

NASPO ValuePoint
PARTICIPATING ADDENDUM



SECURITY & FIRE PROTECTION SERVICES

Lead by the State of Nevada

Master Agreement #: 3407

Contractor: **JOHNSON CONTROLS FIRE PROTECTION**

Participating Entity: **STATE OF IDAHO**

The following products or services are included in this Participating Addendum:

- **Category 4: Portable Fire Extinguishers**
- **Category 5: Fire Extinguishing Systems**

Master Agreement Terms and Conditions:

1. **Scope:** This Participating Addendum (PA) covers the NASPO ValuePoint *Security & Fire Protection Services* led by the *State of Nevada* (Master Agreement No: 3407) for use by state agencies and other entities, as provided in the Master Agreement, and more specifically detailed in Paragraph 2, "Participation", below.
2. **Participation:** All State governmental entities within the State of Idaho and public agencies (as defined by Idaho Code, Section 67-2327) are authorized to purchase products and services under the terms and conditions of the NASPO ValuePoint Master Price Agreement. These public agencies include any city or political subdivision of the State of Idaho, including, but not limited to counties; school districts; highway districts; port authorities; instrumentalities of counties, cities, or any political subdivisions created under the laws of the State of Idaho; and public schools and institutions of higher education. It will be the responsibility of the public agency to independently contract (i.e., issue purchasing orders) with the contractor and/or comply with any other applicable provisions of Idaho Code governing public contracts. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

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| Name: | Tom Staves |
| Telephone: | 443-676-8813 |
| Email: | thomas.staves@jci.com |

NASPO ValuePoint
PARTICIPATING ADDENDUM



**SECURITY & FIRE PROTECTION
 SERVICES**

Lead by the State of Nevada

Participating Entity

| | |
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| Name: | Joseph Nelson |
| Address: | 650 W. State St Rm. 100 |
| Telephone: | 208-332-1602 |
| Fax: | 208-327-7320 |
| Email: | Joseph.nelson@adm.idaho.gov |

4. Participating Entity Modifications or Additions to the Master Agreement

Notwithstanding any provisions in the Master Agreement to the contrary, the following shall apply to this PADD20210696.

4.1 Amendments: Amendments to the Master Agreement (including, but not limited to extensions, renewals, and modifications to the terms, conditions, and pricing) will automatically be incorporated in this PADD20210696 unless the Participating State elects not to incorporate an amendment by providing written notification to the Contractor, which notice must be provided within ten (10) working days of the date of the amendment to the Master Agreement, in order to be effective. Failure to provide notice in accordance with this Section will result in the Master Agreement amendment automatically being incorporated in this PADD20210696.

4.2 Governing Law: Notwithstanding any provision to the contrary, the state of Idaho's PADD20210696 and all orders issued under the PADD20210696 by Ordering Entities within the state of Idaho, shall be construed in accordance with and governed by the laws of the state of Idaho. Any action to enforce the provisions of this PADD20210696 shall be brought in state district court in Ada County, Boise, Idaho. In the event any term of this PADD20210696 is held to be invalid or unenforceable by a court, the remaining terms of this PADD20210696 will remain in full force and effect. Except to the extent the provisions of the PADD20210696 are clearly inconsistent therewith, the PADD20210696 shall also be governed by the applicable provisions of the Idaho Uniform Commercial Code (IUCC).

4.3 Administrative Fee and Quarterly Usage Report: The prices to be paid by the Ordering Entities shall be inclusive of a one and one quarter percent (1.25%) Administrative Fee (the Participating State understands and agrees that Contractor may raise the negotiated Price Agreement prices by this amount). This additional percentage represents the Ordering Entity's contract usage administrative fee. On a quarterly basis, Contractor must remit to **State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075** an amount equal to one and one quarter percent (1.25%) of Contractor's net (sales minus credits) quarterly Contract sales.

***For Example:** If the total of your net sales to Ordering Entities for one quarter = \$10,000, you would*

NASPO ValuePoint
PARTICIPATING ADDENDUM



**SECURITY & FIRE PROTECTION
 SERVICES**

Lead by the State of Nevada

remit \$10,000 x 0.0125 = \$125 to the Division of Purchasing for that quarter, along with the required quarterly usage report.

Contractor must also furnish summary and detailed usage reports, attached as **Attachment E**. Usage Reports must be submitted for each quarter (enter "0" if no purchases were made during a quarter) and must include a breakdown of purchases by Entity Type (i.e., State Agency, Higher Education, K-12, City, County and 'other'), as provided on the Form. In the event the State implements an online reporting tool in the future, Contractor agrees to utilize any new method of reporting quarterly usage.

| Reporting Timeline (Fiscal Year Quarters): | | Fee and Report Due: |
|--|------------------|------------------------|
| 1 st Quarter | July 1 - Sept 30 | October 31st |
| 2 nd Quarter | Oct 1 - Dec 31 | January 31st |
| 3 rd Quarter | Jan 1 - Mar 31 | April 30 th |
| 4 th Quarter | Apr 1 - Jun 30 | July 31 st |

E-mail your completed Quarterly Summary Usage Reports to purchasing@adm.idaho.gov.

Mail your check, in the amount of the Quarterly Administrative Fee, to: **State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075**

4.4 Subcontractors: All contactors, dealers, and resellers authorized in the State of *Idaho*, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the Master Agreement.

4.5 Individual Customer: Each ordering agency ("Purchasing Entity") that places a service order under this PADD20210696 will be treated as if it is an individual customer. Except to the extent modified by this PADD20210696, each Purchasing Entity will be responsible to follow the terms and conditions of the Master Agreement and this PADD20210696; and will have the same rights and responsibilities for its purchases as the Lead State has in the Master Agreement. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities; and will have the same rights to any indemnity or to recover any costs allowed in the Master Agreement for its individual purchases.

Additionally, the Division of Purchasing is entering into this PADD20210696 for the convenience of Purchasing Entities, and the Division of Purchasing bears no responsibility for any agreements to which Purchasing Entities agree. It shall be the responsibility of Purchasing Entities to seek their own agencies' legal counsel prior to agreeing to the terms of any end user license agreements.

NASPO ValuePoint
PARTICIPATING ADDENDUM



SECURITY & FIRE PROTECTION SERVICES

Lead by the State of Nevada

4.6 Restrictions: Purchases under this PADD20210696 are restricted to purchases of Category 4: Portable Fire Extinguisher and Category 5: Fire Extinguisher Systems services offered by the Contractor and are listed on the Master Agreement Pricing Sheet provided to and accepted by the state of Idaho. The Master Agreement Pricing Sheet may be changed during the term of the PADD20210696 via mutual, written agreement between the parties as part of an amendment to this PADD20210696.

4.7 Assignment: Contractor shall not assign this PADD20210696, or its rights, obligations, or any other interest arising from this PADD20210696, or delegate any of its performance obligations, without the express written consent of the Administrator of the Division of Purchasing. Transfer without such approval shall cause the annulment of the PADD20210696, at the option of the State. All rights of action, however, for any breach of the PADD20210696 are reserved to the State. (I.C. § 67-9230).

Notwithstanding the foregoing, to the extent required by applicable law (including I.C. § 28-9-406), Contractor may assign its right to payment on an account provided that the State shall have no obligation to make payment to an assignee until thirty (30) days after Contractor (not the assignee) has provided the responsible procurement officer with (a) proof of the assignment, (b) the identity of the specific state contract to which the assignment applies, and (c) the name of the assignee and the exact address to which assigned payments should be made. The state may treat violation of the clause as an event of default.

4.8 Service Additions and Deletions: Over the term of PADD20210696, service needs, or volumes may change, and services may be added to or deleted from the Master Agreement Pricing Sheet by an amendment(s) to the PADD20210696. Should the State request services to be added, Contractor will contact the Division of Purchasing and advise of any obstructions to adding the services.

5. **Orders:** Any Order placed by a Purchasing Entity for a Product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.
6. **Records Maintenance:** The Contractor shall maintain or supervise the maintenance of all financial records necessary to properly account for all payments made to the Contractor for the costs authorized by the PADD20210696. These financial records shall be retained by the Contractor for at least three (3) years after PADD20210696 terminates, or until all audits initiated within the three (3) years have been completed, whichever is later.
7. **Terms and Conditions in the Master that Do Not Apply to this PADD:** Any terms or conditions contained in the Master Agreement that do the following are not applicable to this PADD:
 - 7.1 Waive the sovereign immunity of the state of Idaho;
 - 7.2 Subject the state of Idaho, its agencies, or political subdivisions of the state of Idaho to the jurisdiction of the courts of other states.
 - 7.3 Limit the time in which the state of Idaho, its agencies, or political subdivisions of the state of Idaho

NASPO ValuePoint
PARTICIPATING ADDENDUM



**SECURITY & FIRE PROTECTION
SERVICES**

Lead by the State of Nevada

may bring a legal claim to a period shorter than that provided in Idaho law.

7.4 Impose a payment obligation, including a rate of interest for late payments, less favorable than the obligations set forth in Section 67-2302, Idaho Code; or,

7.5 Require the state of Idaho, its agencies, or political subdivisions of the state of Idaho to accept arbitration or to waive right to a jury trial.

7.6 Require indemnification not specifically authorized by the Idaho legislature or subject to appropriation (pursuant to Section 67-9213, Idaho Code, and Section 59-1016, Idaho Code).

7.7 Hold employees or officers of the state of Idaho and of political subdivisions of the state of Idaho personally liable.

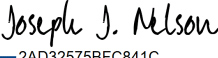

NASPO ValuePoint
PARTICIPATING ADDENDUM



SECURITY & FIRE PROTECTION SERVICES

Lead by the State of Nevada

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

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| Participating Entity: State of Idaho | Contractor: JOHNSON CONTROLS FIRE PROTECTION |
| Signature: DocuSigned by:  2AD32575BFC841C... | Signature: DocuSigned by:  6FC7266B55064FE... |
| Name: Joseph Nelson | Name: Tracey McCoy |
| Title: Purchasing Officer | Title: Area General Manager |
| Date: 3/10/2021 | Date: 3/10/2021 |

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

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|--------------------------------------|--|
| Cooperative Development Coordinator: | Ted Fosket |
| Telephone: | 907-723-3360 |
| Email: | tfosket@naspovaluepoint.org |

***[Please email fully executed PDF copy of this document to
PA@naspovaluepoint.org
to support documentation of participation and posting in
appropriate data bases.]***