

CONTRACT

A Contract for False Alarm Management Services

A Contract Between
City of Fernley
595 Silver Lace Blvd
Fernley NV 89408

and

Public Safety Corporation
103 Paul Mellon Court
Waldorf MD 20602

WHEREAS, Nevada Revised Statutes (“NRS”) chapter 266 authorizes the City of Fernley, Nevada (the “City”) to engage services of persons as independent contractors; and

WHEREAS, it is deemed that the services of Public Safety Corporation, (the “Contractor”) are both necessary and in the best interests of the City; and

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Contract for Services of Independent Contractor (this “Contract”) is contingent upon Fernley City Council approval. Lyon County, Nevada recently administered a request for proposals for these services and awarded the contract to the Contractor (the “Lyon County Contract”). The Lyon County Contract provides for cooperative purchasing.

2. DEFINITIONS.

- a. “City” means City of Fernley, County of Lyon, State of Nevada.
- b. “Independent Contractor” means a person or entity that performs services and/or provides goods for the City under the terms and conditions set forth in this Contract.
- c. “Fiscal Year” is defined as the period beginning July 1 and ending June 30 of the following year.

3. CONTRACT TERM. The term of this Contract shall commence upon the date it is signed by both parties (the “Effective Date”) and shall continue for a period of two (2) years following the date that the Contractor begins tracking and billing for false alarms. This contract shall automatically renew for additional one year periods unless either Fernley notifies the Contractor or the Contractor notifies Fernley in writing no later than ninety (30) days prior to the expiration of the initial or any annual renewal term that Fernley or Contractor wishes to terminate this agreement.

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4. **NOTICE.** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, or by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.

Notice for the City shall be sent to:

City Manager
City of Fernley
595 Silverlace Blvd.
Fernley, NV 89408

Notice for the Contractor shall be sent to:

Public Safety Corporation Contracts Manager
103 Paul Mellon Court
Waldorf MD 20602

5. **SCOPE OF WORK:** Scope of Work shall be set forth in Attachment A and Attachment B.

6. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in paragraph (5) at a Fee Schedule outlined in Attachment A and C.

7. **ATTACHMENTS:** This Contract also incorporates the following attachments (the "Attachments"):

ATTACHMENT A: Scope of Work and Fee Schedule

ATTACHMENT B: Scope of Services

ATTACHMENT C: Payment Terms

Should a conflict arise between the terms of the attachment(s) and this contract, the contract term(s) prevails unless specifically addressed in a document separate from the contract and attachments and signed by all parties.

8. **TIMELINESS OF BILLING SUBMISSION.** The parties agree that timeliness of billing is of the essence to this Contract and recognize that the City is on a fiscal year. At the beginning of each, Contractor will reconcile the alarm related deposits for the most recent completed month and report the same to the City.

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Upon City's approval, City and Contractor shall authorize and cause the issuance of electronic (ACH) transfers to City and to Contractor as follows:

- a. With regard to the transfer to Contractor, the amount will be calculated for Contractor based on the Revenue Share described above. That amount, not to exceed 18% of the revenue collected during the preceding month, shall be transferred to a bank and account authorized by Contractor; and,
- b. The remaining balance of the revenue collected during the preceding month of no less than 82%, shall be transferred to a bank and City account specified by City.
- c. Only bank fees, citizen overpayments (if any), credit card fees (if any), and mailing costs (postage, paper and envelopes) at U.S. Post Office first class rate will be withheld (paid) from gross collections before revenue sharing percentages are applied. Any certified mail requirements are not subject to the revenue share division and will be reimbursed to Contractor from City's revenue share.

9. INSPECTION & AUDIT.

- a. **Books and Records.** Contractor agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the City, the State of Nevada or the United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes. Contractor agrees to provide a copy of the file within a reasonable time upon being requested by the City.
- b. **Inspection & Audit.** Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the City, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect the requirements of this paragraph.
- c. **Period of Retention.** All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used under this Contract. The retention period runs from the date of payment for the relevant goods or services by the City, or from the date of termination of this Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

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10. CONTRACT TERMINATION.

- a. **Termination Without Cause.** Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated without cause by (1) written mutual consent of both parties, or (2) unilateral termination by either party after service of formal Thirty Day (30) written notice as specified in paragraph (4).
- b. **Termination for Non-Appropriation.** The continuation of this Contract beyond the current fiscal year is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the City. The City may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the City's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- c. **Default or Breach.** A default or breach may be declared with or without termination. The following shall constitute a default or breach:
 - i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
 - ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
 - iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
 - iv. For any other good or sufficient reason, including, but not limited to, dishonesty, fraud, ethical violations, bribery, or other similar acts.
- d. **For Cause Termination and Time to Correct.** This Contract may be terminated by the non-defaulting party upon a declared default or breach only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the non-defaulting party, showing that the declared default or breach has been corrected.
- e. **Winding Up Affairs Upon Termination.** In the event that this Contract is terminated for any reason, the parties agree that the provisions of this paragraph survive termination:
 - i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of

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- winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the City;
 - iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the City; and
 - iv. Contractor shall preserve, protect and promptly deliver possession to the City of all proprietary information in accordance with paragraph (21).
 - v. In the event that dispute(s) arise during the winding up of affairs upon termination, the parties agree to meet and negotiate in good faith to resolve any such dispute(s).
 - vi. At the termination of this Contract, any remaining balance in the lockbox shall be transferred to CONTRACTOR and to CITY on the same prorata basis, e.g. 18% and 82% respectively. In addition, CONTRACTOR will continue to collect payments from the lockbox and record such payments for the CITY on an Excel spreadsheet which will be provided to the CITY on a weekly basis for 90 days. At the end of each month, for the 90-day period, CONTRACTOR will reconcile the bank statement and spreadsheet of payments after termination date and CONTRACTOR shall share those payments collected in the lockbox with the CITY and be compensated at 18% for those 90 days of payments collected after termination date. Contractor will receive 18% and the City will receive 82% as described in Attachment C, Payment Terms.
 - vii. f. Termination Within Initial Two (2) Year Period. If, within the initial two (2) years of the effective date, this Contract is terminated by the City for convenience or is terminated by Contractor for cause, Contractor shall be due a one-time program termination fee, not to exceed \$20,000.00 ("Program Termination Fee"), to reimburse Contractor for startup costs. This fee shall be in addition to any other amounts due Contractor under the contract. The \$20,000.00 shall be amortized (reduced) on a straight-line basis (\$833.33 per month) over the Initial Two Years. (By way of example only, in the event City terminated for convenience after year 1 of the Initial Term, then City would owe Contractor an amount not to exceed \$9,999.96)

11. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights

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and remedies provided by law or equity, including, without limitation, actual damages exclusive of lost profits.

12. ATTORNEYS' FEES, COSTS, AND EXPENSES. Unless otherwise stated herein, the Parties will bear their own attorneys' fees, costs, and expenses in connection with the negotiation, execution, and performance of this Agreement.

13. LIMITED LIABILITY. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the Attachments. Damages for any default or breach by the City shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the default or breach.

14. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

15. INDEMNIFICATION.

A. As respects negligent acts, errors or omissions in the performance of professional services, the Contractor agrees to indemnify and hold harmless the City, including their elected officials, officers, employees, and agents from and against reasonable defense costs, including reasonable attorney fees, liability or claims arising directly out of the Contractor's negligent acts, errors or omissions in the performance of its work under the terms of this Agreement, to the extent the liabilities are determined to have been proximately caused by the negligent acts, errors or omissions of the Contractor, its Sub-CONTRACTORS or Sub-Contractors (hereafter "Subs"), their employees, agents, or representatives. City shall provide notice to Contractor of the City's receipt of a written demand/claim or lawsuit arising from Contractor's work.

B. The CONTRACTOR agrees to hold harmless, indemnify, and defend the City, including their elected officials, officers, employees, and agents from loss or liability resulting from any claim, demand, suit, action, or cause of action based on bodily injury, including death, or property damage, caused by any negligent or intentional acts, errors or omissions, either direct or passive, on the part of the Contractor, its Subs, their employees, agents, or representatives, arising from the performance of work under this Agreement. The collective group to be indemnified shall hereinafter be referred to as "Indemnitees." If an "Indemnitees" is found to be liable in the proceeding, then Contractor's obligation here under shall be limited to the proportional share of the liability attributed to the Contractor.

16. INDEPENDENT CONTRACTOR. Contractor is associated with the City only for the purposes and to the extent specified in this Contract, and in respect to performance

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of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the City whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the City shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the City; (4) participation or contributions by either Contractor or the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the City. Contractor shall indemnify and hold the City harmless from, and defend the City against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the City.

17. INSURANCE Unless expressly waived in writing by the City, Contractor, as an independent contractor and not an employee of the City, must carry those policies of insurance which have been agreed to by the parties as evidenced by the parties initials in the signature spaces provided in the amounts specified below and pay all taxes and fees incident hereunto. The City shall have no liability except as specifically provided in this Contract. Contractor shall not commence work before:

- a. Contractor has provided the required evidence of insurance to the City, and
- b. The City has approved the insurance policies provided by Contractor. Prior approval of the insurance policies by the City shall be a condition precedent to any payment of consideration under this Contract and the City's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the City to timely approve the insurance policies or any changes to the insurance coverage shall not constitute a waiver of the condition.

Insurance Coverage: Contractor shall, at Contractor's sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specified herein or otherwise agreed to by the City, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in force as appropriate until the latter of:

- 1) Final acceptance by the City of the completion of this Contract;
or
- 2) Such time as the insurance is no longer required by the City under the terms of this Contract.

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Any insurance or self-insurance available to the City shall be in excess of, and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the City, Contractor shall provide the City with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the City and immediately replace such insurance or bond with an insurer meeting the requirements.

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Workers' Compensation and Employer's Liability Insurance:

INDUSTRIAL INSURANCE. Contractor further agrees, as a precondition to the performance of any work under this Contract and as a precondition to any obligation of the City to make payment under this Contract, to provide the City with a work certificate issued by a qualified insurer in accordance with NRS 616B.627. Contractor agrees, prior to commencing any work under this Contract, to complete and to provide the following written request to the qualified insurer:

Public Safety Corporation has entered into a contract with Owner to perform work from _____ to _____ and requests that an industrial insurance provider qualified and licensed to offer such insurance within the State of Nevada, provide to The City of Fernley, Nevada 1) a certificate of coverage issued pursuant to NRS 616B.627 and 2) notice of any lapse in coverage or nonpayment of coverage that Contractor is required to maintain. The certificate and notice should be mailed to:

City of Fernley
595 Silver Lace Blvd
Fernley, NV 89408

Contractor agrees to maintain required workers compensation coverage throughout the entire term of this Contract. If Contractor does not maintain coverage throughout the entire term of this Contract, Contractor agrees that the City may, at any time the coverage is not maintained by Contractor, order Contractor stop work, suspend this Contract, or terminate this Contract.

Contractor may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that Contractor is a sole proprietor and that:

- 1) In accordance with the provisions of NRS 616B.659, Contractor has not elected to be included within the terms, conditions, and provisions of NRS chapters 616A to 616D, inclusive; and

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- 2) Contractor is otherwise in compliance with those terms, conditions and provisions.

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Commercial General Liability Insurance:

- 1) Minimum Limits required:

\$1,000,000 General Aggregate
\$1,000,000 Products & Completed Operations Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

- 2) Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

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Business Automobile Liability Insurance:

Minimum Limit required: **\$100,000** Each Occurrence for bodily injury and property damage. Coverage shall be for "any auto" (including owned, non-owned and hired vehicles).

The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

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Professional Liability Insurance:

- 3) Minimum Limit required: \$1,000,000 Each Claim, \$2,000,000 Aggregate.
4) Retroactive date: Prior to commencement of the performance of this Contract
5) Discovery period: Three (3) years after the termination date of this Contract.
6) A certified copy of this policy may be required.

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Umbrella or Excess Liability Insurance:

- 1) May be used to achieve the above minimum liability limits.
2) Shall be endorsed to state it is "As Broad as Primary Policy"

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Commercial Crime Insurance:

- 1) Minimum Limit required: **\$10,000** Per Loss for Employee Dishonesty
2) This insurance shall be underwritten on a blanket form amending the definition of "employee" to include all employees of the Vendor regardless of position or category.

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Performance Security:

- 1) Amount required: \$
- 2) Security may be in the form of surety bond, Certificate of Deposit or Treasury Note payable to the City only.
- 3) The security shall be deposited with the City no later than ten (10) working days following award of this Contract to Contractor.
- 4) Upon successful completion of this Contract, the security and all interest earned, if any, shall be returned to Contractor.

General Requirements:

- 1) Additional Insured: By endorsement to the general liability insurance policy evidenced by Contractor, ***The City of Fernley, its officers, employees and immune contractors*** shall be named as additional insureds for all liability arising from this Contract.
- 2) Waiver of Subrogation: Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.
- 3) Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- 4) Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the City. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by the City.
- 5) Policy Cancellation: Except for ten days' notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) days prior written notice to the City, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address shown below.
- 6) Approved Insurer: Each insurance policy shall be:
 - a. Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the City and having agents in the State of Nevada upon whom service of process may be made, and
 - b. Currently rated by A.M. Best as "A- VII" or better.

Evidence of Insurance: Prior to the start of any work, Contractor must provide the following documents to the City:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the City to evidence the insurance policies and coverages required of Contractor.

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- 2) Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, **must** be submitted to the City to evidence the endorsement of the City as an additional insured per General Requirements, Subsection 1) above.
- 3) Schedule of Underlying Insurance Policies: If an Umbrella or Excess insurance policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

Review and Approval: Documents specified above must be submitted for review and approval by the City prior to the commencement of work by Contractor. Neither approval by the City nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the City or others, and shall be in addition to and not in lieu of any other remedy available to the City under this Contract or otherwise. The City reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

Required Mailing: Contractor will mail all required insurance documents to the City at the address identified in section 4 of this Contract.

18. COMPLIANCE WITH LEGAL OBLIGATIONS. Contractor shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

19. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other default or breach.

20. SEVERABILITY OF PARTS. If any portion, provision, or part of this Agreement is held, determined, or adjudicated by any court of competent jurisdiction to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision, or part shall be severed from the remaining portions, provisions, or parts of this Agreement, and such determination or adjudication shall not affect the validity or enforceability of such remaining portions, provisions, or parts.

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21. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by the City, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the City.

22. CITY OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the City and all such materials shall be delivered into the possession of the City by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the City. Notwithstanding the foregoing, the City shall have no proprietary interest in any materials licensed for use by the City that are subject to patent, trademark or copyright protection.

23. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The City will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential," provided that Contractor thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any document that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

24. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this Contract:

- a. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
- b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in

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28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

- c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. LOBBYING. The parties agree, whether expressly prohibited by federal, state or local law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

Any federal, state, county or local agency, legislature, commission, counsel or board;

Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

26. GENERAL WARRANTY: Contractor warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

27. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective upon signing and only for the period of time specified in this Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

28. GOVERNING LAW; VENUE. This Agreement will be interpreted, and the rights and liabilities of the Parties determined, in accordance with the laws of the State of Nevada, excluding its conflict of laws rules. In any action or proceeding arising under this Agreement, each Party to this Agreement hereby (a) consents to the jurisdiction of Nevada Courts, and of the pertinent appellate courts, and consents to the venue of such action or proceeding in Lyon County, Nevada courts, (b) irrevocably agrees that all actions or proceedings arising out of or relating to this Agreement shall be litigated in such courts, and (c) consents to personal jurisdiction within Lyon County, Nevada. Each Party to this Agreement accepts for itself, generally and unconditionally, the exclusive jurisdiction and venue of the aforesaid courts and waives any defense of lack of personal jurisdiction, improper venue or inconvenient forum or any similar defense, and irrevocably

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agrees to be bound by any non-appealable judgment rendered thereby in connection with this Agreement.

29. INTEGRATED AGREEMENT. This Agreement contains the entire agreement and understanding among the Parties regarding the matters set forth herein and supersedes all previous negotiations, discussions, and understandings regarding such matters. The Parties acknowledge and represent that they have not relied on any promise, inducement, representation, or other statement made in connection with this Agreement that is not expressly contained herein. The terms of this Agreement are contractual and not a mere recital.

30. COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

31. ADVICE OF COUNSEL. Each Party hereto represents and agrees that it has had the opportunity to seek and has sought from attorneys any such advice as it deems appropriate with respect to signing this Agreement or the meaning of it. Each party has undertaken such independent investigation and evaluation as it deems appropriate and is entering into this Agreement in reliance on that and not in reliance on any advice, disclosure, representation or information provided by or expected from any other Party or Party's attorneys. This is an agreement of settlement and compromise, made in recognition that the Parties may have different, disputed or incorrect understandings, information and contentions, as to facts and law, and with each Party compromising and settling any potential correctness or incorrectness of its understandings, information and contentions as to the facts, law, claims, duties, disclosures and conduct occurring before or during the entry into this Agreement. No conduct, failure, misunderstanding or misinformation and no claim of fraud or fraudulent inducement occurring prior to or in connection with the execution hereof shall be a ground for rescission hereof or for recovery of damages, except as otherwise expressly provided herein.

32. MODIFICATION; NO WAIVER. The provisions of this Agreement, including this paragraph, may be modified or waived only in writing signed by all Parties. No waiver with respect to any portion of this Agreement shall apply to any other portion of the Agreement, and a waiver on one occasion shall not be deemed to be a waiver of the same or any other breach on a future occasion. No course of dealing by any Party, and no failure, omission, delay, or forbearance by any Party in exercising such Party's rights or remedies shall be deemed a waiver of any such rights or remedies or a modification of this Agreement.

33. INTERPRETATION OF AGREEMENT. This Agreement shall be construed without regard to the Party or Parties responsible for its preparation, and shall be deemed to have been prepared collectively by the Parties. Any ambiguity or uncertainty arising herein shall not be interpreted or construed against any Party hereto on the basis that a Party prepared or drafted a particular provision of this Agreement.

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34. COOPERATION OF PARTIES. The Parties agree to cooperate to accomplish the purpose of this Agreement and to execute any and all supplementary documents and to take all additional actions not inconsistent with the terms set forth in this Agreement that are necessary and appropriate to give full force and effect to the terms and intent of this Agreement.

35. NON-DISCRIMINATION. In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The contractor further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

36. ALARM MANAGEMENT SCOPE OF SERVICES.

A. The CONTRACTOR shall provide the Alarm Management Services described in Attachment B - Alarm Management Services.

B. The Alarm Management Services shall assist FERNLEY in enforcing its Alarm Ordinance to include tracking of responsible persons (including individuals, businesses and government agencies) who use alarm systems, registering of alarm systems, billing and notification of permit and false alarm fees in accordance with the Alarm Ordinance and at the direction and under the supervision of FERNLEY's Alarm Administrator, maintenance of a database of persons who use alarm systems, tracking of false alarm occurrences, collection of fees, the collection and enforcement of penalties for violations, generating performance and outcome reports and assuring the availability to FERNLEY of timely false alarm information, all as more specifically described in Attachment B - Alarm Management Services.

37. SOFTWARE LICENSE.

FERNLEY shall be licensed and authorized to use the Software and any additional specific customization and development provided as part of the Alarm Management Services described in Attachment A. The license shall cover all 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 FERNLEY to access its false alarm information.

38. DURATION OF THE SOFTWARE LICENSE.

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FERNLEY shall have the right to use the Software in accordance with Attachment A for so long as the CONTRACTOR provides Alarm Management Services to FERNLEY and/or licenses the Software in accordance with the Termination provisions in this Contract. This license shall apply for the duration of the Contract 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, FERNLEY's license rights to use the Software shall likewise terminate except as provided for in this Contract, including Attachment B.

39. MODIFICATION OF THE SOFTWARE.

A. Modifications or adaptations of the Software shall be limited to creating or providing interfaces between the Software and FERNLEY's computer systems required to import or export data in order to implement the Software.

B. FERNLEY shall retain a nonexclusive License to use the modified and/or "customized" interfaces with the Software, provided, however, the use of the original Software with such adaptations in any projects other than the management of the Alarm Ordinance shall be subject to additional compensation to CONTRACTOR in an amount and subject to terms to be determined by the parties in writing prior to any such additional use.

40. PROTECTING CONFIDENTIAL AND PROPRIETARY INFORMATION.

The proprietary information of both parties, CONTRACTOR and FERNLEY 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 CITY staff 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. Notwithstanding, the parties recognize that the CITY is a government body subject to compliance with Nevada Public Records laws.

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, except as required by law.

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

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All alarm related data maintained by the CONTRACTOR shall remain the property of the CITY. If the contract is terminated for any reason, the CONTRACTOR shall provide such data to FERNLEY on a timely basis in a mutually acceptable, electronic file format.

41. REPRODUCTION AND COPYRIGHT.

A. The Software is protected under the Copyright and Patent laws of the United States, and as extended by treaty, with Canada. FERNLEY may not copy, or allow anyone else to copy or otherwise reproduce, any part of the Software without the prior written consent of 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.

B. FERNLEY may copy any CONTRACTOR provided Software as necessary to its hard disks or other such storage medium to efficiently operate the Software on FERNLEY 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 Contract. All other copying is prohibited.

42. LIMITATIONS ON THE USE OF THE SOFTWARE.

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

43. NOTICES OF INTELLECTUAL PROPERTY RIGHTS.

FERNLEY 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.

44. DELINQUENT ACCOUNT TERMS.

The parties shall define a mutually agreeable process and methods for collecting amounts due from delinquent accounts.

45. CITY LICENSE REQUIRED.

Contractor agrees to obtain and maintain a valid City of Fernley license during the contract period. Proof must be provided prior to contract commencement. Failure to maintain a valid license is grounds for termination of the contract with 30 days' notice.

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46. ACKNOWLEDGMENT AND EXECUTION. In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby:

CITY MANAGER

City of Fernley
Daphne Hooper
Telephone: 775-784-9964

DAPHNE HOOPER
DATED this _____ day of _____, 20__.

CITY ATTORNEY

City of Fernley
Brandi Jensen, Esq.
Telephone: 775-784-9861
Fax: 775-784-9868

I have reviewed this Contract and approve as to its legal form.

BRANDI JENSEN
DATED this _____ day of _____, 20__.

CITY'S ORIGINATING DEPARTMENT:

City of Fernley Department: City Manager's Office

DAPHNE HOOPER, City Manager
DATED this _____ day of _____, 20__.

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CONTRACT ACCEPTANCE AND EXECUTION:

The City Council of Fernley, Nevada, at their publicly noticed meeting of _____, 20____, approved the acceptance of this Contract. Further, the City Council authorizes the Mayor of Fernley, Nevada to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

FERNLEY:

ROY EDGINGTON, MAYOR
DATED this _____ day of _____, 20____.

ATTEST:

KIM SWANSON, CITY CLERK
DATED this _____ day of _____, 20____.

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CONTRACT

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Attachment A

False Alarm Management Administrative Services
Statement of Work and Pricing

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Attachment B Scope of Services

Purpose

The purpose of this Scope of Services is to describe the duties and responsibilities of Public Safety Corporation ("PSC" or "CONTRACTOR"), and the CITY OF FERNLEY, NEVADA ("FERNLEY" or "CITY").

CONTRACTOR Responsibilities

PSC Responsibilities

1. At the beginning of the project, electronic conversion/import to PSC computer server(s) of any CITY alarm program records required to support the proposed CONTRACTOR services. These records may contain historical CITY alarm business, alarm system location, responsible party and other alarm data previously developed by or for FERNLEY. CONTRACTOR shall obtain this data directly from FERNLEY and relies on the CITY for the accuracy and completeness of any such historical data;
2. Update alarm business, alarm system location and responsible party information and renew permits and alarm registrations in accordance with the CITY Alarm Ordinance ("Ordinance"). Updated information may be processed by mail, electronically and / or online;
3. Register, renew and bill the registration of alarm systems in accordance with the Ordinance. Registrations and renewals may be processed by mail, telephone, electronically and / or online. Notices related to registration may be sent by email or mail based on the alarm user contact information maintained;
4. Import daily into the CONTRACTOR's CryWolf® alarm billing system, alarm incident data (in formats prescribed by PSC) extracted by the CITY from the Lyon County Dispatch Spillman CAD System;
5. Create and host a dedicated, secure (SSL encrypted) FERNLEY Alarm Program website for CITY citizens and businesses to obtain false alarm reduction educational information, review alarm ordinance and appeal requirements, access and update alarm account information, and pay alarm fees online if preferred. This website may be linked by the CITY to the CITY website if desired;
6. Initialize, maintain, secure and back-up Program databases including alarm business, alarm system location and incident data; alarm-related financial transactions and accounts receivable information. PSC will comply with the provisions of the Alarm Ordinance, and update Program business rules to comply with Alarm Ordinance changes as supported by the PSC software;

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7. Process false alarm incident data, including the matching of false alarm incidents with the alarm system location database maintained by PSC;
8. Bill and correspond with alarm businesses and alarm users in accordance with the Alarm Ordinance provisions. This will include but may not be limited to invoices and delinquent payment notices. A warning notice will be sent to each alarm user on the occasion of the alarm user's first false alarm immediately preceding the first chargeable alarm incident. Warning notices may be sent by mail, email or other electronic method based on the alarm user's accepted contact method(s);
9. Provide CITY alarm users access to online information on false alarm reduction and Ordinance requirements to include an Online Alarm School.
10. Answer telephone inquiries from CITY alarm users that are placed to a false alarm program toll-free customer service number established for the CITY;
11. Process fee / penalty payments mailed to and deposited in a nearby CITY-approved bank lockbox and account, and received from other payment channels, e.g. online, as agreed on by PSC and the CITY, and apply these payments to alarm accounts;
12. Support alarm hearings and appeals by notifying the 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;
13. Provide and maintain computer equipment, software, mailing equipment and furniture at PSC's Program processing facilities;
14. Provide the CITY secure (SSL encrypted), online, on-demand access to alarm management information and reports including, but not limited to, alarm account transaction history, alarm system information, and financial transactions/balances with format and content specified by the CryWolf® Alarm Management System and the designated Bank, and agreed on between the CITY and PSC; and,
15. Perform special collection functions as directed and authorized by the CITY such as retaining a third party collection agency or providing delinquent account information to other CITY agencies. To the extent permitted by local law, third-party collection fees will be added to the delinquent amounts.

PSC is responsible for all costs of carrying out these responsibilities including, but not limited to, the costs of staff, facilities, equipment, consumable supplies. Only third-party bank and credit card fees, mailing supply costs (paper and envelopes), first class postage, third party collection costs (if any), e.g. collection agency fee, and citizen overpayments, if any, will be shared by the parties through payment from gross collections before revenue sharing.

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FERNLEY Responsibilities

1. Appointing a CITY Alarm Administrator (“Administrator”) and backup administrator who will be the primary points of contact between PSC and the CITY. The Administrator(s) is responsible for overseeing PSC’s operation of the False Alarm Management Services Program (“Program”) and accessing Program information, as needed, via PSC provided online access;
2. Requesting or supporting PSC’s requests of Alarm Companies, as needed, to provide alarm system information;
3. Making any and all decisions about alarm call response, determining whether calls are false alarms, providing any on-scene communication of alarm related information to alarm users, and for entering any alarm related information within the Lyon County Dispatch Spillman CAD/911 system;
4. Scheduling, conducting and making appeal decisions for any false alarm hearings;
5. Conducting any general public education programs on false alarms; and,
6. Transferring any and all financial information from the Program generated alarm reports to other FERNLEY financial systems, as needed.

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

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Attachment C Payment Terms

1. Revenue Sharing Percentage

For the provision of all Services and technology outlined in this Contract, CONTRACTOR shall obtain payment exclusively from the revenues CONTRACTOR helps generate. There shall be no upfront systems development, licensing, conversion, equipment, travel, support or other costs. CONTRACTOR shall purchase, configure, install, and customize all systems and processes CONTRACTOR requires to provide the Services described herein. The CONTRACTOR's Revenue Share is 18%.

The amounts that shall be paid from the total collected revenue and subtracted from the total collected revenue before the revenue sharing percentages are applied are:

1. Any overpayments by alarm users to be refunded or held for application against future charges, as directed by the CITY;
2. Bank fees charged by the CITY-approved lockbox bank;
3. Correspondence mailing costs (envelopes and paper) including postage (at first class postage rates); and
4. Third-party credit card processing charges, if any.

Any certified mail requirements will be paid from the City's revenue share.

The revenue share percentages are based on several assumptions over which the CONTRACTOR has little or no control:

- The Ordinance fee and fine schedules remain at levels equal to or greater than at the Contract effective date;
- The CITY adopts a fair, but firm approach to granting appeals. Appeals and CITY waived charges are expected to reduce collections by no more than 5% annually; and
- The CITY actively supports enforcement of the Alarm Ordinance, including support of reasonable measures to collect all amounts due for violations of the Alarm Ordinance.

Revenue Share Payment Process

CITY and CONTRACTOR agree as follows:

1. All false alarm related fee collections from any payment method, including but not limited to bank lockbox and online credit card, shall be deposited, as soon as practical, in a False Alarm Bank Account ("False Alarm Account") to be established at a mutually agreeable Commercial Bank;

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2. CITY and CONTRACTOR agree to maintain a positive balance of available funds ("Minimum Balance") at all times in the False Alarm Account;
3. At the beginning of each month, CONTRACTOR will reconcile the alarm related deposits for the most recent completed month and report the same to CITY. Upon CITY's approval, CITY and CONTRACTOR shall authorize and cause the issuance of electronic (ACH) transfers to CITY and to CONTRACTOR as follows:
 - a. With regard to the transfer to CONTRACTOR, the amount will be calculated for CONTRACTOR based on the Revenue Share described above. That amount, not to exceed 18% of the revenue collected during the preceding month, shall be transferred to a bank and account authorized by CONTRACTOR; and,
 - b. The remaining balance of the revenue collected during the preceding month of no less than 82%, shall be transferred to a bank and CITY account specified by CITY .
4. At the termination of this Contract, any remaining balance in the lockbox shall be transferred to CONTRACTOR and to CITY on the same prorata basis, e.g. 18% and 82% respectively. In addition, CONTRACTOR will continue to collect payments from the lockbox and record such payments for the CITY on an Excel spreadsheet which will be provided to the CITY on a weekly basis for 90 days. At the end of each month, for the 90-day period, CONTRACTOR will reconcile the bank statement and spreadsheet of payments after termination date and CONTRACTOR shall share those payments collected in the lockbox with the CITY and be compensated at 18% for those 90 days of payments collected after termination date.