

## AGREEMENT

### CONTRACT FOR SECURITY SERVICES

THIS AGREEMENT for Crossing Guard Services, ("Agreement"), is made by and between Andy Frain Services, Inc., an Illinois corporation with its principal office at 761 Shoreline Drive, Aurora, IL 60504 and a regional office at Aurora, IL ("Contractor"), and Village of Lombard, 255 East Wilson Avenue, Lombard, IL 60148 ("Client"). The Contractor and Client being sometimes referred to herein individually as "Party" and collectively as the "Parties".

#### WITNESSETH:

WHEREAS, Contractor is in the business of supplying contract security personnel and is willing to provide the crossing guard services set-forth in this Agreement; and

WHEREAS, Client desires Contractor to furnish uniformed security personnel for the purpose of performing crossing guard services designated from time to time as set-forth in Appendix A attached hereto and made part hereof (the "Crossing Guard Services");

NOW, THEREFORE, in consideration of the foregoing, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties hereto agree as follows:

#### 1. SERVICES

**Crossing Guard Personnel.** Contractor agrees to furnish Client, and Client agrees to retain Contractor to provide Client with a sufficient number of Contractor's employees to perform the *Crossing Guard Services* at designated locations, at designated times, so as to provide crossing guard coverage for all shifts as required by the Client and detailed in post orders for each location, all as set forth in Appendix A.

#### 2. TERM

This Agreement shall be effective as of 5/1/2011 and shall continue in effect for sixty (60) months or until cancelled by either Party upon giving thirty (30) days written notice.

#### 3. FEES

**(a) Rates.** Client shall pay Contractor for the Crossing Guard Services at the rates set-forth in Appendix A.

**(b) Invoices.** Contractor shall bill monthly for Crossing Guard Services performed under this Agreement. Invoices will be sent to Client's corporate offices at the address set-forth above.. Client agrees to remit payment within thirty (30) days of receipt of each invoice.

**(c) Records.** Upon request, Contractor shall furnish Client with copies of completed daily timesheets and other records which form the basis of billings for Crossing Guard Services under this Agreement. Such records will be presented with detail sufficient to indicate at which location such Crossing Guard Services were performed, and any other detail as reasonably requested by Client.

**(d) 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 Crossing Guard Services provided hereunder, Client agrees that this Agreement will be subject immediately to re-negotiation to take into account these increased costs.

#### 4. PERSONNEL

**(a) Independent Contractor.** All individuals providing Crossing Guard Services under this Agreement ("Service Personnel") shall be the employees of Contractor and shall not under any circumstances be deemed to be employees of Client. Contractor shall exercise complete control over its employees and shall pay all wages and all applicable taxes. Client may, if desired, have supervision or control over any of Contractor's employees and any complaint or requested change in procedure shall be transmitted by Client to Contractor's local manager.

**(b) Training and Qualifications.** Contractor agrees that the services furnished under this Agreement shall be in conformity with practices which are generally current in the crossing guard industry. The Parties agree that Contractor does not represent and cannot warrant that the Crossing Guard Services furnished will prevent or minimize the likelihood of loss. Contractor's responsibility is solely limited to providing physical Crossing Guard Services and Contractor has not been engaged as a consultant or otherwise to provide an assessment of crossing guard needs at the site(s) covered.

All Service Personnel utilized by Contractor under this Agreement shall be trained by Contractor using Contractor's approved materials /instructions, shall be fully equipped and competent to perform their duties in a safe, courteous and workmanlike manner and will comply with all applicable regulations. All Service Personnel shall meet the physical performance standards by the Client. Service Personnel shall be equipped with Contractor's uniforms. All training records shall be made available to Client upon reasonable request. Client has provided Contractor with a crossing guard manual. The Contractor will insure that all Service Personnel providing Crossing Guard Services have read the manual and understand and accept the conditions outlined in the manual and agree to its return upon transfer or termination..

**(c) Supervision.** Contractor shall at all times be responsible for the direct supervision of its Service Personnel through the Manager / Supervisor responsible for each location at which Crossing Guard Services are being provided. Each Supervisor shall, in turn, report and confer with the designated agent of Client at each location with respect to the Crossing Guard Services performed under this Agreement. Such reporting and conferring shall be as frequently as mutually agreed by the Parties hereto from time to time.

**(d) Background Checks.** Contractor warrants and agrees that it has performed and will continue to perform background checks in accordance with the Contractor's Standard Crossing Guard Program, as in effect from time to time. Original background checks will include criminal and motor vehicle history. Such background checks shall be conducted, to the extent allowable by law, to include, at a minimum, reference and prior employment histories necessary to verify representations made by each employee / applicant relating to employment in the preceding five (5) years, and as required by the hiring criteria in effect from time to time.

#### 5. INSURANCE

**(a)** At all times during the term of this Agreement, Contractor, with respect of the operations and Crossing Guard Services contemplated in this Agreement, shall maintain at its own cost and expense Comprehensive General Liability Insurance in an amount of not less than ten million and no/100 dollars ( \$10,000,000)one million and no /100 dollars (\$1,000,000) primary / nine million and no/100 dollars (\$9,000,000) umbrella) combined single limit on an occurrence basis for bodily injury and property damage. This insurance shall include contractual liability and shall be in such form as reasonably required by Client. Contractor shall maintain nine million and no/100 dollars (\$9,000,000 )excess / umbrella coverage.

(b) Contractor agrees to maintain Workers' Compensation Insurance for statutory limits and Employer's Liability Insurance in the amount of one million and no/100 dollars ( \$1,000,000) to cover its employees. Contractor shall be solely and fully responsible for the payment of all Workers' Compensation benefits for its employees.

(c) Contractor shall obtain the insurance required by this Agreement from a financially sound insurance company of recognized responsibility and shall furnish Client with a certificate of insurance evidencing such coverage prior to commencing its Crossing Guard Services under this Agreement. Such insurance policies shall name the Client and its officers, agents and employees as additional insureds and shall be considered primary, without contribution from any insurance which is carried by Client. All insurance policies shall provide that the insurance shall not be invalidated by any action or inaction of Contractor, that Contractor agrees to waive all rights of subrogation against Client and that insurance shall continue in full force and effect for at least thirty (30) days after Client receives written notice of cancellation, termination or material alternation.

#### **6. INDEMNIFICATION BY CONTRACTOR.**

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless Client, its, officers, employees and agents from and against claims, damages, losses, liabilities, judgments, which are caused by any negligent or intentional act(s) or omission(s) by Contractor or Contractor's officers, agents or employees, in the performance or nonperformance of Crossing Guard Services under this Agreement, including but not limited to:

- a) Death of or injury to any person or persons;
- b) False arrest, detention, imprisonment, searches or malicious prosecution;
- c) Libel, slander and/or defamation of character;
- d) Violation of the right or privacy; and
- e) The damage or destruction of property not in the care, custody and control of the Contractor.

However, nothing contained in this section shall be construed as an indemnity by Contractor against any loss, liability or claim (i) caused by the acts or omissions of, or as a result of conduct within the control of Client, its, officers, agents, or employees, or (ii) caused by or resulting from the unlawful or negligent actions or omissions of third parties.

Notwithstanding anything to the contrary herein contained, Contractor shall not be liable to Client for any injury (including death) to any person 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 services including but not limited to, light repair, 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 herein it is agreed that any additional insured or indemnity provision throughout this Agreement applies only to claims caused by direct intentional and/or negligent acts or omissions of Contractor and its officers, agents and employees while performing agreed upon duties and Crossing Guard Services.

#### **7. SUSPENSION OF SERVICE.**

In the event that Client's operations at facilities covered by this Agreement 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 for Crossing Guard Services at the affected location and for payment therefore shall, upon twenty-four (24) hours notice from Client to Contractor, be suspended for the duration of such halted or decreased operations.

#### **8. 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 hereunder, 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.

**9. NOTICES.**

All notices with respect to this Agreement shall be deemed sufficient if personally delivered or deposited with the United States mail, certified or registered, with adequate postage affixed and properly addressed to the respective addresses stated above, or as such addresses may be amended by written notice so mailed.

**10. COMPLIANCE WITH LAWS.**

(a) Contractor shall comply with all applicable laws, rules and regulations which govern the Crossing Guard Services provided for in this Agreement. Contractor shall obtain all licenses and permits which may be required by any governmental authority for the performance of the Crossing Guard Services and shall pay all fees and charges therefor.

(b) In any matter relating to the Contractor's provision of Crossing Guard Services under this Agreement to handicapped individuals, Contractor's employees shall comply with any and all State and federal regulations in relation thereto

**11. GOVERNING LAW.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, and venue in regard to any litigation between the Parties in relation to this Agreement shall be in DuPage County, Illinois

**12. ASSIGNMENT AND SUBCONTRACTING.**

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 hereunder, 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, and their respective successors and assigns. Performance of the Crossing Guard Services contemplated under this Agreement shall not be sub-contracted, in whole or in part, without the prior written consent of the Client.

**13. MISCELLANEOUS.**

Contractor shall comply with all applicable rules and regulations set-forth by the State of Illinois in regard to the Crossing Guard Services.

**14. ENTIRE AGREEMENT.**

This Agreement constitutes the entire understanding of the Parties and supersedes all prior agreements, if any, between the Parties related to its subject matter. This Agreement may be amended only by written instrument duly executed by both Parties.

**15. ANDY FRAIN EMPLOYEES.**

During the term of this Agreement and for a period of twelve (12) months following the termination of this Agreement, Client may not hire any Contractor employees directly, without the prior written consent of the Contractor.

**CONTRACTOR**

**CLIENT**

By: Andy Frain Services, Inc.

By:

Village of Lombard

Printed Name Ed Millard

Printed Name Timothy Sexton

Signature *Ed Millard*

Signature *Timothy Sexton*

Title *Program Director*

Title Acting Village Manager

Date *5-19-2011*

Date May 19, 2011

**APPENDIX A  
RATES**

This Appendix to the Agreement for Crossing Guard Services (the "Agreement") between Andy Frain Services, Inc. ("Contractor") and Village of Lombard, ("Client") dated 5/1/2011, is issued to specify (I) rates and the effective date of same (II) locations for the providing of Crossing Guard Services (III) the effective date by which Crossing Guard Services are to be provided in accordance with the Agreement and (IV) the times that Crossing Guard Services are to be provided in accordance with this Agreement

**I. RATES FOR SERVICES**

Crossing Guard Services (13 post positions with 1 Field Supervisor) @ \$17.98/hr for the remainder of the 2010/2011 school year ending no later than June 30, 2011 and not exceeding a cost of \$19,950.

Transition will require a minimum of thirty (30) days to complete.

2011/2012 School Year - Crossing Guard Services at a rate of \$17.98/hr

2012/2013 School Year will have an hourly rate increased by the CPI, not exceed 2.25%

2013/2014 School Year will have an hourly rate increased by the CPI, not to exceed 2.25%

2014/2015 School Year will have an hourly rate increased by the CPI, not to exceed 2.25%

2015/2016 School Year will have hourly rate increased by the CPI, not to exceed 2.25%

**II. LOCATION**

LOCATION	SCHOOL
Hammerschmidt / Madison	Hammerschmidt – District 44
Maple / Highland	Westmore – District 45
Elizabeth / St Charles Rd.	Sacred Heart
Main / Maple	Sacred Heart
Madison / Green Valley	Madison/Dist 44
Pleasant Lane / Main St.	Pleasant Lane – District 44
Washington / Ahrens	Westmore District 45
Main / 16th	Christ the King/Manor Hill District 45/44
West / Meadow	Park View School District 44
Elizabeth / Greenfield	Park View School District 44
Westmore / Madison	St. Pius

**III. EFFECTIVE DATE**

5/1/11

**IV. TIMES**

<b>LOCATION</b>	<b>MORNING</b>	<b>MIDDAY</b>	<b>AFTERNOON</b>
Hammerschmidt / Madison	8:10 - 8:45	11:30 – 12:35	3:10 - 3:30
Maple / Highland	7:40 - 8:15	N/A	2:30 - 3:15
Elizabeth / St Charles Rd.	7:30 - 8 :00	N/A	2:20 - 2:45
Main / Maple	7:30 - 7:50	N/A	2:20 - 2:50
Madison / Green Valley	8:10 - 8:45	N/A	3:10 - 3:30
Pleasant Lane / Main St.	8:10 - 8:45	11:10 - 12:35	3:10 - 3:35
Washington / Ahrens	7:30 - 8:10	N/A	2:30 - 2:55
Main / 16th	7:30 - 8:40	N/A	2:10 - 2:30 3:15 - 3:30
West / Meadow	8:10 - 8:45	N/A	3:10 - 3:35
Elizabeth / Greenfield	8:10 - 8:45	N/A	3:10 - 3:35
Westmore / Madison	8:00 - 8:30	N/A	2:45 - 3:10