

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
AUGUST 20, 2013 AGENDA**

Subject:	Type:	Submitted By:
APPROVAL - PURCHASE & INSTALLATION OF FIRE ALARM SYSTEM	◆ RESOLUTION ORDINANCE RECEIVE/FILE	BOB LAUSTEN POLICE CHIEF

SYNOPSIS

A resolution has been prepared to approve the purchase and installation of a fire alarm evacuation system for the District 1 fire station building in an amount not to exceed \$10,595.

FISCAL IMPACT

The FY 2012/13 General Fund budget provides funding for the proposed purchase.

RECOMMENDATION

Approval

BACKGROUND

A fire alarm evacuation system is required in any building where overnight quarters are located. The Public Safety building, which houses the District 1 fire station, is required to have such a system. The Director of Public Buildings & Grounds obtained two estimates and recommends awarding a contract to the low bidder, General Fire.

General Fire	\$10,595
Fire Guard	\$11,025

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE PURCHASE AND INSTALLATION OF A FIRE ALARM EVACUATION SYSTEM IN THE DISTRICT 1 FIRE STATION FROM GENERAL FIRE & SAFETY EQUIPMENT CO., OMAHA, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$10,595.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase and installation of a fire alarm evacuation system in the District 1 Fire Station is necessary, and

WHEREAS, General Fire & Safety Equipment Company, Omaha, Nebraska is the lowest bidder for the purchase and installation of such system, and

WHEREAS, Subsection (c) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby approve the purchase and installation of a fire alarm evacuation system in the District 1 Fire Station from General Fire & Safety Equipment Company, Omaha, Nebraska, in an amount not to exceed \$10,595.00.

PASSED AND APPROVED THIS 20TH DAY OF AUGUST, 2013.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

GENERAL FIRE & SAFETY EQUIPMENT CO.



5641 S. 85th Circle

Omaha, NE 68127

Voice: 402.556.6100

Fax: 402.556.8055

jason@generalfiresafety.com

Proposal

City of LaVista – District 1 Fire Department	To Do:
8116 Park View Blvd. LaVista, NE 68128	Fire Alarm Evacuation System Installation
Attn: Pat Archibald – 402.689.5300	Purchase Order No. _____

This proposal is confidential and sharing of this pricing is strictly prohibited.

Scope of Work:

General Fire and Safety proposes to provide and install an addressable Fire Alarm Evacuation System for the City of LaVista – District 1 Fire Department.

Material to include (but not limited to):

- 1 EST – iO64 Addressable Fire Alarm Control Panel w/ Battery Back-up and Monitoring Capabilities
- 1 Remote Annunciator
- 1 Booster Power Supply
- 1 Batteries as needed for Fire Alarm Control Panel and Booster Power Supply
- 7 Fire Evacuation Manual Pull Stations – located by exits
- 14 Photo Smoke Detector w/ Base
- 2 Photo Smoke and Carbon Monoxide Combination Detector w/ Base
- 1 Waterflow / Supervisory Module
- 15 Ceiling / Wall Mount Horn / Strobe Notification Devices
- 7 Ceiling / Wall Mount Strobe Notification Devices
- 1 Provide design aspect, plans, permit and final system check-out with State of Nebraska Fire Marshal.
- 1 Provide design, parts, labor and programming to complete the project.

Pricing – Labor and Materials:

Work completed during normal business hours – M-F 8am to 4:30pm: **\$10,595.00** (break down below)

1. Material Price \$5,535.00
2. Material Tax Not Applicable
3. Labor Price \$5,060.00

Fire Alarm System Installation Notes:

- All work to be performed according to NFPA 72, International Fire Code, Authorities Having Jurisdiction and Manufacturer's Guidelines.
- 110 VAC Power to Fire Alarm Control Panel and Booster Power Supply is to be provided by a licensed electrician and is not included in this pricing.
- Monthly monitoring price is \$20 invoiced annually. Initial here for authorization: _____. Two sets of phone lines will need to be run to the dialer inside the fire alarm control panel. The phones lines are not included in the price and are the responsibility of the owner.
- Payment Terms: Net 30 Days

Thank you for the opportunity to provide this pricing.

Acceptance Signature: _____	Date: _____	Submitted by: Jason McDonald	Date: 06.28.2013
-----------------------------	-------------	---------------------------------	---------------------

Serving the Industry with Safety – that is the "General" Idea



Supplier of Fire Protection Products & Service

4404 S. 76th Circle Omaha, NE 68127

July 3, 2013

Pat Archibald
Director of Public Buildings and Grounds
8116 Park View Blvd.
La Vista, Nebraska 68128
Phone Number: 402-331-4343
Email: parchibald@cityoflavista.org

Reference: La Vista Fire HQ Fire Alarm System (Addressable)

FireGuard, Inc. is pleased to provide a proposal on the above referenced project, to include design, equipment, programming, and checkout of the following equipment as manufactured by Gamewell-FCI:

<u>Quantity</u>	<u>Model Number</u>	<u>Description</u>
1	FLOW	Sprinkler Waterflow Connection
1	TAMPER	Sprinkler Tamper Valve Connection
1	HOOD	Kitchen Hood System Alarm Connection
1	DACT	Digital Alarm Communication Transmitter for Monitoring
1	7100-1D-PNL	7100 Addressable FACP, DACT, w/ Cabinet, Red
1	LCD-7100	Remote Serial Annunciator, LCD Display
1	ASD-PL2FR	Analog Photoelectric Sensor, Remote Test Capable
4	MCS-COF	Advanced Multi-criteria Fire/CO Detector, Velocity
5	B210LP	6" Base, Flanged, Low Profile, Use w/ Analog
3	AMM-2F	Addressable Monitor Module
1	MS-7AF	Addressable Manual Station, Dual Action
4	HR	Horn Only, 12/24V, Red
9	P2R	Horn Strobe, Multi Candela, Red
19	SCR	Strobe, Ceiling Mount, Multi Candela, Red
1	MDL3R	Sync Module, 12/24V, Red
1	HPF24S6	6A Supplementary NAC Power Supply w/ Sync
4	BAT12V5AH	12 Volt, 5ah Sealed Lead Acid Battery

The above can be purchased for..... \$ 11,025.00

Kitchen Hood Suppression System

Installation of a Guardian III kitchen hood fire suppression system including shutoff interconnection, fire alarm connection, and manual pull station for remote activation is available for purchase for..... \$ 1,763.00

Clarifications:

- 1.) Installation of open air wiring, raceway where required by code, and all new devices is provided by FireGuard.
- 2.) 120 VAC power to the fire alarm control panel is provided by others.
- 3.) Submittal drawings and design to be provided by NICET Certified individual.
- 4.) Sales and/or use tax is not included.
- 5.) This proposal does not include bid bond, performance bond, or payment bond which may be required. Any required bonds will be an additional cost to the above proposal.
- 6.) Proposal based on quantities listed; additional devices required will be reviewed for additional costs.
- 7.) See the proposal clarifications and terms and conditions on the pages that follow.

If this proposal meets with your approval, please signify your acceptance in the space provided below and return one copy for our files.

Should you have any questions or comments regarding this proposal, please do not hesitate in calling me.
Thank you.

Sincerely,



Travis De Goei
Engineered Systems
FireGuard, Inc.

THIS PROPOSAL IS VALID FOR 30 DAYS FROM ABOVE DATE.

Proposal Clarifications:

- Above pricing provides for all work to be performed between the hours of 8:00 AM and 5:00 PM, Monday thru Friday, excluding holidays. Premium night, weekend, or holiday hours are not provided for, unless specifically outlined elsewhere in this document. If, during the course of the project, we are requested to work premium hours beyond those specified, such hours will be billable beyond this contract, at our standard T&M rates.
- It shall be the responsibility of the installing company or contractor, to verify that all field wiring is free of grounds and shorts, and that all of the limitations outlined by the manufacturer are met prior to our arrival on site. If a FireGuard representative has to troubleshoot wiring problems at the time of the start-up, such hours will be billable beyond this contract, at our standard T&M rates. Cable pulled by FireGuard will be excluded from this clause.
- The pricing provided reflects (1) single start-up trip and (1) single certification trip to the jobsite, unless otherwise stated. If it is required, for any reason, that the system be started up or certified in phases, the additional drive time, and other labor associated with those requirements will be billable beyond this contract, at our standard T&M rates.
- Information provided to FireGuard at the time of this estimate has been utilized in formulating our pricing, and changes to that information after the bid date may constitute a change order. For example, if the device quantities vary from what was originally dictated to us "verbally" or on the "Architectural / Engineering prints", the additional parts will be billable beyond this contract. The parts shown on this estimate reflect our interpretation of what needs to be provided, and additional parts will not be provided without re-imbursement. Changes to room names / numbers, room configurations, etc. may also constitute a change order if drawing and/or programming changes are required to be made, after initial plans have been completed.
- No accommodations have been made for FireGuard to provide "Magnetic Door Holders" on this project, unless specifically indicated on our material list above. It is recommended that the source of power for door holders be that of a 120 vac branch circuit. It will be the responsibility of others to install the door holders and their power source. FireGuard will provide an interface with the FACP via a relay that will be installed by whoever is installing the rest of the fire alarm system.
- If proposal requests that we add equipment to an existing system, FireGuard will bid based on information provided. If such information is inaccurate, and existing panel does not have capacity, or capabilities represented in the documentation, FireGuard will not be responsible for costs associated with panel replacement, and/or upgrade costs. Said equipment and associated labor would be billable beyond this contract, at our standard T&M rates.
- If proposal is for a design/build project, the base price includes only the parts and labor listed. If additional equipment or labor is required, it will be billable beyond this contract, at our standard T&M rates.
- Fire Alarm equipment not installed in compliance with the National Electric Code, the manufacturer's recommendations, and/or FireGuard drawings, will not be covered under warranty, and will result in failure of the system to be certified and tagged.
- This Fire Alarm system will need to be connected to a monitoring service to comply with code requirements. FireGuard can provide and administrate this monitoring thru a third party. Additionally, the owner is responsible to provide a dedicated primary phone line for this monitoring, at the Fire Alarm Control Panel. A secondary phone line is also required to be made available as a backup to the dedicated line. The secondary line is not required to be dedicated, and can be shared with a fax or other such equipment.
- The above proposal was based solely on the bid documents provided. Therefore, the base price only includes the parts and labor listed above. If additional parts or labor are required, they will be billable beyond this contract, at our standard T&M rates.
- Re-submittal drawings are not included in the above price. The above changes will be added to the as-built drawings at the end of the project.
- FireGuard invoices all of its projects on a milestone basis. Milestones include, but are not limited to the following: (Drawing Submittals, Equipment / Material Delivery, Installation Labor Based on Monthly Progress, Start-Up, & Final Certification)

After having thoroughly reviewed this estimate, I certify that I am authorized on behalf of my employer to purchase the above referenced system, at the pricing stated above. I have initialed all optional or alternate aspects of the contract that we wish to proceed with, and ask that FireGuard proceed with the execution of this project. Issuance of a purchase order /or signed proposal constitutes agreement to FireGuard's standard terms and conditions, provided below.

Signed _____

Company _____

Title _____

Dated _____

FIREGUARD, INC.

INSTALLATION OF EQUIPMENT TERMS AND CONDITIONS

1. **AGREEMENT.** This Agreement shall become effective upon the execution by Customer and acceptance and execution of this Agreement by a duly authorized representative of FireGuard, Inc., ("Company"), at FireGuard, Inc.'s home office in Omaha, NE. This Agreement is comprised of these Terms and Conditions, and the FireGuard, Inc.'s proposal set forth on the reverse ("Proposal") and other documents referred to in the Proposal, all of which are incorporated by reference. Collectively these terms and conditions and the Proposal are referred to as the Agreement.
2. **SALE OF SYSTEM AND RELATED EQUIPMENT.** FireGuard, Inc. shall sell to Customer and the Customer shall purchase from the FireGuard, Inc. the system and related equipment ("System") identified in the Proposal.
3. **INSTALLATION.** FireGuard, Inc. shall install or cause to be installed the System at Customer's location identified in the Proposal. FireGuard, Inc. shall install or cause to be installed the System in a workmanlike manner and in compliance with applicable law. Installation shall commence on or about the date identified in the Proposal and shall continue until completed. The completion date is an estimate only and customer acknowledges that technical problems may arise with respect to the installation of the System and, accordingly, FireGuard, Inc. shall not be held responsible for any delays caused by unforeseen difficulties or unexpected conditions. If during the installation FireGuard, Inc. encounters unforeseen difficulties or discovers unexpected conditions (including, without limitation unexpected hazardous materials, waste or substance), FireGuard, Inc. shall be permitted to stop work immediately. FireGuard, Inc. shall contact the Customer so the Customer can instruct the FireGuard, Inc. as to what steps should be taken in connection with unforeseen difficulties or unexpected conditions. FireGuard, Inc. shall be paid for any additional work performed as a result of such unforeseen difficulties or unexpected conditions. Customer may order additions, deletions, revisions or other changes in the work requested by Customer in the absence of an appropriate writing signed and approved by the Customer and FireGuard, Inc..
4. **PRICE AND PAYMENT.** Customer agrees to pay FireGuard, Inc. the price for the System set forth on the Proposal. The price includes the related equipment and installation. The price is based upon the location and environment specifications which Customer provided to FireGuard, Inc. and upon the assumption that the site specifications are accurate and that, except as set forth in the Proposal, no alteration or modification of the location is required. If alteration, modification or rebuilding of the location is required, the price shall be increased to include the cost of additional labor. All charges shall be paid as set forth in the Proposal. All billed amounts more than thirty (30) days past the date of invoice shall incur interest at the rate of fifteen (15%) percent per annum or the maximum rate permitted by applicable law, whichever is less. If FireGuard, Inc. retains a collection agency, legal counsel or incurs any out-of-pocket expenses to collect overdue payments, all such collection costs shall be paid by Customer. FireGuard, Inc. shall not be obligated to extend credit or financing terms to Customer. Customer acknowledges that, other than Company's completion of installation of the System, payment to Company is not contingent on any occurrence, matter or event, including, without limitation, Customer's receipt of payment from any third party such as an owner or insurance company.
5. **APPROVAL AND PERMITS.** Customer shall be responsible for obtaining, at Customer's expense, all necessary approvals, permits and documents required by applicable law.
6. **ACCESS TO SITE.** Customer agrees that FireGuard, Inc. shall have complete use of and unrestricted access to the installation site at all times during normal working hours for purposes of installation, inspection, testing and supervision. Customer represents and warrants that the site will be free of any gas including, without limitation, flammable, explosive or poisonous gases. Customer shall provide all necessary security, elevator, heat, lighting and electrical service for FireGuard, Inc. to complete the installation. Customer shall deliver to FireGuard, Inc. all records, sketches, drawings, photographs, prototypes, data or models and any and all other documentation and information in possession of Customer relating, directly or indirectly, to FireGuard, Inc.'s performance of the installation of the System at the site. FireGuard, Inc. shall be entitled to rely upon instructions or requests given by the Customer, its employees, agents or other representatives to FireGuard, Inc. and such instructions or requests shall be binding upon the Customer. The Customer shall cooperate fully with the FireGuard, Inc. in connection with FireGuard, Inc.'s performance of the installation and take any and all action reasonable requested by FireGuard, Inc..
7. **TAXES.** The price does not include any applicable taxes and Customer shall pay all federal, state and local sales, use, property, excise or other taxes imposed on or with respect to the installation of the System. If Customer is tax exempt, then prior to executing this Agreement, Customer will provide FireGuard, Inc. with a valid and correct tax exemption certificate. Failure to provide a tax exemption certificate in a timely fashion may result in Customer losing the advantages of tax exemption with regard to this sale.
8. **GRANT OF SECURITY INTEREST.** Customer, on behalf of the owner and Customer, grants to FireGuard, Inc. a security interest in the System to secure payment of the purchase price and grants to FireGuard, Inc. an irrevocable power of attorney to execute and file UCC-1 Financing Statements on behalf of Customer for the benefit of company, as secured creditor, to protect the security interest. Upon payment in full of the purchase price, and all associated costs and charges required under this Agreement, title to the system shall pass to Customer. FireGuard, Inc. shall have all of the rights of a secured creditor under the Uniform Commercial Code in Nebraska including the right to enter Customer's premises and to disable or remove the System and related equipment, or both.
9. **TERMINATION.** FireGuard, Inc. shall have the right to terminate this Agreement immediately or withhold performance of services pursuant to this Agreement in the event Customer is delinquent in payment of any sums due under that Agreement; Customer files a petition in bankruptcy; Customer has a bankruptcy petition filed against it; or Customer is unable to pay its debts as they mature, or makes an assignment for the benefit of its creditors. In the event this Agreement is terminated for any reason, the balance of the purchase price and all associated costs and charges required to be paid by Customer under this Agreement including, without limitation, an amount equal to the profit Company would have received had the work been completed, shall be immediately due and payable.
10. **LOCATION ENVIRONMENT.** Customer will prepare and maintain the location in conformance with Company's site specifications as defined in the appropriate site preparation document. Customer shall furnish FireGuard, Inc. with surveys describing the physical characteristics, legal limitations and utility locations for the site.
11. **FORCE MAJEURE.** FireGuard, Inc. will be excused from any delay or failure to perform under this Agreement due, in whole or in part, directly or indirectly, to labor difficulties, fire, casualty or accidents, acts of God, civil disorder, transportation difficulties, shortage of fuel, labor or materials, governmental acts or restrictions, or any other cause beyond FireGuard, Inc.'s reasonable control.
12. **BREACH BY COMPANY.** Customer expressly agrees that no action at law or in equity shall be maintained by Customer against FireGuard, Inc. for Company's alleged breach of this Agreement or violation of any federal or state law now in effect or hereafter enacted with respect to any obligation or duty incurred under this Agreement by FireGuard, Inc., unless: (i) Customer notifies FireGuard, Inc. in writing at the address specified in this Agreement within ten (10) days from date of such alleged breach or violation, and provided company does not remedy or correct the breach or violation within sixty (60) days from the receipt of this notice; and (ii) such action at law or in equity is commenced by Customer within one (1) year from the finished date of the installation of the System.
13. **LIMITATION OF LIABILITY.**
 - a. FireGuard, Inc.'s obligation under this Agreement is to install the System in a workmanlike manner in compliance with applicable law and regulations.
 - b. FireGuard, Inc. shall have no liability for loss of anticipated profits, incidental, consequential or special damages and shall not be liable, for any reason, whether under this Agreement or otherwise, for any loss, cost, expense or damage suffered by customer or any other person, including, without limitation, cost, expense, loss or damage:
 - i. Resulting directly or indirectly, from the use or loss of use of the System;
 - ii. Such as personal injury and property damage;
 - iii. Such as any claim or demand against Customer by any third party.
 - c. If FireGuard, Inc. has any liability under this Agreement, it shall be to repair or replace a defective item, at FireGuard, Inc.'s discretion and in the event FireGuard, Inc. is unable or unwilling to repair or replace, Customer agrees that FireGuard, Inc.'s liability shall not exceed, under any circumstances, the amounts paid to FireGuard, Inc. by customer under this Agreement.
14. **NO WARRANTIES. EXCEPT AS EXPRESSLY STATED IN THE PROPOSAL, COMPANY MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SYSTEM. CUSTOMER WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, NOT EXPRESSLY CONTAINED IN THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, AND FIREGUARD, INC. EXPRESSLY WAIVES ALL SUCH IMPLIED WARRANTIES.**
15. **INDEMNIFICATION.** Customer indemnifies FireGuard, Inc. holds FireGuard, Inc. harmless, and agrees to defend FireGuard, Inc. from and against any and all lawsuits, proceedings (including, without limitation, civil, criminal, administrative and investigative proceedings, whether threatened, pending or completed), claims demands, losses, damages (including, without limitation, direct, special and consequential damages and insurance deductibles), actions, liabilities (including, without limitation, strict liability and joint and several liability) costs and expenses (including, without limitation, fines, penalties and the reasonable costs of arbitration, costs of appeal, and the reasonable attorneys' fees) (collectively referred to as "Damages") arising out of or relating to, directly or indirectly, a breach of the Agreement by Customer; or the action or inaction of FireGuard, Inc. in the performance of the installation of the System; provided that this provision shall not apply to Damages arising out of or relating to the gross negligence or willful misconduct of FireGuard, Inc., which is deemed by a court of competent jurisdiction to have materially and directly contributed to the Damages suffered by the FireGuard, Inc.; provided further that this provision shall only apply to the extent the FireGuard, Inc.'s insurance coverage does not cover the Damages. As used in this paragraph, the term "Company" shall include FireGuard, Inc.'s employees, agents, representatives, shareholders, officers, directors and subcontractors; at any level, and the subcontractors' representatives, agents, employees, shareholders, officers and directors. This provision shall survive completion of the work and the termination of the Agreement, for any reason.

16. **INSURANCE.** Customer represents and warrants to FireGuard, Inc. that it has adequate liability insurance coverage to cover the work to be performed under the Agreement and shall provide FireGuard, Inc. with evidence of such insurance upon request of FireGuard, Inc.
17. **SUBROGATION.** Each party waives rights of subrogation against the other party to the extent of their respective first party insurance coverages, for any and all losses suffered by either party, whether or not caused by the negligence of the Customer or FireGuard, Inc. or those for whom they are responsible; provided that this release shall be in force and effect only with respect to loss or damage occurring during the time each parties' insurance policies contain a clause to the effect that this release shall not affect said policies or the right of the insured to recover. Each party agrees that its first party insurance policies will contain a clause so long as the same is obtainable without extra costs, or if extra cost is chargeable, so long as the other party pays such extra cost.
18. **MISCELLANEOUS.**
 - a. This Agreement constitutes the entire agreement between the parties and supersedes any previous agreement, understanding or order between the parties. Should the terms and conditions of any purchase order of Customer issued in connection with this Agreement conflict with the terms contained in this Agreement or add any new terms to this Agreement, such new terms or different terms shall be of no force or effect. The terms of this Agreement shall prevail over any terms in Customer's purchase order and different or new terms shall only be binding on FireGuard, Inc. if expressly accepted in writing by FireGuard, Inc.. No modification or waiver of the terms of this Agreement shall be binding unless made in writing and signed by both parties.
 - b. This Agreement is made and entered into in the State of Nebraska and shall be in all respects governed by and construed in accordance with the laws of the United States and the State of Nebraska as if entirely performed in Nebraska and without regard to any conflict of law rules and without regard to any rules of construction or interpretation relating to which party drafted this Agreement. Nothing in this Agreement is intended to supersede, conflict with or alter FireGuard, Inc.'s rights and Customer's obligations under the Nebraska contractor and Subcontractor Payment act.
 - c. Customer consents to the exclusive jurisdiction and venue of the Douglas County Court of Nebraska with respect to the enforcement of this Agreement, the collection of any amounts due under this Agreement or any disputes arising under this Agreement. Customer agrees that effective service of process may be made upon Customer by U.S. Mail under the notice provision contained in subparagraph D of this paragraph 18.
 - d. All notices or other communications permitted or required to be given in writing under this Agreement shall be sent by certified mail, return receipt requested and directed to the address of FireGuard, Inc. or Customer shown below. Notice will be deemed to have been given upon the mailing of the notice.
 - e. This Agreement is not cancelable by Customer for any reason whatsoever.
19. **REMEDIES CUMULATIVE.** The remedies provided in this Agreement in favor of FireGuard, Inc. upon default of Customer shall not be deemed to be exclusive, but shall be cumulative and in addition to all other remedies in FireGuard, Inc.'s favor existing at law or in equity. FireGuard, Inc. may exercise all remedies, whether or not expressed successively or concurrently, and any such action shall not operate to release Customer until the full amount of all sums due and to become due under this Agreement have been paid.
20. **NO ASSIGNMENT.** This Agreement may not be assigned by Customer directly or indirectly (including, without limitation, by merger or sale of stock) without the prior written consent of FireGuard, Inc., which consent may be withheld by FireGuard, Inc., in its sole discretion, for any reason or no reason.
21. **SEVERABILITY.** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable or invalid such provision shall be modified to the extent necessary to eliminate such invalidity or unenforceability, and any remaining unenforceability or invalidity shall have no effect on any of the other terms of the Agreement, which shall remain in full force and effect in accordance with its terms.
22. **COMMERCIAL TRANSACTION.** Customer acknowledges, agrees, represents and warrants that the transactions contemplated by this Agreement are commercial transactions and not for personal, household or family purposes.
23. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original but all of which taken together shall constitute one Agreement.
24. **HEADINGS.** Section headings shall have no effect on the meaning of this Agreement, and are included only for convenience of reference.
25. **TOOLS.** Any special equipment, tools, dies, fixtures, or jigs produced or acquired by FireGuard, Inc. for the manufacture or installation of articles under this Agreement shall remain the property of FireGuard, Inc..
26. **USE OF DESIGNS AND DATA.** Any knowledge or information, including drawings and data, which FireGuard, Inc. shall have disclosed or may hereafter be FireGuard, Inc.'s confidential and proprietary information and Customer shall take any and all steps as are reasonable to protect the confidentiality of such information. FireGuard, Inc. does not grant to Customer any reproduction rights or any rights to use such information.
27. **ELECTRIC POWER CONNECTION.** When electric is required for System operation, Customer will provide a separately fused (120 Vac, 60 Hz, 20 Amp) primary power with ground within 6 feet of control panel location. To assure uninterrupted service, this power should come from the main electric distribution center.
28. **SERVICES NOT INCLUDED.**
 - a. When a labor price is submitted, it is based on all work being performed during a five (5) day forty (40) hour work week. If overtime or premium time is performed, an additional charge will be made to the Customer. Normal work weeks are 8 a.m. to 5 p.m. Monday through Friday, except Company holidays.
 - b. Unless otherwise specifically provided in the Proposal, Customer agrees to do all necessary patching of masonry work; painting, carpentry work and the like.
 - c. Customer shall also provide a wiring, conduit and labor to connect the provided pressure switches to an equipment to be turned on or off such as alarms, motors, conveyors, fans or cooking equipment.
 - d. Customer shall also provide necessary hardware and linkage to permit automatic closing of doors, windows, duct dampers, etc. upon actuation of any provided pressure release trip device. Unless specifically indicated in the Proposal, services do not include costs for any discharge or concentration tests required by approval authorities.
 - e. No provision to exhaust any discharged agent is included in this Proposal.
 - f. Should an employee of FireGuard, Inc. be required to attend a "right to know" session at Customer's location, a surcharge will be added to the final invoice.
29. **MECHANICS' LIEN NOTICE.** Where FireGuard, Inc. is a subcontractor, the Customer acknowledges, agrees and personally accepts service of this Agreement on behalf of the owner of the real property at which the System is to be installed as FireGuard, Inc.'s preliminary notice of FireGuard, Inc.'s intention to file a Mechanic's Lien if and when FireGuard, Inc. is not paid. The subcontractor is the FireGuard, Inc. and the contractor is the Customer, and the amount claimed will be the balance due under this Agreement, and any amendments or change orders as of the date of filing a mechanics' lien claim. Customer agrees to promptly notify the owner of the premises on which work is to be performed of this Mechanics' Lien Notice.
30. **AGREEMENT MODIFICATION.** No terms or conditions, other than those stated herein, and no agreement or understanding in any way of modifying the terms and conditions herein stated, shall be binding upon FireGuard, Inc. or Customer unless made in writing and signed by FireGuard, Inc. and Customer.
31. **ELECTRONIC DOCUMENTS:** FireGuard, Inc. hereby gives notice of its right to convert this Agreement to electronic format and retain this Agreement solely in an electronic format. FireGuard, Inc. may provide this Agreement in electronic form or may provide a reproduction of this Agreement from its electronic copy in the event of any dispute regarding the right and obligations of the parties under this Agreement. The parties agree that any document in electronic format or any document reproduced from an electronic format shall not be denied legal effect, validity, or enforceability and shall meet any requirement to provide an original or hard copy.