

**RESOLUTION #16-59**

**RESOLUTION OF THE CITY OF WOODBURY AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH BUSINESS WATCH INTERNATIONAL (USA), INC. FOR A REGIONAL AUTOMATED PROPERTY INFORMATION DATABASE (RAPID) SYSTEM**

**WHEREAS**, the Mayor and Council of the City of Woodbury have passed Ordinance #2244-16 “Ordinance of the City of Woodbury Establishing Chapter 137 entitled ‘Pawnshops, Dealers in Precious Metals, Gems, Gemstones and Secondhand Goods’ of the Code of the City of Woodbury”; and

**WHEREAS**, that Ordinance requires previously manually recorded covered transactions to be electronically reported allowing for an easily manageable and searchable database enhancing the usefulness of the information required to be reported by State statute; and

**WHEREAS**, in order to effectuate the intended purpose of Chapter 137, it is necessary for the City of Woodbury to establish such a database and the proprietary software involved; and

**WHEREAS**, the Chief of Police of the City of Woodbury has conducted extensive investigation and has reviewed and is recommending the City enter into a memorandum of understanding, a copy of which is attached hereto, with Business Watch International (USA), Inc., for a Regional Automated Property Information Database (RAPID) System; and

**WHEREAS**, there is no cost to the City of Woodbury and only a modest cost to the businesses required to use the system; and

**WHEREAS**, the total value and/or accommodation value of the contract does not exceed \$17,500; and

**WHEREAS**, the Memorandum of Understanding concerns the provision of and support of proprietary computer software; and

**WHEREAS**, the Mayor and Council have determined that the entry by the City of Woodbury into the attached Memorandum of Understanding will best facilitate the furtherance of Chapter 137 and the health, safety and welfare of the public.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Woodbury that the City Administrator is hereby authorized to execute a Memorandum of Understanding substantially in accordance with the agreement attached hereto.

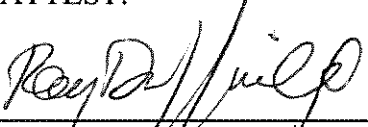
**ADOPTED** at a regular meeting of the Mayor and City Council of the City of Woodbury on March 8, 2016.

**CITY OF WOODBURY**

By:

  
\_\_\_\_\_  
**DAVID TROVATO,**  
**President of Council**

ATTEST:

  
\_\_\_\_\_  
**ROY A. DUFFIELD, Clerk**

# MEMORANDUM OF AGREEMENT

BETWEEN THE

*City of Woodbury*

("WOODBURY")

-and-

**Business Watch International (USA) Inc.**

("BWI")

**Whereas**, the City of Woodbury Police Department ("WOODBURY") is responsible for the provision of law enforcement services in Woodbury, New Jersey; and

**Whereas**, as part of the provision of such law enforcement services, WOODBURY receives, reviews, and maintains a record of reports received from pawnbrokers, secondhand metal recyclers, and secondhand stores in Woodbury, New Jersey; and

**Whereas**, BWI has developed an Internet based Service, called the BWI Regional Automated Property Information Database (RAPID) system, (the "Service") that enables the electronic transmission, between the Companies, and WOODBURY Police Department, of information regarding the purchase or pawn from the public of second hand goods; and

**Whereas**, WOODBURY desires to contract with BWI to provide its service to receive the transaction reports detailing the purchase or pawn of second hand goods from the public by the Companies, and to provide an investigative interface for the monitoring of the transaction data.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. Term/Termination**

The term of the Agreement shall be three (3) years from March 1<sup>st</sup>, 2016 to February 28<sup>th</sup>, 2019 (the "Term"), the date of signatures of the parties notwithstanding; unless terminated earlier as set forth herein. This term may be extended upon mutually agreed upon conditions at the end of the first three (3) years.

This Agreement may be cancelled by WOODBURY, with or without cause, by giving BWI sixty (60) days' notice, in writing, of its intent to cancel the Agreement.

All Parties recognize that the continuation of this Agreement after the close of any fiscal year of WOODBURY, which fiscal year ends on December 31 of each year, shall be subject to budget approval providing for or covering such contract items as an expenditure in said budget. WOODBURY does not represent that said budget item will be actually adopted, said determination being the determination of WOODBURY at the time of the adoption of the budget herein. No penalty shall accrue to WOODBURY in the event this provision shall be exercised. Should termination be accomplished in accordance with this Section, a settlement shall be negotiated by the Parties based on items delivered, services provided, monies paid and monies due.

**2. Annual Licensing Fee**

WOODBURY acknowledges that the licensing fees shall be charged to Woodbury Companies for the Service provided by BWI, and;

WOODBURY acknowledges that BWI will collect the annual licensing fee as described in Schedule A to this Agreement.

After initial setup additional pawn dealers may be added, as required, at the rates describe in Schedule A.

Companies may also be deactivated at any time at the discretion of WOODBURY or lack of payment from the said Companies.

All invoices are due and payable within 14 days of invoice.

**3. Failure to Make Payment**

In the case of WOODBURY's Companies failure to make payment, as outlined in paragraph 2, for a period of 60 days, WOODBURY acknowledges that BWI may disable their access to the Service. BWI shall provide notice to WOODBURY of the

termination of any Company pursuant to the terms of this paragraph and the reason for termination.

#### **4. Legal Compliance of Electronic Recording of Data**

BWI represents and warrants that the Service will contain the information and data as required by the Statutes and all other current and future federal, state or local laws. BWI will add any additional information and data as may be requested by WOODBURY, if reasonably feasible.

#### **5. Bankruptcy or Insolvency**

If BWI becomes insolvent or bankrupt or otherwise unable to carry on business and the service is no longer available through a related or successor company to BWI, which shall be agreeable to WOODBURY, this Agreement shall be terminated.

#### **6. Transfer of Data Upon Termination**

In the event of termination of this Agreement under Section 1 or 5 of this Agreement, BWI shall provide the user data entered in the service during the term of this Agreement to WOODBURY and the Companies in an industry standard format residing on computer media (XML or CSV file format).

#### **7. Reporting to the Service by the Companies**

- a. The parties agree that after a Company has been selected for participation in the program by WOODBURY, use of the Service by the Companies will be mandatory.
- b. BWI will provide each Company with remote training and support, and site access in accordance with the terms of this Agreement, at no cost to the Company.

#### **8. Provision of Set-Up and Training**

- a. WOODBURY will provide BWI with a list of Companies which are required to electronically report transactions to WOODBURY and their respective locations and hours of operation.
- b. BWI will contact each Company and offer assistance to ensure the Company is in compliance with the reporting requirements.

- c. BWI will provide remote training in the use of the Service to person(s) identified by WOODBURY and will provide such training at no cost via web conferences.

## **9. Read-only Access**

Additional agencies will be provided read-only access at no cost. (Unless this agency uses another reporting system.)

## **10. Provision of Support**

BWI will provide WOODBURY and the Companies with a Monday-Friday; 8:00 am to 5:00 pm (Central Standard Time) help line number for any and all types of difficulties with the Service. A complete on-line help feature will also be made available to WOODBURY and the Companies. WOODBURY will be provided with an emergency contact number for 24/7/365 help desk support on system performance matters but not including system access related issues such as password administration.

## **11. Retention of Transaction Record by the Company**

- a. BWI shall advise WOODBURY and all Companies in the event the service is rendered temporarily or permanently inoperable. WOODBURY shall inform the Companies of the appropriate procedures in order to maintain compliance in this event.
- b. Where feasible, BWI shall seek WOODBURY's prior written approval of the written notice it will be providing to the Companies pursuant to this section.
- c. In the event the service is rendered temporarily or permanently inoperable, or BWI experiences any form of Service failure, BWI will so advise WOODBURY and all Companies.

## **13. Ownership and Limited Use of Information Gathered**

The transaction data gathered by BWI will be the sole property of WOODBURY. BWI shall provide the data to WOODBURY as requested. BWI has the right to access and utilize the data for the following purposes:

- a. Support and Maintenance of the Service

- b. Training of accredited law enforcement personnel and authorized civilian employees
- c. Demonstrating the system to accredited law enforcement personnel
- d. Integrating or querying by other law enforcement databases strictly accessed by accredited police agencies as approved by WOODBURY.

#### **14. Confidentiality Clause**

Secondhand Dealer, secondhand metal recycler, and pawnbroker transaction records are confidential per the Statutes. BWI agrees to maintain the confidentiality of all information received from WOODBURY and the Companies. Furthermore, BWI will not give, sell, transfer or communicate the said information to any person or company without express written consent of WOODBURY. In the event that BWI receives a subpoena, a Court Order, or other legal service to compel the production of said information, then BWI shall give written notice of such demand to WOODBURY at least ten (10) days before producing any information, in order to give WOODBURY an opportunity to review and, if necessary, to contest such production.

#### **15. Security Considerations**

BWI's software uses 256-bit encryption for data transfer. Individuals employed by BWI and all other individuals that are not police officers, but who have a legitimate need to access the service for technical purposes, will meet with the standards of existing security protocols. BWI will advise WOODBURY of any breach of such security protocols.

At the request of WOODBURY, BWI will track the use of the service and supply such reports regarding such use.

#### **16. Liabilities and Indemnities**

- a. BWI warrants and represents that provision of the service, and any software or hardware supplied by BWI as part of such provision, will not infringe or otherwise constitute wrongful use of any copyright, patent, registered industrial design, trade mark, trade secret or any other right of any third party.
- b. BWI shall indemnify and save harmless WOODBURY and all their respective officers, employees, agents and representatives from and against all loss, damages, costs, expenses and liability, including reasonable legal fees and

costs, arising from the negligence or willful misconduct of BWI or any of its agents, suppliers or subcontractors arising from the service.

- c. Without limiting the generality of subsection (b), BWI will indemnify WOODBURY from and against all claims, liability and expenses, including reasonable legal fees and costs, arising out of any third party claim for infringement or violation of that third party's intellectual property or proprietary rights as a result of the use of the service in accordance with this agreement.
- d. BWI will maintain in force, at its own expense, general liability insurance coverage of \$1.0 million to address its liability and indemnification obligations under this agreement and shall provide copies of said insurance to WOODBURY.
- e. BWI hereby releases WOODBURY from all claims respecting any loss, damage or injury any or all of them may suffer with respect to any matter arising from this Agreement, except when due to the negligence or willful misconduct of WOODBURY, or its employees.

## 17. Notices

Any notice required or permitted to be given under this Agreement shall be in writing and may be given by personal service or by registered mail, postage prepaid, to the parties as follows:

If to WOODBURY:

Mr. Michael Theokas, City Administrator  
City of Woodbury  
33 Delaware Street  
Woodbury, NU 08096

If to BWI:

Mr. Jack Gee  
Business Watch International (USA) Inc.  
7351 Wiles Rd  
Suite 102  
Coral Springs, Florida 33067



**18. Miscellaneous**

- a. Except as otherwise provided in this Agreement, no party may amend this Agreement, other than by an instrument in writing. The instrument must be executed by the authorized representatives of both parties.
- b. The Parties recognize that a substantial inducement to WOODBURY for entering into this Agreement is the professional reputation, experience and competence of BWI. Neither the whole nor any interest in, nor any of the rights or privileges granted under this Agreement shall be assigned, transferred or encumbered in any way without the prior written consent of WOODBURY. Any such purported assignment, transfer, encumbrance, pledge, subuse, or permission given without such consent shall be void as to WOODBURY. If WOODBURY approves an assignment or transfer, this Agreement and the covenants and conditions contained herein shall be binding upon and inure to the benefit of and shall apply to the permitted successors and assigns of BWI.
- c. The laws of the State of New Jersey shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the State of New Jersey.
- d. Each individual executing this Agreement on behalf of a corporation, nonprofit corporation, partnership or other entity or organization, represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity or organization and that this Agreement is binding upon the same in accordance with its terms. BWI shall, at WOODBURY's request, deliver a certified copy of its governing board's resolution or certificate authorizing or evidencing such execution.

**City of Woodbury**

  
\_\_\_\_\_  
Michael Theokas, City Administrator

Date 3/8/16

**Business Watch International (USA) Inc**

\_\_\_\_\_

Date \_\_\_\_\_

## 1) RAPID Annual License Fee

- \$250 per store per year for all pawn shops, secondhand dealer, and scrap metal recyclers

There is no per transaction cost nor are there hardware, connectivity, or infrastructure cost to WOODBURY.

- BWI will directly bill all stores
- BWI will do all collections with outstanding stores. If a store refuses to pay, WOODBURY will be notified and the store will be given 14 days to make payment or lose service. BWI shall provide notice to WOODBURY of the termination of any Company pursuant to the terms of this paragraph and the reason for termination.

### **Included in price:**

- Dealer Data Entry and upload utility for existing store programs
- Store set up and training
- Full use of the RAPID system and all of its components
- Upgrades that have been developed for other jurisdictions
- NCIC cross-referencing with BWI Smart Match
- Unlimited saved searches
- Unlimited Law Enforcement user licenses
- Monday to Friday 8 A.M.-5 P.M. C.S.T. helpdesk
- Emergency 24 hour helpdesk

### **Supplemental Information:**

- The stores will require a computer, high speed Internet connection and IE 8, 10, and 11.
- A basic web camera and fingerprint scanner will be needed if photographs and fingerprints are included in your ordinance or per State statute. A web cam should cost between \$30 and \$50. A fingerprint scanner can be ordered through a third party vendor through BWI for a price of \$80.