

VILLAGE OF MAPLE PARK  
KANE AND DEKALB COUNTIES, ILLINOIS

RESOLUTION 2024-05 Approved: 06/04/24

**AUTHORIZING THE VILLAGE PRESIDENT TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT, IN THE FORM OF A NON-EXCLUSIVE LICENSE AGREEMENT, BETWEEN THE COUNTY OF KANE (KANECOMM 9-1-1) AND VILLAGE OF MAPLE PARK**

**WHEREAS**, the Village of Maple Park (the “Village”) is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, and

**WHEREAS**, the President and Board of Trustees of the Village finds it is in the best interest of the Village of Maple Park to approve an Intergovernmental Agreement between the Village and Kane County (“KaneComm 9-1-1”) in accordance with and under the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*); and

**WHEREAS**, such agreement is in the form of a non-exclusive license to permit KaneComm 9-1-1 to install and maintain public safety communication equipment upon the Village’s future water tower to be located at the corner of Fulton and Kincaid streets, Maple Park, in accordance with the terms and provisions of such document attached as Exhibit “A.”

**NOW THEREFORE BE IT RESOLVED** by the Board of Trustees of the Village of Maple Park, Counties of Kane and DeKalb, Illinois, as follows:

**Section 1.** The recitals set forth above are incorporated and made a part hereof.

**Section 2.** That the Intergovernmental Agreement titled “NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN THE COUNTY OF KANE (KANECOMM 9-1-1) AND VILLAGE OF MAPLE PARK” in substantially the same form as attached to this Resolution and incorporated herein by reference, is approved and accepted by the Village.

**Section 3.** The President or designee is authorized to execute the agreement on behalf of the Village and, as may be required, the Village Clerk shall be authorized to attest to the same.

PASSED by the Board of Trustees of the Village of Maple Park, Kane and DeKalb Counties, Illinois at its regular Board meeting held on June 4, 2024.

Speare, Ward, Groezinger, Joy, Peloso, and Simon

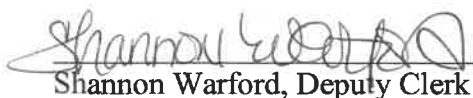
Nays:

Absent: N/A

(SEAL)

ILLINOIS  
ATTEST:

  
Suzanne Fahnestock, Village President

  
Shannon Warford, Deputy Clerk

**NON-EXCLUSIVE LICENSE AGREEMENT  
BETWEEN THE COUNTY OF KANE  
(KANECOMM 9-1-1) AND VILLAGE OF MAPLE PARK**

THIS AGREEMENT, made and entered into this 4th day of June, 2024, by and between the Village of Maple Park, 302 Willow St, Maple Park, IL, 60151 ("LICENSOR") and the County of Kane (on behalf of KaneComm 9-1-1), 719 Batavia Avenue, Building C, Geneva, Illinois 60134. Kane County, a body corporate and politic ("LICENSEE");

WHEREAS, the Illinois Constitution, 1970, Article VII, Section 10, authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or by ordinance, and,

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) provides that any power or powers, privileges or authority exercised or which may be exercised by a unit of local government of this State may be exercised and enjoyed jointly with any other unit of local government; and,

WHEREAS, the LICENSOR is the owner of a certain water tower structure located at Fulton Dr and Kincaid St, Maple Park, DeKalb County, Illinois (the "STRUCTURE"); and,

WHEREAS, the LICENSEE is desirous of installing and maintaining installed public safety related communications equipment, and related equipment thereto ("IMPROVEMENTS") onto and within the STRUCTURE, and,

WHEREAS, the LICENSOR is desirous of granting a license to the LICENSEE for the use of the STRUCTURE upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals and of the covenants and conditions hereinafter contained, the adequacy and sufficiency of which the parties hereto hereby acknowledge, the parties hereto hereby agree as follows:

1. GRANT: The LICENSOR agrees to grant, and does hereby grant, to the LICENSEE, the privilege of using prescribed portions of the STRUCTURE solely for the installation, operation, improvement and maintenance of the IMPROVEMENTS, all for a term of ten years beginning the July 1<sup>st</sup>, 2024 (the "TERM"), unless earlier terminated pursuant to either Section 10 or Section 12 hereof. All plans for the installation of the IMPROVEMENTS shall be subject to the approval of LICENSOR, said approval shall not unreasonably be withheld. The IMPROVEMENTS shall be installed by KaneComm's Technical Staff, or a vendor approved by the LICENSOR, at

LICENSEE's sole expense. The IMPROVEMENTS shall be used solely for the purpose of supporting public safety radio communications as necessary for the operations of the LICENSEE. The locations of the IMPROVEMENTS shall be described in Exhibit "A" attached hereto and incorporated herein.

2. NON-EXCLUSIVE GRANT: The license granted herein is not exclusive and the LICENSOR reserves the right at any time to grant other or similar privileges to use or occupy the STRUCTURE, provided that such additional grants shall not unreasonably interfere with the maintenance and operation of the IMPROVEMENTS.

3. LIENS: The LICENSEE, its agents, independent contractors and/or employees, shall not suffer to permit any mechanic's lien, judgment lien, or other lien of any nature whatsoever to attach or be against the STRUCTURE or any portion thereof of the real estate upon which the STRUCTURE is located.

4. MAINTENANCE OF IMPROVEMENTS: The LICENSEE shall be solely responsible for the installation, maintenance and repair of the IMPROVEMENTS located in or on the STRUCTURE. With the prior written consent of LICENSOR, which consent may not be unreasonably withheld, LICENSEE, its officers, employees, and authorized agents shall at all times have the right of access to the IMPROVEMENTS, with all necessary tools, appliances and materials, in order to maintain and repair the IMPROVEMENTS. All IMPROVEMENTS shall remain the LICENSEE'S property and may be removed by LICENSEE at any time, provided that LICENSEE shall restore the STRUCTURE in accordance with paragraph 11 hereof. Any damage caused to the STRUCTURE or any part thereof which results from the installation, operation, maintenance, repair, replacement or removal of the IMPROVEMENTS shall be promptly repaired or replaced by the LICENSEE at its sole cost and expense.

5. ASSIGNMENT: The LICENSEE shall not assign or otherwise transfer its right in whole or in part under this Agreement without the express written consent of the LICENSOR.

6. REPRESENTATIONS AND WARRANTIES: LICENSEE represents and warrants to LICENSOR that the IMPROVEMENTS will not cause or create any interference with the operation or use by any occupant of the STRUCTURE, now or hereafter, or any other party whatsoever, of any transmitting and receiving devices, antennae, televisions, and radios.

In the event any after-installed LESSEE's IMPROVEMENTS cause such interference, and after LICENSOR has notified LESSEE in writing of such interference, LESSEE

will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such IMPROVEMENTS and later powering up such IMPROVEMENTS for intermittent testing. In the event of a breach of this representation and warranty, LICENSEE shall terminate its operation of the IMPROVEMENTS within three (3) days after notice from LICENSOR.

LICENSOR agrees that LICENSOR and/or its lessees, licensees or assignees as to the STRUCTURE who currently have or in the future take possession of the STRUCTURE or any part thereof will be permitted to install only such equipment and/or devices that are of a type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing IMPROVEMENTS of LICENSEE. This restriction shall only apply to equipment and/or devices installed after execution of the Agreement.

The Parties acknowledge that there may not be an adequate remedy at law for non-compliance with the provisions of this Section and therefore, either Party shall have the right to seek and obtain equitable remedies in court, such as, without limitation, injunctive relief and specific performance.

7. FINANCIAL RESPONSIBILITY: LICENSOR shall have no financial responsibility or obligation to LICENSEE or any third party as a result of LICENSOR'S granting the privileges described herein to LICENSEE.

8. RECORDING; ASSIGNMENT. LICENSEE expressly acknowledges that nothing herein is intended to create a corporal or possessory interest of LICENSEE and, accordingly, this AGREEMENT shall not be construed as a lease, easement or any other interest running with the land. Neither this AGREEMENT nor any summary or memorandum thereof shall be recorded with any public authority. This AGREEMENT shall not be transferred, assigned or conveyed in whole or in part by LICENSEE without the prior written consent of LICENSOR, which consent may be withheld at LICENSOR'S sole discretion.

9. WASTE: In the exercise of the privileges herein granted, the LICENSEE will conduct all of its operations in a careful and proper manner, and will not commit any waste or unnecessary damage to the STRUCTURE or permit any nuisance upon or at the STRUCTURE.

10. TERMINATION: This AGREEMENT may be terminated and/or rescinded upon one hundred and eighty (180) days written notice of either party to the other.

11. REMOVAL OF IMPROVEMENTS: Within thirty (30) days after the rescission or termination of this AGREEMENT, LICENSEE shall, at its expense, remove all of its IMPROVEMENTS from the STRUCTURE and restore those portions of the STRUCTURE that had been used or affected by LICENSEE to substantially the same condition as they were at the commencement of the license term. LICENSOR agrees and acknowledges that all of the IMPROVEMENTS of LICENSEE shall remain the personal property of LICENSEE, whether or not said items are considered fixtures or attachments to real property under applicable law. LICENSEE agrees to the timely removal of the IMPROVEMENTS at the end of the Term.

12. DAMAGE AND DESTRUCTION: LICENSOR and its officers, agents and employees shall not be liable or responsible to LICENSEE for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, or for any damage or inconvenience which may arise through the maintenance, repair or alteration of any part of the STRUCTURE, or any other cause beyond the reasonable control of LICENSOR. In the event the STRUCTURE or any portion thereof is damaged or destroyed, LICENSOR shall have no obligation to repair or rebuild same and LICENSOR shall have the right to revoke this license and terminate this AGREEMENT upon notice to LICENSEE within thirty (30) days after the date of such damage or destruction.

13. ADDITIONAL IMPROVEMENTS: LICENSEE shall not be entitled to install, operate or maintain in or on the STRUCTURE any additional IMPROVEMENTS at any time during the term of this Agreement without the prior written consent of LICENSOR, which consent may not be unreasonably withheld. LICENSEE may in the ordinary course of maintenance of the IMPROVEMENTS replace, upgrade or substitute all or a portion of the IMPROVEMENTS, provided, the IMPROVEMENTS description or list found in Exhibit "A" shall then be modified or updated without other effect on this AGREEMENT. Such replacements, upgrades or substitutions shall be mutually determined prior to installation or construction. In either case, LICENSEE shall apply to the LICENSOR for a building permit, identifying in such application the additional IMPROVEMENTS or the replacements, upgrades or substitutions for IMPROVEMENTS, and the Village's consent or mutual determination, as the case may be, shall be evidenced by the issuance of such permit.

14. RELOCATION: LICENSOR hereby reserves the right at any time and from time to time to require LICENSEE to reasonably relocate the IMPROVEMENTS to a new location in or on the STRUCTURE; or in the case of re-painting of the STRUCTURE, to temporarily remove same to a location adjacent to the STRUCTURE; in either case, upon at least ninety (90) days prior written notice before the date of the required relocation.

15. SUCCESSOR GOVERNMENT ENTITY: This Agreement shall be binding upon and inure to the benefit of any successor governmental entity, which may assume and perform the duties of either party hereto.

16. BREACH. a) In the event there is a breach by LICENSEE with respect to any of the provisions of this Agreement or its obligations under it, LICENSOR shall give LICENSEE written notice of such breach. After receipt of such written notice, LICENSEE shall have thirty (30) days in which to cure any non-monetary breach, provided LICENSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LICENSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LICENSOR may not maintain any action or effect any remedies for default against LICENSEE unless and until LICENSEE has failed to cure the breach within the time periods provided in this Paragraph.

b) In the event there is a breach by LICENSOR with respect to any of the provisions of this Agreement or its obligations under it, LICENSEE shall give LICENSOR written notice of such breach. After receipt of such written notice, LICENSOR shall have thirty (30) days in which to cure any such breach, provided LICENSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LICENSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LICENSEE may not maintain any action or effect any remedies for default against LICENSOR unless and until LICENSOR has failed to cure the breach within the time periods provided in this Paragraph.

17. MISCELLANEOUS: This Agreement sets forth the entire understanding of the parties, and may only be amended, modified or terminated by a written instrument signed by the parties unless herein otherwise provided. Either party's waiver of any breach or failure to enforce any of the terms or conditions of this Agreement, at any time, shall not in any way affect, limit or

waive that party's right thereafter to enforce or compel strict compliance with every term and condition hereof.

18. GOVERNING LAW: This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Illinois.

19. FEDERAL COMMUNICATIONS RULE COMPLIANCE: As holder of a radio license or licenses with the Federal Communications Commission (FCC) under Part 90, KaneComm shall be responsible for any and all compliance issues that may or may not be under the control of the LICENSOR. As such, the LICENSEE shall ensure technical compliance with all FCC rules and regulations. In the case of other users, tenants or licensees of the STRUCTURE, the LICENSOR shall facilitate and coordinate any compliance issues that may affect all parties. Any costs relating to FCC compliance shall be borne by the LICENSEE.

20. NOTICES: All notices hereunder shall be in writing and must be served either personally or by registered or certified mail to:

A. LICENSEE at: County of Kane (KaneComm)  
719 Batavia Avenue, Building C  
Geneva, Illinois 60134

B. LICENSOR at: Village of Maple Park  
302 Willow St  
PO Box 220  
Maple Park, IL 60151

C. To such other person or place with either party hereto by its written notice shall designate for notice to it from the other party hereto.

21. COUNTERPARTS: This Agreement is executed in multiple counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first above written.

--- Signature page next follows this page ---



Village of Maple Park

By:

Title: Board President

ATTEST:

COUNTY OF KANE

By:

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Title:

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ATTEST: \_\_\_\_\_



## **EXHIBIT "A"**

The License shall apply to the following Improvements / Premises:

1. The Village of Maple Park Elevated Storage Tank No. 2 located on South Kincaid Street, Maple Park, Illinois, identified by DeKalb County as PIN: 09-36-201-005.
  
2. The Improvements at Location shall consist of the:
  - a. Antenna
  - b. Cables
  - c. Lightning Arrestor
  - d. Antenna Clamp Mount
  - e. Equipment Enclosure Cabinet
  - f. Additional Electronics Equipment
  - g. Ethernet Cables
  - h. Network Router
  - i. Additional Necessary Equipment