received and approved before any work commences.

B. Authorized Signatures:

The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

C. Coverage Continuation:

Insurance coverage required in these specifications shall be in force throughout the contract. Should the contractor fail to provide acceptable evidence of current insurance within seven (7) days of receipt of written notice at any time during the contract, the City shall have the right to consider the contract breached and justifying termination thereof.

Compliance by the contractor and subcontractors with the foregoing requirements as to carrying insurance and furnishing copies of the insurance policies shall not relieve the contractor and all subcontractors of their liabilities and obligations under this contract.

If coverage on the certificates of insurance is shown to expire prior to completion of all terms of the contract with the City, the contractor shall furnish certificates of insurance evidencing renewal of such coverage to the City.

VII. **HOLD HARMLESS AGREEMENT/INDEMNITY**

CONTRACTOR (the "Indemnifying Party") shall at all times hereafter indemnify and hold harmless the City of Hallandale Beach, its officers, agents, servants, and employees ("Indemnified Party") against any and all claim, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act of omission by the Indemnifying Party, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this AGREEMENT including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property, from any and all claims, suits, actions, damages, and causes of actions which might arise for any personal injury, loss of life, or other actions by third persons including, but not limited to contractor, its subcontractors, material, supplies, laborers, agents, invitees, licensees, servants, employees or assigns, sustained in the performance of any product, service, act or omission resulting from this Agreement, and to defend any action or proceeding brought hereon, and from and against any orders, judgments, executions, levies and decrees, including those for punitive damages, as may be entered therein.

## HOLD HARMLESS/INDEMNITY/INSURANCE AGREEMENT

CONTRACTOR shall obtain and maintain contractual liability insurance in adequate limits under this indemnity and hold harmless provision. Further, the CONTRACTOR will notify his insurance agent without delay of the existence of the Hold Harmless/Indemnity Agreement within this contract, and furnish a copy of the Hold Harmless Agreement to his Insurers. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Attorney, any sums due to CONTRACTOR under this Agreement may be retained by the City until all City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment or interest by the City.

CONTRACTOR acknowledges that the person(s) signing this Agreement has the authority to bind it.

### VIII SOVEREIGN IMMUNITY

"Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes."

### IX. Limited Contractual Relationship

Nothing contained in these contract specifications shall be construed as creating any contractual relationship between any of the subcontractors or suppliers and the City.

The contractor shall be as fully responsible to the City for acts and omissions of all subcontractors and suppliers and of all persons employed by the subcontractors and suppliers, as the contractor is for acts and omissions of persons directly employed by the contractor.

#### A. Joint Venture:

The parties agree that this agreement shall be the whole and total agreement between the parties, and the contractor is undertaking its activities as for its sole use and benefit and this agreement or the activities resulting therefrom shall in no way be construed to be a joint undertaking with the City, nor is the City in any way assuming responsibility or benefits of the activity. The contractor acts independently and in its own right, risk and responsibilities. The City assumes no direction, control, responsibility or liability for the activities of the contractor and, by the execution of this agreement, does not endorse or undertake any activity heretofore conducted by the contractor.

### X. Other Requirements

#### A. Subcontractors' Insurance Requirements:

Contractors shall include all subcontractors as it's insured under its policies or shall furnish separate certificates and all endorsements for each sub coverage. All coverages for subcontractors shall be subject to all the requirements stated herein.

**ARTICLE 8**  
**BILLINGS AND PAYMENTS**

- 8.1 Invoices/Payments.** Payments will be based upon completion of the installation of materials to the point that they are operational at each of the locations as allocated in the RFP and the submitted proposal. Payment will be due 30 days from each location becoming operational.
- 8.2 Audit of Payments.** All payments are subject to audit of invoices and supporting documentation by the City.

**ARTICLE 9**  
**TERMINATION; FORCE MAJEURE**

**9.1 Suspension / Termination / Delinquency Charge.** City understands that CONTRACTOR may stop or suspend services if: (a) lighting strikes, severe weather, earthquakes, or other such events beyond its control, affect operation or so severely damage City's conditions including its infrastructure that continuing service would be impractical; (b) there is an interruption or unavailability of power to locations where service is provided and system is located; (c) CONTRACTOR is unable to provide service because of some action or ruling by any governmental authority; or (d) City becomes a debtor in a bankruptcy proceeding.

**9.2 Breach and Cure.** In the event of a breach of any warranty, covenant, or other provision of this Agreement, the following notice and cure procedures shall apply.

A. The party not in breach ("Non-breaching Party") shall give the party in breach (the "Breaching Party") notice in writing via US Mail 10 days from date of breach describing the breach and stating the time, as provided below, within which the breach must be cured.

B. If a provision of this Agreement sets forth a cure period for the breach in question then that provision shall take precedence over any cure period set forth in this section.

C. No cure period is required, except as may be otherwise provided in this Agreement, if:

(i) this Agreement sets forth specific deadline dates for the obligation allegedly breached, or

(ii) this Agreement otherwise states that no cure period is required in connection with the termination in question.

D. If the breach is of an obligation to pay money, or a non-willful breach of an obligation of the Breaching Party relating to the Non-breaching Party's Intellectual Property Rights or relating to the Breaching party's compliance with applicable governmental regulations, then the Breaching party shall have ten (10) business days to cure the breach after written notice of such breach by the Non-breaching party.

E. The Breaching party will be deemed to have cured such breach if within the cure period (as specified in the notice of breach required by 9.2 A above) it takes steps reasonably adequate to alleviate any damage to the Non-breaching party resulting from the breach and to prevent a similar future breach.

**ARTICLE 10**  
**GENERAL**

**10.1 Entire Agreement.** This Agreement, together with Attachments A, B, constitutes the entire understanding between the parties with respect to its subject matter and supersedes all

prior negotiations and agreements. There are no representations, warranties, promises, covenants or undertakings other than those contained herein. This Agreement may not be modified except in a writing executed by both parties.

Attachment A, entitled **RFP #FY2006-2007-004**, is hereby incorporated into and shall be deemed an integral part of this Agreement. If there is a conflict between this Agreement and the attachments, the terms of this Agreement shall prevail. As between the attachments, Attachment B (the Proposal) shall prevail over the others if there is a conflict between them.

**10.2 Governing Law and Venue.** All legal actions arising out of or connected with this agreement must be instituted in the Circuit or County Court of Broward County, Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this agreement, without regard to Florida's conflict of law's principles. Trial by jury is hereby waived by the parties.

**10.3 Confidentiality.** CONTRACTOR and City shall hold in confidence the information contained in or exchanged in connection with the Agreement. Notwithstanding the foregoing, disclosure, on a confidential basis, by either party is permitted: (a) to its principals, auditors, attorneys, investors, lenders, insurance agents, and proposed and actual successors in interest and (b) to comply with law and enforce its rights and perform its obligations under the Agreement.

**10.4 Severability.** Nothing contained in the Agreement shall be construed so as to require the commission of any act contrary to law. If any provision of this Agreement shall be invalid or unenforceable, the provisions of this Agreement so affected shall be curtailed and limited only to the extent necessary to permit compliance with the minimum legal requirements.

**10.5 Non-Waiver.** The failure of either party to this Agreement to object to or to take any affirmative action with respect to any conduct of the other which is in violation, breach, or default of the terms here of, shall not be construed as a waiver thereof, nor of any future breach or subsequent violation, breach or default.

**10.6 Survival of Representations and Warranties.** The representations and warranties made herein shall survive the execution of this Agreement and the termination of the Agreement (or any right to the extent that this Agreement expressly provides for severable termination of rights) except as may be expressly indicated otherwise.

**10.7 Survival of Restrictive Covenants.** The covenants herein concerning Intellectual Property Rights (and non-competition covenants if any) will be construed as independent of any other provision hereof. The existence of any claim or cause of action by a party against the other party, whether predicated on this Agreement or otherwise, shall not constitute a defense to enforcement by the other party of such covenants.

**10.8 Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable in any respect, such provision shall be treated as severable, leaving the remaining provisions unimpaired, provided that such does not materially prejudice either party in their respective rights and obligations contained in valid terms, covenants, or conditions. This Agreement shall be construed in accordance with its fair meaning and not in favor of either party as "drafter."

**10.9 Business Judgment.** In any circumstance where this Agreement provides for either party to make a determination in its judgment, that judgment will be conclusive and binding, regardless of any allegation of malice or bad faith on the part of that party, unless it be shown by clear and convincing evidence that a prudent person in the management of his or her own affairs could not have made the judgment in question in the same circumstances.

**10.10 Binding on Successors.** This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns permitted by this Agreement.

**10.11 Section Headings.** The article headings contained in this Agreement are for reference purposes only and shall not in any way control the meaning or interpretation of this Agreement.

**10.12 English Language.** The parties have required that this Agreement and all documents relating thereto be drawn up in English.

**10.13** Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature. CITY OF HALLANDALE BEACH through its authorization to execute same by COMMISSION action on the \_Third (3) day of \_October, 2007, signing by and through its City Manager duly authorized to execute same.

**SIGNATURE PAGES FOLLOW**

CITY

ATTEST:

E. de... / [Signature]  
City Clerk

CITY OF HALLANDALE BEACH

By [Signature]  
D. Mike Good, City Manager

19<sup>th</sup> day of November, 2007.

*EDM  
R  
19c  
TAM*

Approved as to form by  
City Attorney

By [Signature]  
David Jove, City Attorney

Approved as to surety company qualifications, insurance requirements, and insurance documentation:

Risk Management Division

[Signature]  
Director

CONTRACTOR

ATTEST:

Aware Digital, Inc.

(Name of Corporation)

\_\_\_\_\_  
(Secretary)

By  President  
(Signature and Title)

(Corporate Seal)

Joshua Mann / President

(Type Name and Title Signed Above)

30 day of Nov, 2007.

# FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS



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## Detail by Entity Name

### Florida Profit Corporation

AWARE DIGITAL, INC.

### Filing Information

**Document Number** P03000151612  
**FEI Number** 200477932  
**Date Filed** 12/15/2003  
**State** FL  
**Status** ACTIVE  
**Effective Date** 12/15/2003  
**Last Event** NAME CHANGE AMENDMENT  
**Event Date Filed** 03/05/2004  
**Event Effective Date** NONE

### Principal Address

1835 HALLANDALE BEACH BLVD.  
#479  
HALLANDALE FL 33009

Changed 04/10/2007

### Mailing Address

1835 HALLANDALE BEACH BLVD.  
#479  
HALLANDALE FL 33009

Changed 04/10/2007

### Registered Agent Name & Address

MANN, JOSHUA C  
1835 HALLANDALE BEACH BLVD.  
#479  
HALLANDALE FL 33009 US

Address Changed: 04/10/2007

### Officer/Director Detail

#### **Name & Address**

Title P

MANN, JOSHUA C  
1835 HALLANDALE BEACH BLVD.

HALLANDALE FL 33009

## Annual Reports

### Report Year Filed Date

2005	04/30/2005
2006	03/02/2006
2007	04/10/2007

## Document Images

[04/10/2007 -- ANNUAL REPORT](#)

[03/02/2006 -- ANNUAL REPORT](#)

[04/30/2005 -- ANNUAL REPORT](#)

[09/08/2004 -- ANNUAL REPORT](#)

[03/05/2004 -- Name Change](#)

[12/16/2003 -- Domestic Profit](#)

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