

AGREEMENT

THIS IS AN AGREEMENT, dated the 2nd day of September 2014, by and between:

THE CITY OF OAKLAND PARK, acting herein through its City Manager,
hereinafter called "OWNER",

and

AOT Public Safety Corporation d/b/a Public Safety Corporation or CryWolf False Alarm Solutions, a company authorized to do business in the State of Florida, with a business address of 103 Paul Mellon Court, Waldorf, MD 20602, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR agree as follows:

ARTICLE 1 **PREAMBLE**

In order to establish the background, context and form of reference for this Agreement, and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow, and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 On March 19, 2014, the CITY adopted an Ordinance No.0-2014-002, amending Chapter 8 entitled "Miscellaneous Offenses and Provisions", Section 8-39 entitled "Alarm/Elevator Systems of the CITY Code related to Alarm/Elevator Systems effective September 1, 2014 ("Alarm Ordinance").

1.2 On May 21, 2014, the CITY advertised its Request for Proposals (RFP) relating to the CITY's desire to hire a firm to provide False Alarm billing and collection services, attached hereto as **Exhibit "A"**, and by this reference made a part hereof, for the said Request for Proposals entitled:

Financial Services/Purchasing Division
False Alarm Billing and Collection
RFP # 061314

1.3 On June 13, 2014, the CONTRACTOR provided a Proposal in response to the CITY's RFP, attached hereto as **Exhibit "B"**, and by this reference made a part hereof. As described in **Exhibit B**, the CONTRACTOR created and markets the proprietary and patented (U.S. Patent No. 6,856,246) software system called CryWolf® ("Software"), an integrated suite of software applications operating in a Windows-based environment, designed to assist False Alarm/Elevator Rescue reduction managers and planners in government agencies and industry in accessing information relevant to False Alarm/Elevator Rescues, and which has been developed at CONTRACTOR's private expense for the commercial marketplace and is not in the public domain.

1.4 The CITY's Selection Committee met on or about July 16, 2014, and selected the CONTRACTOR as the most responsive CONTRACTOR to the CITY's RFP.

1.5 On August 6, 2014, the CITY approved the selection of the CONTRACTOR to provide the CITY the False Alarm/Elevator Rescue billing and collection services described in **Exhibit "B"**.

1.5 The CONTRACTOR desires to accept such engagement and the parties agree to the provisions herein.

ARTICLE 2

SERVICES AND RESPONSIBILITIES

2.1 CONTRACTOR hereby agrees to perform the False Alarm/Elevator Rescue Administration Services ("Services") requested by the CITY as more particularly described in **Exhibit "A"** attached hereto, and its Response to the RFP, attached hereto and made a part hereof as **Exhibit "B"**.

2.2 CONTRACTOR shall schedule regular meetings with CITY representatives during the term of this Agreement as needed to discuss the Services.

2.3 CONTRACTOR shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all work performed under this Agreement shall be done in a professional manner.

2.4 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the Services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.5 CONTRACTOR hereby represents to CITY that CONTRACTOR is properly licensed by the applicable federal, state, and local agencies to provide the services under this Agreement. Furthermore, CONTRACTOR agrees to maintain such licenses during the term of this Agreement. If CONTRACTOR's licenses are revoked, suspended, or terminated for any reason by any governmental agency, CONTRACTOR shall notify the CITY immediately.

2.6 CONTRACTOR hereby agrees to conduct all work and services under this Agreement in accordance with all the applicable federal, state, and local laws or regulations. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.

2.7 Both parties expect that the False Alarm/Elevator Rescue Billing Collection Services will be fully implemented and operational within one hundred and twenty (120) days from the date the CITY executes this Agreement and agree to work expeditiously to accomplish this schedule.

ARTICLE 3

PROTECTION OF CITY'S PROPERTY

3.1 To the extent necessary for the performance of the Services, the CONTRACTOR shall protect the CITY's property from all damage whatsoever on account of CONTRACTOR's performance of services carried on under this Contract.

3.2 Names, addresses, type of alarm, identification information of any alarm monitoring company, or identification information of any person cited under the Alarm Ordinance shall not be released, exhibited or sold to any third party by CONTRACTOR. If such disclosure is compelled or required in any judicial or administrative proceeding, the CONTRACTOR shall, before disclosing such information, first notify the CITY and give the CITY an opportunity to object to the disclosure. In the event the CITY objects to such disclosure, it shall notify the CONTRACTOR that it will indemnify it for any costs and expense incurred, including, without limitation, the cost of attorney fees expended in the defense of any action or proceeding, or relating to the refusal to disclose such information.

3.3 All data received hereunder shall be made a part of the CITY's permanent records and files and preserved therein for a period in accordance with the requirements of Florida law. The CITY will notify the CONTRACTOR of the required retention time in writing at the beginning of the Agreement term and, in the event these requirements change, as soon as those changes are approved by the appropriate Florida State or Municipal agency.

ARTICLE 4

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

4.1 The CITY shall be licensed and authorized to use the Software and any additional specific customization and development provided as part of the Services, all in accordance with **EXHIBIT A and EXHIBIT B**. The license shall cover all the Software, including, without limitation, software interfaces and software modifications. The scope of the license is non-transferable and non-exclusive and is authorized by CONTRACTOR for use by the CITY to access its False Alarm/Elevator Rescue information.

4.2 The CITY shall have the right to use the Software in accordance with the Services for so long as the CONTRACTOR provides Services to the CITY or in accordance with the Termination provisions in this Agreement. This license shall apply for the duration of the Agreement and any extensions provided for herein or agreed to in writing by the parties. In the event the business relationship with CONTRACTOR is terminated or ended for any reason, the CITY's license rights to use the Software shall likewise terminate except as provided for in this Agreement.

4.3 The proprietary information of both parties, CONTRACTOR and CITY, is and shall remain the valuable intellectual property of each respective party. Except as required by law, neither party shall disclose any such information to any third party for any reason without the express written consent of the other party and shall only use proprietary information for internal purposes to facilitate and assist CONTRACTOR and the CITY in the administration of the Alarm Ordinance. In addition, the parties shall provide reasonable safeguards to protect their respective software, hardware systems and data from unauthorized intrusion by third parties.

4.4 The Software is protected under the Copyright and Patent laws of the United States, and as extended by treaty, with Canada. The CITY may not copy, or allow anyone else to copy or otherwise reproduce, any part of the Software without the prior written consent of the CONTRACTOR, except to store and/or install a copy of the Software on a storage device, such as a network server, used only to run the Software on other computers over an internal network and except for two copies for back-up or archive purposes.

4.5 The CITY may copy the licensed Software as necessary to its hard disks or other such storage medium to efficiently operate the Software on the CITY's single-user system, multiple-user system, or network. The Software shall be copied as a whole, and the use of the copies shall be governed by this Agreement. All other copying is prohibited.

4.6 The CITY may not reverse engineer, decompile, or disassemble the Software. The Software is licensed as a single product. Its component parts may not be separated.

4.7 The CITY shall assure that CONTRACTOR's notices of intellectual property (e.g., patent, trademark, and copyright notices) provided by CONTRACTOR, if any, shall remain visible on the Software when displayed electronically, or when output created by it, is printed for distribution to persons or organizations outside the normal scope of the Alarm Ordinance.

4.8 This Agreement shall be subject to Chapter 119 of the Florida Statutes and in the event of any conflicts, the Statute shall prevail.

ARTICLE 5

CITY RESPONSIBILITIES

5.1 The CITY shall cooperate with and assist the CONTRACTOR by providing management decisions affecting implementation of the Services within ten (10) business days of receipt of CONTRACTOR's request for a decision, as well as providing personnel, information, approvals, and acceptances in accordance with a mutually-agreed Implementation Plan to be developed by CONTRACTOR and the CITY at the start of the Services.

5.2 The CITY shall provide the CONTRACTOR with CAD Records, any appeals records and other alarm incident information in accordance with the terms of a mutually-agreed implementation plan and in a mutually-agreed electronic format, as necessary and proper, to allow the CONTRACTOR to effectively provide the Services needed to enforce the Alarm Ordinance.

5.3 To facilitate effective communication between the CITY and the CONTRACTOR, and in accordance with the Alarm Ordinance, the CITY shall designate an Alarm Administrator. The Alarm Administrator shall have the power and authority to make decisions relating to the Services. A secondary Alarm Administrator will also be designated to act on behalf of the Alarm Administrator when the primary Alarm Administrator is unavailable.

ARTICLE 6

TERM AND TERMINATION

6.1 This Agreement shall have an initial term of five (5) years, commencing on September 2, 2014, and ending on September 1, 2019.

6.2 This Agreement may be renewed for one (1) additional five (5) year term upon mutual consent, evidenced by a written Amendment to this Agreement extending the term hereof.

6.3 Subject to the default notice requirements in Article 10, this Agreement may be terminated by either party for cause, upon written notice, in which event the CONTRACTOR shall be paid its compensation for services performed to termination date subject to the indemnification requirements of this Agreement. In the event that the CONTRACTOR abandons this Agreement or the CITY terminates the Agreement for cause, the CONTRACTOR shall indemnify the CITY against any loss pertaining to this termination up to a maximum of the full fee earned after the date that a notice of cause is provided by the CITY. Upon any such termination, all finished or unfinished documents, data, studies, surveys, and reports prepared by CONTRACTOR shall become the property of the CITY and shall be delivered by CONTRACTOR to the CITY.

6.4 If the CITY substantially changes the Alarm Ordinance by reducing or eliminating the system of permit, False Alarm/Elevator Rescue and penalty fees collected through its administrative process, the CONTRACTOR can provide thirty (30) days prior written notice that False Alarm/Elevator Rescue fee collections are not being made in accordance with this Agreement. If such enforcement procedures and/or collection obligations are not changed to the

reasonable satisfaction of the CONTRACTOR, the CONTRACTOR may terminate this Agreement for cause after a further thirty (30) day written notice to the CITY.

6.5 If the CONTRACTOR is entitled to terminate this Agreement, the CONTRACTOR shall offer the CITY an option, which must be exercised within thirty (30) calendar days after the Notice of Termination, to purchase a conditional, uninterrupted, non-exclusive and non-transferable license to use the proprietary Software as necessary to support and administer the CITY's Alarm Ordinance conditional on the payment of initial and annual license and services fees at the CONTRACTOR's then prevailing rates and terms.

ARTICLE 7

COMPENSATION AND METHOD OF PAYMENT

7.1 CITY agrees to compensate CONTRACTOR for all Services performed by CONTRACTOR as follows:

7.1.1 As consideration for its performance of the Services pursuant to this Agreement, CONTRACTOR shall be entitled to receive the following percentages of all revenue collected in accordance with the CITY'S False Alarm/Elevator Rescue Ordinance during the term of this Agreement.

Range of Collections Based on Annual Collection Periods	% Collections
0 - \$60,000	33%
\$60,001 - \$120,000	25%
\$120,001 and above	18%

Only bank fees and credit card fees (if any) will be paid from gross collections before revenue sharing percentages are applied. Citizen overpayments (if any) will be maintained in the program bank account for refund or application to other charges as authorized by the CITY. The graduated percentages in the table above will be applied incrementally, for example \$195,000 of collections in an annual contract period would yield the following CONTRACTOR revenue share: 33% of the first \$60,000 + 25% of the next \$60,000 + 18% of the next \$75,000, or a total annual CONTRACTOR compensation of \$48,300 (24.7%) in this example. The annual collection periods shall begin on the effective date of this Agreement and on each subsequent annual anniversary date.

7.2 Method of Billing and Payment. Payments of the CONTRACTOR and CITY revenue shares shall be remitted electronically, e.g. ACH transfer, each month for their respective share of the revenues collected by the alarm program during the previous month, upon approval by the CITY of the monthly invoice prepared by CONTRACTOR.

ARTICLE 8

CHANGES IN SCOPE OF WORK

8.1 CITY or CONTRACTOR may request changes that would increase, decrease, or otherwise modify the Scope of Services, to be provided under this Agreement as described in Article 2 of this Agreement. These changes may affect compensation accordingly. Such changes or additional services must be in accordance with the provisions of the Code of Ordinances of the CITY, and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work.

8.2 In no event will the CONTRACTOR be compensated for any additional work which has not been described in a separate written agreement executed by the parties hereto.

ARTICLE 9

INDEMNIFICATION

9.1 The CONTRACTOR agrees to indemnify and hold harmless the CITY, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action whatsoever, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the CITY or any third party arising out of, or by reason of, or resulting from the CONTRACTOR's negligent acts, errors, or omissions.

9.2 The CONTRACTOR shall indemnify CITY for all loss, damage, expense or liability including, without limitation, court costs and attorneys' fees that may result by reason of any infringement or claim of infringement of any patent, trademark, copyright, trade secret or other proprietary right relating to services furnished pursuant to this Agreement. The CONTRACTOR will defend and/or settle at its own expense, with legal counsel reasonably acceptable to the CITY, any action brought against the CITY to the extent that it is based on a claim that products or services furnished to CITY by the CONTRACTOR pursuant to this Agreement, or if any portion of the services or goods related to the performance of the service becomes unusable as a result of any such infringement or claim. Any infringement or claim that renders any portion of the services to be performed by this agreement to be unusable shall be grounds for default of this Agreement.

9.3 The parties recognize that various provisions of this Agreement, including but not necessarily limited to this Section, provide for indemnification by the CONTRACTOR and requires

a specific consideration be given therefore. The parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by CONTRACTOR. Furthermore, the parties understand and agree that the covenants and representations relating to this indemnification provision shall survive the term of this Agreement and continue in full force and effect as to the party's responsibility to indemnify for events occurring during the term of this Agreement for a period of not less than five (5) years after expiration or termination of the Agreement.

ARTICLE 10

INSURANCE

10.1 CONTRACTOR shall not commence performance hereunder until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall the CONTRACTOR allow any subcontractor, if applicable, to commence work on his subcontract until all similar such insurance required of the subcontractor has been obtained and approved.

10.2 Certificates of Insurance reflecting evidence of the required insurance shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. These Certificates shall contain a provision that coverages afforded under these policies will not be cancelled until at least forty-five days (45) prior written notice has been given to the CITY. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must be not less than "A-VI" in the latest edition of "Best Key Rating Guide," published by A.M. Best Guide.

10.3 Insurance shall be in force until the obligations required to be fulfilled under the terms of the Agreement are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the CONTRACTOR shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONTRACTOR shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

10.4 REQUIRED INSURANCE

10.4.1 Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are premises, operations, products\completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------|-------------|
| A. | Bodily Injury | |
| | 1. Each Occurrence | \$1,000,000 |
| | 2. Annual Aggregate | \$1,000,000 |
| B. | Property Damage | |
| | 1. Each Occurrence | \$1,000,000 |
| | 2. Annual Aggregate | \$1,000,000 |
| C. | Personal Injury | |
| | Annual Aggregate | \$1,000,000 |
| D. | Completed Operations and Products Liability shall be maintained for | |
| E. | Property Damage Liability Insurance shall include Coverage for the following hazards: X - explosion, C - Collapse, U - underground. | |

10.4.2 Worker's Compensation Insurance shall be maintained during the life of this contract to comply with statutory limits for all employees. The following limits must be maintained:

- | | | |
|----|-----------------------|---------------------------------|
| A. | Worker's Compensation | Statutory |
| B. | Employer's Liability | \$100,000 each accident |
| | | \$500,000 Disease-policy limit |
| | | \$100,000 Disease-each employee |

If CONTRACTOR claims to be exempt from this requirement, CONTRACTOR shall provide CITY proof of such exemption along with a written request for CITY to exempt CONTRACTOR, written on CONTRACTOR letterhead.

10.4.3 Comprehensive Auto Liability – coverage shall include owned, hired and non-owned vehicles.

- | | | |
|----|---------------------|-------------|
| A. | Bodily Injury | |
| | 1. Each Occurrence | \$1,000,000 |
| | 2. Annual Aggregate | \$1,000,000 |
| B. | Property Damage | |
| | 1. Each Occurrence | \$1,000,000 |
| | 2. Annual Aggregate | \$1,000,000 |

10.5 CONTRACTOR shall name the CITY, as an additional insured on each of the policies required herein and shall hold the CITY, its agents, officers and employees harmless on account of claims for damages to persons, property or premises arising out of the services provided hereunder.

10.6 Any insurance required of CONTRACTOR pursuant to this Agreement must also be required by any sub-contractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work is subcontracted unless such subcontractor is covered by the protection afforded by the CONTRACTOR and provided proof of such coverage is provided to CITY. The CONTRACTOR and any subcontractors shall maintain such policies during the term of this Agreement.

10.7 The CITY reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

ARTICLE 11

INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, H.U.D., or United States policies, rules or regulations relating to the use of CONTRACTOR's Funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

ARTICLE 12

DEFAULT OF CONTRACT & REMEDIES

12.1 **Default of Contract.** The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by CONTRACTOR:

12.1.1 The abandonment, unnecessary delay, refusal of, or failure to comply with any of the terms of this Agreement or neglect, or refusal to comply with the instructions of the Public Services Director relative thereto.

12.1.2. The failure by CONTRACTOR to observe or perform any of the terms, covenants, or conditions of this Agreement to be observed or performed by CONTRACTOR, where such failure shall continue for a period of thirty (30) days after written notice thereof by CITY to CONTRACTOR; provided, however, that if the nature of CONTRACTOR's default is such that more than thirty (30) days are reasonably required for its cure, then CONTRACTOR shall not be deemed to be in default if CONTRACTOR commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

12.1.3. The assignment and/or transfer of this Agreement or execution or attachment thereon by CONTRACTOR or any other party in a manner not expressly permitted hereunder.

12.1.4. The making by CONTRACTOR of any general assignment or general arrangement for the benefit of creditors, or the filing by or against CONTRACTOR of a petition to have CONTRACTOR adjudged a bankruptcy, or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against CONTRACTOR, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of CONTRACTOR's assets, or for CONTRACTOR's interest in this Agreement, where possession is not restored to CONTRACTOR within thirty (30) days; for attachment, execution or other judicial seizure of substantially all of CONTRACTOR's assets, or for CONTRACTOR's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

12.2 **Remedies in Default.** If the abandonment, delay, refusal, failure, or neglect is not cured within thirty (30) days of when notice was sent by CITY, CITY may declare a default of the Agreement and notify the CONTRACTOR of such declaration of default and terminate the Agreement. Upon such declaration of default, all funds remaining due and payable to the CITY from collections by CONTRACTOR shall be immediately paid to CITY.

ARTICLE 13 **BANKRUPTCY**

It is agreed that if the CONTRACTOR is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the date and at the time the bankruptcy petition is filed. It is expressly agreed that the sums collected by CONTRACTOR pursuant to the Services performed under this Agreement, less the CONTRACTOR'S fee as described in section 5 are at all times property of the CITY on which the CITY shall have a lien during such time as the funds are in possession of CONTRACTOR.

ARTICLE 14

DISPUTE RESOLUTION

14.1 Upon the occurrence of any dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the parties shall deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 13.1, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to binding or nonbinding arbitration or mediation.

14.2 **Arbitration.** In addition to any other remedy provided hereunder, the CITY, at its option, may use arbitration to resolve any controversy or claim arising out of or relating to this Contract if arbitration is elected by the CITY. Any controversy or claim arising out of or relating to this Contract, or breach thereof, may be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered into by any court having jurisdiction thereof. In the event arbitration is elected by the CITY, such controversy or claim shall be submitted to one arbitrator selected from the National Panel of The American Arbitration Association.

14.3 Operations During Dispute.

14.3.1 In the event that a dispute, if any, arises between the CITY and the CONTRACTOR relating to this agreement performance or compensation hereunder, the CONTRACTOR shall continue to render service and remit payments in full compliance with all terms and conditions of this agreement as interpreted by the CITY regardless of such dispute.

14.3.2 The CONTRACTOR expressly recognizes the paramount right and duty of the CITY to enforce its False Alarm/Elevator Rescue ordinance and the collection of fines pursuant thereto, and further agrees, in consideration for the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court, but will negotiate with the CITY for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute, may present the matter to a court of competent jurisdiction in an appropriate suit therefore instituted by it or by the CITY.

14.3.3 Notwithstanding the other provisions in this Section, the CITY reserves the right to terminate the Agreement at any time, whenever the service provided by the CONTRACTOR fails to meet reasonable standards of the trade after the CITY gives written notice to the CONTRACTOR of the deficiencies as set forth in Section 10.1.2.

ARTICLE 15
MISCELLANEOUS

15.1 **License for CITY Information.** CONTRACTOR acknowledges that the names, logos, service marks, trademarks, trade dress, trade names and patents, whether or not registered, now or hereafter owned by or licensed to CITY are proprietary marks and CONTRACTOR will not use the marks for any purpose except as expressly permitted in writing by the CITY. Upon termination of this Agreement, CONTRACTOR shall immediately and permanently discontinue the use and display of any marks.

15.2 **Ownership of Documents.** Reports, surveys, studies, and other data provided in connection with this Agreement are and shall remain the property of CITY, whether or not the project for which they are made is completed.

15.3 **Legal Representation.** It is acknowledged that each party to this agreement had the opportunity to be represented by counsel in the preparation of this Agreement, and accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

15.4 **Records.** CONTRACTOR shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of three (3) years after the termination or expiration of this Agreement or renewals thereof. In the event of litigation relating to the services provided through this Agreement, the records shall be maintained until conclusion of the litigation. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.

15.5 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered by CONTRACTOR without the prior written consent of CITY, which shall not be unreasonably withheld. For purposes of this Agreement, the purchase of a majority of the assets or stock of the CONTRACTOR by a third party shall not constitute an assignment which requires CITY approval. However, this Agreement shall run to the CITY and its successors and assigns.

It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

15.6 **No Contingent Fees.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to

solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

15.7 **Notice.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the CITY designate the following as the respective places for giving of notice:

CITY: David Hebert, City Manager
City of Oakland Park
3650 N.E. 12th Avenue
Oakland Park, Florida 33334
Telephone No. 954-630-4209
Facsimile No. 954-630-4215

Contractor: George Wilson
Chief Operating Officer
Public Safety Corporation
103 Paul Mellon Court
Waldorf, MD 20602
Telephone No. (240) 607-1400
Facsimile No. (301) 638-9319

15.8 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

15.9 **Headings.** Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

15.10 **Exhibits.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

15.11 **Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

15.12 **Governing Law.** This Agreement shall be governed by the laws of the State of Florida with venue lying in Broward County, Florida.

15.13 **Extent of Agreement.** This Agreement represents the entire and integrated agreement between the CITY and the CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

15.14 **Waiver.** Failure of the CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be constructed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

15.15 **Attorney's Fees.** In the event that either party brings suit for enforcement of this Agreement, each party shall be responsible for its own attorney's fees and court costs and any other remedy afforded by law.

15.16 **Cooperative Purchases.** This Agreement may be used by other government agencies. The CONTRACTOR has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the revenue share percentage (Compensation) may be negotiated between the CONTRACTOR and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The CITY will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.

[Remainder of Page Intentionally Blank]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

ATTEST:

Renee Shroot
Renee Shroot
Janette Smith, City Clerk
APPROVED AS TO FORM. R.2014.075

CITY OF OAKLAND PARK

BY:

David Hebert
David Hebert, City Manager

W. J. Gandy
OFFICE OF THE CITY ATTORNEY

Witness:

Jim M. Williams
JIM M. WILLIAMS
Print Name

BY:

George R. Wilson
Print Name: GEORGE R. WILSON

Title: COO

STATE OF Maryland)
) ss:
COUNTY OF St. Marys)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared George R. Wilson, Sr as COO of APC Public Safety Corp, a company authorized to conduct business in the State of Florida, and acknowledged execution of the foregoing Agreement as the proper official of APC Public Safety Corp, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 2nd day of Sept, 2014.

Donna C. Valentine
Notary Public
My Commission Expires
September 11, 2017
St. Mary's County, MD

Donna C. Valentine
NOTARY PUBLIC
Donna C. Valentine
(Name of Notary Typed, Printed or Stamped)

Exhibit A
FALSE ALARM/ELEVATOR RESCUE BILLING AND COLLECTION SERVICES

PURPOSE

The purpose of this Scope of Services is to describe the duties and responsibilities of Public Safety Corporation ("CONTRACTOR"), and the CITY of Oakland Park, Florida ("CITY").

CONTRACTOR RESPONSIBILITIES

CONTRACTOR will be responsible for the daily operation of the False Alarm/Elevator Rescue Reduction Program. This will include, but may not be limited to:

1. Initially importing electronically into CONTRACTOR's alarm processing system ("CryWolf") database alarm system registration / permit data obtained from CITY and/or alarm companies, as authorized by CITY;
2. Registering and updating alarm permits in accordance with the CITY Alarm Ordinance ("Ordinance"). Permit registrations may be processed by mail and/or online;
3. Importing daily into the CONTRACTOR alarm billing system, False Alarm/Elevator Rescue incident data (in formats prescribed by CONTRACTOR) extracted from Broward County's CAD/911 System;
4. Initializing, maintaining, securing and backing up Program databases including alarm registration and incident data, alarm-related financial transactions and accounts receivable information. CONTRACTOR will comply with the provisions of the Ordinance, and update Program business rules to comply with any Ordinance changes;
5. Processing False Alarm/Elevator Rescue incident data, including the matching of False Alarm/Elevator Rescue incidents with the alarm system registration / permit database maintained by CONTRACTOR;
6. Billing and corresponding with alarm users in accordance with the Alarm Ordinance provisions. This will include but may not be limited to notifications of False Alarm/Elevator Rescues, invoices, and delinquent payment notices;
7. Providing CITY-specific information on False Alarm/Elevator Rescue reduction and Ordinance requirements in False Alarm/Elevator Rescue notices / warning letters sent to alarm users;
8. Creating and hosting a CITY False Alarm/Elevator Rescue reduction program website that allows alarm users to learn how to reduce False Alarm/Elevator Rescues, appeal actions and charges, request and renew alarm system permits, access alarm account information, and pay alarm fees and fines;
9. Answering telephone inquiries from CITY alarm users that are placed to a False Alarm/Elevator Rescue program toll-free customer service number;
10. Processing fee / penalty payments mailed to and deposited in a mutually agreeable bank lockbox and received from other payment channels, e.g. online, as agreed on by CONTRACTOR and CITY, and applying these payments to alarm accounts;

11. Supporting alarm hearings and appeals by notifying CITY of any such appeals, providing a City Alarm Program representative with documentation supporting noticing/billing decisions; and updating the system with the disposition of any hearing results;
12. Providing and maintaining computer equipment, software, mailing equipment and furniture at the Program processing facilities;
13. Providing CITY secure, online, on-demand access to alarm management information and reports including, but not limited to, alarm account transaction history, registration/permit and suspension information, and financial transactions/balances with format and content specified by the CryWolf® Alarm Management System and the designated Bank, and agreed on between CITY and CONTRACTOR; and,
14. Performing special collection functions as approved by CITY such as retaining third party collection agency or providing delinquent account information to other City agencies.

CONTRACTOR is responsible for all costs of carrying out these responsibilities including, but not limited to, the costs of staff, facilities, equipment, postage (limited to standard, U.S. Postal first-class rates) and consumable supplies. Only bank (institution approved by CITY) and credit card fees, and third party collection costs (if any), e.g. collection agency fee; and will be shared by the parties in accordance with the revenue share percentages described in ARTICLE 5. Citizen overpayments (if any) will be maintained in the bank account until refunded or applied to outstanding alarm invoices as authorized by the CITY.

CITY RESPONSIBILITIES

1. Appointing a CITY Alarm Administrator ("Administrator") who will be the primary point of contact between CONTRACTOR and CITY. The Administrator is responsible for overseeing CONTRACTOR's operation of the False Alarm/Elevator Rescue Management Services Program ("Program") and accessing Program information, as needed, via CONTRACTOR provided online access;
2. Requesting Alarm Companies to provide alarm system registration information and supporting CONTRACTOR, as needed, to ensure that Alarm Companies comply with alarm system information requests;
3. Making any and all decisions about alarm call response, determining whether calls are False Alarm/Elevator Rescues, providing any on-scene communication of alarm related information to alarm users, and for ensuring that alarm related information is documented within the County CAD/911 system;
4. Extracting False Alarm/Elevator Rescue incident data from the CAD/911 System and ensuring that this information is transferred electronically to CONTRACTOR (via email or CONTRACTOR FTP site). CITY staff is also responsible for entering, or causing to be entered, into the CAD/911 System any False Alarm/Elevator Rescue related information that CITY may choose to display to CAD/911 System operators through the CAD/911 System;
5. Scheduling, conducting and making appeal decisions for any False Alarm/Elevator Rescue hearings;
6. Conducting any general, City wide, public education programs on False Alarm/Elevator

Rescues; and,

7. Transferring any and all financial information from the Program generated alarm reports to other CITY financial systems, as needed.

CITY is responsible for all costs of carrying out these responsibilities, including, but not limited to the costs of staff, facilities, computer equipment, postage and consumable supplies.