

## SERVICE AGREEMENT

This Agreement ("Agreement") is entered into as of **August 1, 2012** ("Effective Date"), by and between Andy Frain Services, Inc., an Illinois corporation with its principal offices located at 761 Shoreline Drive, Aurora, IL. 60504 ("Contractor"), and **Village of Hanover Park, 2121 West Lake Street, Hanover Park, IL 60133** ("Client"),(collectively, the "Parties").

### UNDERSTANDINGS

1. Client represents that it is authorized to contract for the Services listed in Appendix B to this Agreement, for the Village of Hanover Park, Illinois ("Location"), as more fully described in the Location of Services identified in Exhibit A to this Agreement;
2. Contractor is in the business of supplying uniformed guard, security and event services and personnel and is willing to furnish such services and personnel to Client with respect to the Property and subject to the terms, conditions and provisions of this Agreement;
3. Client desires Contractor to furnish certain service personnel for the purpose of performing certain security and special event services at the Property, as further described below;

NOW, THEREFORE, in consideration of the foregoing, and for good and other valuable consideration, the receipt and sufficiency of which is acknowledged, Contractor and Client agree as follows:

### AGREEMENT

**Section 1. *Employment.*** Client hereby employs and hires Contractor to provide certain services at the Property, and Contractor agrees to perform such services pursuant to the terms and conditions of this Agreement.

**Section 2. *Nature of Services.*** Contractor shall furnish all services (including, without limitation, providing personnel ("Service Personnel")) as requested by Client to maintain security ("Security Services") and event staffing ("Event Services") at the Property in accordance with the term and conditions of this Agreement (collectively known hereinafter as the "Services" unless specifically identified otherwise). The Schedule of Services, and the Scope of Services requested by Client and which Contractor agrees to furnish pursuant to this Agreement, including the Service Personnel requested for such Services, are more fully described in the Schedule of Services and Rates and the Scope of Services which are attached hereto and incorporated herein by reference as Exhibit A and Exhibit B, respectively.

The Contractor's Service Personnel shall be assigned to specific posts and shall be provided post orders ("Post Orders") by Client. Details relating to the Services to be provided, including dates, number of personnel, hours and locations for service shall be included in the Post Orders. Client reserves the right to reassign as needed any Service Personnel to other functions and posts as the Client may deem necessary.

If at any time Contractor believes that personnel or services in excess of those expressly requested by Client and described in this Agreement are necessary to properly furnish Services at the Property, Contractor may so inform Client. However, the Parties agree that Contractor's responsibility is solely limited to providing Services, and that Contractor has not been engaged by Client as a consultant or otherwise to provide advice or an assessment of security or event staffing needs at the Property, except as otherwise specifically identified herein. Contractor shall not be responsible for any decisions or security assessments made by Client or anyone else, including pertaining to the sufficiency and placement of the staffing.

**Section 3. *General Duties and Obligations of Contractor.*** Contractor agrees as follows:

(a) Contractor agrees to furnish the Service Personnel and perform the Services requested by Client, as described in this Agreement. The Parties agree that any change in the Scope of Services contemplated by this Agreement, including any modification, supplementation or reduction in Services, shall be made by a request in writing by Client and, if such changes or modifications are accepted by Contractor, shall be agreed upon in writing signed by Client and Contractor.

(b) Contractor represents that all Service Personnel utilized by Contractor under this Agreement shall be trained by Contractor using Contractor's approved materials /instructions and shall be competent to perform their duties.

(c) Contractor shall provide each Service Personnel with a proper uniform and any such equipment, as it shall, with the approval of Client, deem necessary or appropriate.

(d) Contractor agrees that the Services furnished under this Agreement shall be in conformity with practices which are generally current in the security and event services industries.

(e) Contractor shall comply with all applicable local, State and Federal laws, rules and regulations which govern the Services provided in this Agreement. Contractor shall apply for and endeavor to obtain any such licenses and permits which may be required by any governmental authority for the performance of the contracted Services.

(f) The Parties agree that Contractor does not herein or otherwise represent and cannot warrant, expressly or impliedly that the Services furnished will prevent or minimize the likelihood of loss or damage.

**Section 4. *General Duties and Responsibilities of Client.*** Client agrees as follows:

(a) Client shall pay Contractor for the Services provided by Contractor at the rates provided herein and shall make such payment pursuant to the terms and conditions contained in this Agreement.

(b) Client shall remain solely responsible for any decisions or directions to Contractor concerning the location, number or extent, or placement or sufficiency of personnel staffing requested under this Agreement.

(c) To effectuate this Agreement, Client shall provide Contractor with such information, including the Post Orders concerning the Property or sufficient information to enable Contractor to prepare Post Orders for the Property, as are necessary for Contractor to furnish the Services pursuant to this Agreement.

(d) Client shall provide Contractor with information pertaining to the Property necessary to ensure that the Service Personnel are trained and prepared to provide the Services at the Property, including information necessary to train those Service Personnel with responsibilities concerning the alarms systems, elevator and light controls, cameras and access control systems for the Property.

(e) Client shall be solely responsible for managing and maintaining the Property and otherwise managing, maintaining and providing any services with respect to the Property, other than the Services contemplated by this Agreement.

**Section 5. *Specific or Additional Terms, Conditions and Obligations.*** The Parties agree that Contractor shall furnish the Services, subject to the specific or additional terms, conditions and obligations contained in Exhibit C, which document is attached hereto and incorporated by reference herein. In the event there is a discrepancy between this Agreement and its Exhibit C, the terms and conditions of this Agreement shall control.

**Section 6. *Fees, Invoices, Payment.***

(a) **Rates.** Client shall pay Contractor for the Services at the rates set forth in Exhibit A.

(b) **Invoices.** Contractor shall invoice Client for Services performed under this Agreement. Invoices shall be sent to Client at Client's location identified in Exhibit A.

(c) **Payment.** Client agrees to remit payment to Contractor according to the rate schedule, Exhibit A (attached) within 30 days of the date stated on the invoice. Any objection, dispute or claim regarding the amount of an invoice or the underlying services rendered must be sent in writing by the Client to Contractor with thirty (30) days from the invoice date, setting forth the nature of the objection, dispute or claim, and including all supporting documentation, or it shall for all purposes be deemed waived by the Client. Client agrees to pay a late fee of 1-1/2% per month (or any part thereof) plus all collection and attorney's fees and costs which may be incurred by Contractor in the attempted collection or collection of any invoice(s) not paid pursuant to the terms of this Agreement. For purposes of this paragraph, time is of the essence.

(d) **Records.** Upon request, Contractor shall furnish Client with copies of completed daily timesheets and other records which form the basis of billings for Services performed by Contractor under this Agreement. Such records shall contain detail sufficient to indicate the Property where and when such Services were performed.

(e) **Rate Change.** If there is enacted any law, regulation, ruling or other mandate of any authority having appropriate jurisdiction which alters the hours of service, rates of pay, working conditions or costs of performing the Services provided in this Agreement, Client agrees that this Agreement will be subject to immediate re-negotiation to take into account these increased costs.

**Section 7. Service Personnel.**

(a) **Independent Contractor.** All Service Personnel shall be the employees of Contractor and shall not under any circumstances be deemed to be employees of Client. Contractor shall pay all wages, all applicable taxes and shall comply with all other legal obligations as employer of the Service Personnel.

(b) **Supervision.** Contractor shall at all times be responsible for the direct supervision of its employees through the Manager or Supervisor assigned to and responsible for managing Contractor's Services at the Property. Each Manager or Supervisor shall, in turn, report and confer with the designed representative of Client at the Property with respect to the Services performed under this Agreement. Such reporting and conferring shall be as frequently as mutually agreed by the Parties hereto from time to time.

Client may, if desired and agreed to by Contractor, have supervision or control over any of Contractor's employees and any requested change in procedure shall be transmitted in writing by Client to Contractor's local manager. If Client alters any instructions or directions given by Contractor to the Service Personnel or if Client assumes any supervision of the Service Personnel, Client shall be solely liable for any and all consequences thereof and agrees to indemnify, defend and hold harmless Contractor from and against any and all losses, claims, expenses (including reasonable attorney's fees) or damages arising from or relating to the actions or omissions to such Service Personnel.

Notwithstanding anything to the contrary in this Agreement, Contractor shall not be responsible for providing an assessment of security or staffing needs at Client's Property and shall not be responsible for determining the number, sufficiency or assigned location of Service Personnel assigned to the Property.

(c) **Background Checks.** Contractor represents that Contractor has performed and will continue to perform background checks in accordance with the Contractor's Standard Security Program, as in effect from time to time. Original background checks will include criminal and motor vehicle histories.

**Section 8. Insurance.** Contractor shall maintain during the term of this Agreement, at its own expense, insurance policies insuring Contractor, as follows:

TYPE OF INSURANCE	LIMIT OF INSURANCE
General Commercial Liability – Occurrence Form	\$1,000,000 Per Occurrence
Workers Compensation & Employers Liability	Statutory
Business Auto Liability including Hired and Non Owned Auto Liability	\$1,000,000
Excess/Umbrella	\$9,000,000 Per Occurrence \$9,000,000 Aggregate

Contractor agrees solely with respect to liability caused by the sole negligent acts of Contractor, to name Client its officers, employees and directors as Additional Insureds on Contractor's

General Commercial Liability and Auto liability insurance policies. Such insurance shall be provided to Additional Insureds on a primary and non-contributory basis.

To the maximum extent permitted by applicable law and the insurance policy maintained, Contractor agrees to waive Contractor's and Contractor's insurers rights of subrogation.

Prior to commencing the Services, Contractor shall furnish a certificate of insurance evidencing compliance with the foregoing provisions of this Section and providing that such insurance policies will not be changed or canceled during their respective terms without at least thirty (30) days prior notice by registered or certified mail to Client.

**Section 9. Indemnification.** Contractor shall indemnify Client from and against claims, damages, losses, liabilities and judgments that Client may sustain by reason of a) damage to property within the sole and exclusive custody or control of Contractor, or b) injury to or death of a person, or c) for any losses or damages sustained by Client from false arrest, false imprisonment, searches or malicious prosecution, libel, slander, defamation of character, violation of right or privacy, assault or battery, provided that such claims, damages, losses, liabilities or judgments are caused solely by: the direct negligent acts of Contractor or Contractor's employees while engaged in the performance or non-performance of Services under this Agreement, and subject to the provisions set forth herein.

Contractor shall not indemnify or be required to indemnify Client from or against any damages, judgments, losses, liabilities or claims (i) caused by the acts, direction, instructions, or omissions or negligence or contributory negligence of Client or as a result of conduct, action or inaction by or within the control of Client, its directors, officers, members, partners, licensees, invitees, representatives, agents, or employees, or (ii) caused by or resulting from the unlawful or negligent actions or omissions of third parties or (iii) arising out of injury to or death of any employee of Contractor, unless caused solely by the direct negligence of Contractor.

Notwithstanding anything to the contrary in this Agreement, Contractor shall not be liable to Client for any injury (including death) to any person, including an employee of Contractor, arising from a slip, trip or fall while on or near the premises of Client. It is expressly understood and agreed that Contractor is not responsible for performing any maintenance or construction services including but not limited to elevator or escalator maintenance, light repair, lock or alarm device repair or maintenance, building upkeep, snow removal, garbage or debris removal and water removal. It is further understood and agreed that Contractor is not required or requested to report any maintenance needs or failures to Client.

Notwithstanding anything to the contrary in this Agreement, the Parties agree that any additional insured or indemnity provision throughout this Agreement applies only to claims caused by the direct negligent acts of Contractor and its employees while performing agreed upon duties and Services.

**Section 10. Term, Termination.** This Agreement shall commence on Effective Date, and shall continue until either party terminates this Agreement for any reason, or for no reason, upon thirty (30) days written notice.

**Section 11. Contractor's Employees.** During the term of this Agreement and for a period of twelve (12) months immediately following the end or termination of this Agreement, Client shall

not solicit or offer to hire, or hire any employees of Contractor, without the prior written consent of Contractor. This paragraph shall survive termination of this Agreement, regardless of the reason of, basis for or circumstances surrounding such termination.

**Section 12. *Suspension of Service.*** In the event that Client's operations at the Property are halted or substantially decreased by reason of strike, labor dispute, picketing, acts of God, or other cause beyond the control of the Client, then those portions of this Agreement concerning Services to be provided at the affected Property and concerning payment thereof shall, upon twenty-four (24) hours written notice from Client to Contractor, be suspended until further written notice by Client to Contractor.

**Section 13. *Default.*** Each party may terminate this Agreement immediately if any of the following events shall occur: (a) default by the other party in the performance of the terms and conditions of this Agreement, including but not limited to Client's failure to timely make payments required hereunder when due, which default continues for five (5) days or more after written notice from the other party; (b) if at any time during the term of the Agreement there shall be filed by such party in any court, pursuant to any statute, either of the United States or of any state, territory or possession, a petition in bankruptcy, or insolvency, or for reorganization, or for the appointment of a receiver to receive all or a portion of such party's property; (c) if such party makes an assignment for the benefit of creditors; or (d) if such party is declared bankrupt in an involuntary proceeding, or is ordered into receivership.

**Section 14. *Notices.*** All notices with respect to or required by this Agreement shall be deemed sufficient if deposited with the United States mail, certified or registered, with adequate postage affixed and properly addressed to the respective party at the address(es) identified in the attached Exhibit A, or at such addresses may be amended by written notice so mailed. Notices to Contractor shall be mailed to the Contractor's corporate address, as indicated in this Agreement.

**Section 15. *Assignment.*** This Agreement shall not be assigned in whole or in part by either party without the prior written consent of the other party provided, however, that so long as a party is not in default under this Agreement, that party may assign this Agreement to an entity with which it merges or consolidates or which acquires substantially all of its assets or stocks. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

**Section 16. *Entire Agreement, Amendments.*** This Agreement and the items incorporated herein constitutes the entire understanding and agreement of the Parties with respect to matters contained herein and supersedes all prior agreements or understandings, if any, between the Parties related to the matters contained herein. Neither Party has relied on any, and there are no, oral or parol agreements, promises, representations or inducements not contained in this Agreement. No provisions of this Agreement may be amended or modified in any manner whatsoever, except by an agreement in writing signed by each of the Parties hereto.

**Section 17. *Severability.*** If any term or provision of this Agreement, or the application thereof, to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Agreement, or the application of such terms or provisions to the person or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law.

**Section 18. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

**Section 19. Jurisdiction.** Any lawsuit or other action with respect to or to enforce the terms of this Agreement, including any lawsuit pertaining to the validity of this Agreement and the Services rendered hereunder, shall be filed and maintained in State of Illinois.

**ANDY FRAIN SERVICES, INC.**

Village of Hanover Park

By: Ed Millard

By: CRAIG A. HAIGH

Signature: Ed Millard

Signature: Craig A. Haigh

Title: PROGRAM DIRECTOR

Title: INTERIM VILLAGE MANAGER

Date: 7/16/12

Date: 7/9/12

**EXHIBIT A – SCHEDULE OF SERVICES AND RATES**

This Exhibit A is attached to, made part of and incorporated by reference into the Service Agreement (the "Agreement") made by and between Andy Frain Services, Inc. ("Contractor") and Village of Hanover Park ("Client") dated August 1, 2012 and this Exhibit A identifies the rates, locations and services which are to be provided in accordance with the Agreement, as follows:

CLIENT NAME AND CONTACT PERSON: Village of Hanover Park  
 Deputy Chief Tom Cortese  
 Hanover Park Police Department  
 2121 West Lake Street  
 Hanover Park, IL 60133

ADDRESS: 2121 West Lake Street, Hanover Park, IL 60133

STARTING DATE: Continuance of original start date of 08/15/2011

CLIENT ADDRESS FOR INVOICE: Village of Hanover Park  
 Deputy Chief Tom Cortese  
 Hanover Park Police Department  
 2121 West Lake Street  
 Hanover Park, IL 60133

LOCATION OF SERVICES: Crossing Guard Posts within the Village of Hanover Park

SPECIAL INSTRUCTIONS:

THE PARTIES AGREE THAT CONTRACTOR SHALL PROVIDE THE SERVICE PERSONNEL AT THE RESPECTIVE RATES, AS FOLLOWS:

Effective 08/01/2012 – 07/31/2013

Guards/Event Staff Personnel	Regular – Per Crossing	Overtime	Holiday	Equipment	Other
Crossing Guards	\$17.02	\$25.51	\$25.51	\$	\$
	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$

Supervisor/Manager Personnel	Regular	Overtime	Holiday
Supervisor	\$17.02	\$25.51	\$\$25.51
	\$	\$	\$
	\$	\$	\$

HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.

Other Holidays or Overtime specifications:

**PAYMENT SCHEDULE**

**Payment due 30 days from the date of the invoice**

**Billing will be on a monthly basis**

\* \* \* \*

THE TERMS, PROVISIONS AND SERVICES IDENTIFIED IN THIS EXHIBIT A ARE INCORPORATED BY REFERENCE IN TO THE SERVICE AGREEMENT AND ARE BINDING ON THE PARTIES TO THE SERVICE AGREEMENT.

**ANDY FRAIN SERVICES, INC.**

**VILLAGE OF HANOVER PARK**

BY: Ed Millard

BY: Craig A. Haight

SIGNATURE: Ed Millard

SIGNATURE: Craig A. Haight

TITLE: Program Director

TITLE: INTERIM VILLAGE MANAGER

**EXHIBIT B – SCOPE OF SERVICES**

This Exhibit B is attached to, made part of and incorporated by reference into the Service Agreement (the “Agreement”) made by and between Andy Frain Services, Inc. (“Contractor”) and **Village of Hanover Park** (“Client”) dated **August 15, 2011** and this Exhibit B identifies the Scope of Services which are to be provided by Contractor to Client in accordance with the Agreement, as follows:

1. Crossing Guard Services
- 2.
- 3.
- ....

**EXHIBIT C – SPECIFIC OR ADDITIONAL TERMS, CONDITIONS AND OBLIGATIONS**

This Exhibit C is attached to, made part of and incorporated by reference into the Service Agreement (the “Agreement”) made by and between Andy Frain Services, Inc. (“Contractor”) and **Village of Hanover Park** (“Client”) dated **August 1, 2012** and this Exhibit C identifies the Specific or Additional Terms, Conditions and Obligations concerning the Services provided by Contractor under the Agreement, as follows:

No specific or additional terms, conditions and obligations.