



## **PURCHASE AGREEMENT**

**THIS AGREEMENT** is made and entered into this 24th day of June, 2013, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “City,” and, Intermountain Traffic, LLC, P.O. Box 11159, Reno, NV 89510-1159, hereinafter referred to as “Seller.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

**1. PRODUCT PURCHASED:** Seller agrees to sell and City agrees to purchase the goods (“Product”) as described per written City’s specifications in the project’s Request for Proposals and Seller’s proposal attached hereto as Exhibit “A,” which are incorporated into this agreement by this reference. The Product being purchased consists of:

<u><b>Item</b></u>	<u><b>Price</b></u>
Trafficware ATMS.now software	\$30,000.00
980 ATC TS2 Type 2 Controllers (7 total)	\$20,300.00
Factory Training	\$12,500.00
Sixnet Switch for Server	\$2,435.00
Sixnet Switch for Controllers	\$1,375.00
Single Ethernet Radio (6 total)	\$7,920.00
Dual Ethernet Radio	\$1,575.00
200’ PoE Cable	\$1,225.00
PoE Power Supply Cable for Single Radio	\$240.00
PoE Power Supply Cable for Dual Radio	\$60.00

**2. Price:** The City agrees to pay Seventy-seven thousand six hundred thirty and 00/100 Dollars (\$77,630.00) as the purchase price. All prices **DO NOT INCLUDE** any applicable local, state or federal taxes that may be applied to the product to be purchased. The purchase price is free on board at the place of delivery and Seller may not impose any additional, shipping, delivery or storage charges.

**3. Delivery and Payment:** Seller agrees to deliver the above-described goods or product to City within 120 days of receipt of City’s order unless otherwise provided in this Agreement. Delivery will occur at 4848 Midland Road, Billings, MT 59101 or at a place otherwise selected by City. Upon delivery, City may inspect the goods or product to ensure that it meets City specifications, and Seller may obtain specifications from City upon request. If the Product meets City specifications, City shall tender the purchase price stated above to Seller



through the City's normal claim process.

4. **Specifications:** Seller agrees that this Product complies with the City's specifications provided to Seller and with the Seller's proposal thereto as accepted by the City. Unless otherwise agreed to by the City, the City's specifications govern and control in the event of inconsistencies with the Seller's response to the same.

5. **Nondiscrimination:** Seller agrees that all hiring by Seller of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

6. **Default and Termination:** If Seller fails to deliver the goods or product as set forth in Paragraphs 2 and 3 above, or violates any provision of this Agreement, or if the goods or product fails to meet City's specifications, City may, at its option, declare the Seller in default and immediately cancel and rescind this Agreement. Thereafter, City may procure substitute goods or product to replace the goods or product described herein. In such event, Seller is liable to City for the difference between the price set forth herein and the price paid by City for replacement goods or product. Additionally, the City may pursue any other remedy it has at law or in equity.

7. **Warranty:** Unless superseded or supplemented by an express warranty, Seller represents and warrants that the Product are covered by implied warranties for merchantability and fitness for the particular purpose for which they have been purchased.

8. **Assignment:** Seller may not assign this Agreement or any of its rights hereunder without the express written consent of City.

9. **Entire Agreement:** This Agreement, including its appendices, if any, is the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this agreement, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

10. **Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.



**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF BILLINGS, MONTANA**

**Intermountain Traffic, LLC, Seller**  
(Print Seller's Name Above)

By \_\_\_\_\_  
**CHRISTINA F. VOLEK**  
City Administrator

By \_\_\_\_\_  
(Print Name & Title) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (Write Phone Number for Orders Above)

**APPROVED AS TO FORM**

By \_\_\_\_\_  
**BRENT BROOKS, City Attorney**