

**AGREEMENT**  
**BETWEEN THE COUNTY OF LAKE AND THE VILLAGE OF WAUCONDA**  
**FOR THE ATTACHMENT OF COUNTY-OWNED WIRELESS NETWORK**  
**ANTENNAE AND APPARATUS ONTO AND INSIDE OF**  
**THE VILLAGE-OWNED WATER TOWER LOCATED ALONG**  
**GILMER ROAD (COUNTY HIGHWAY 26), APPROXIMATELY 1,330 FEET**  
**WEST OF LIBERTY LAKES BOULEVARD**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2009, by and between the COUNTY OF LAKE, Illinois, an Illinois body politic and corporate, acting by and through its Chair and County Board, hereinafter referred to as the COUNTY, and the Village of Wauconda, an Illinois Municipal Corporation, acting by and through its Mayor and Village Board, hereinafter referred to as the VILLAGE. The COUNTY and the VILLAGE are hereinafter referred to collectively as "parties" to THIS AGREEMENT, and either one is referred to individually as a "party" to THIS AGREEMENT.

**WITNESSETH**

**WHEREAS**, the VILLAGE owns a water tower (hereinafter WATER TOWER), the entrance to which is located along Gilmer Road (County Highway 26), approximately 1,330 feet west of Liberty Lakes Boulevard (as is generally depicted in the attached EXHIBIT A to THIS AGREEMENT), onto and inside of which the COUNTY wishes to permanently install wireless communication equipment, including antennae, aluminum poles, mounting brackets, fittings, radios, various wires and cables, a ground-level, wall-mountable enclosure and other associated apparatus (hereinafter NETWORK EQUIPMENT); and,

**WHEREAS**, said NETWORK EQUIPMENT is intended to enable the COUNTY to wirelessly and remotely control certain traffic signal interconnections inside of and in proximity to the VILLAGE at a cost less than if doing so by way of a traditional [buried] fiber-optic cable system; and,

**WHEREAS**, the NETWORK EQUIPMENT shall be integrated into the County's system of interconnected traffic signals, cameras, fiber-optic network and associated equipment (Lake County PASSAGE) and shall significantly expand the PASSAGE network without the installation of additional fiber optic cable; and,

**DRAFT**

**WHEREAS**, the VILLAGE is willing to allow the permanent installation of the NETWORK EQUIPMENT in the interests of promoting the safe and efficient movement of vehicular traffic in and around the VILLAGE;

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, made pursuant to all applicable statutes, local ordinances and authority, the COUNTY and the VILLAGE do hereby enter into the following:

### **SECTION I.**

#### **Recitals/Headings**

1. It is mutually agreed by and between the parties hereto that the foregoing preambles are hereby incorporated herein as though fully set forth.
2. It is mutually agreed by and between the parties hereto that the "headings" as contained in THIS AGREEMENT are for reference only and the actual written provisions, paragraphs and words of THIS AGREEMENT shall control.

### **SECTION II.**

#### **Installation of the NETWORK EQUIPMENT**

1. The COUNTY agrees to attach and install the NETWORK EQUIPMENT in accordance with the approved plans and specifications (hereinafter PLANS). Said PLANS, by reference herein, are hereby made a part hereof.
2. The COUNTY shall, at its sole expense, install, or cause to be installed, the NETWORK EQUIPMENT onto and inside of the WATER TOWER. Should the COUNTY contract with a contractor for the installations, the COUNTY warrants that said contractor shall satisfy the COUNTY's licensing and bonding requirements and that said contractor shall perform the work in a safe and conscientious manner, employing "best engineering practices." The COUNTY shall be responsible for one-hundred percent (100%) of all restoration costs for restorations resulting from the installation of the NETWORK EQUIPMENT. (Said restorations might, for instance, include the restoration of any pavement or landscaping disturbed in the installation process.)

3. The COUNTY shall be responsible for payment of all electric and telephone utility charges, property taxes, insurance premiums, repair and maintenance expenses and all other fees, charges, costs and expenses relating to its installation and operation of the antenna and related equipment. It is acknowledged by the parties that so long as the Network Equipment draws less than 101 watts of power from the Village's power service, the COUNTY shall not be responsible for the cost of the electrical power.
4. Except in cases of emergency, the COUNTY shall give no less than forty-eight hours notice to the Village Public Works Department of its intent to enter upon, onto or into the subject water tower to perform installation, maintenance, replacement or removal activities. In the event of an emergency, the COUNTY shall provide such shorter notice as is practical under the circumstances. Notice under this paragraph may be given by telephonic, facsimile or written communication.
5. Should the installation of the NETWORK EQUIPMENT, or any portion thereof, require approvals by any regulatory bodies (e.g., the Federal Communications Commission and/or the Federal Aviation Administration), the COUNTY shall, at its sole expense, prepare all necessary applications and obtain the necessary approvals from all such regulatory bodies.
6. The VILLAGE agrees to supply to the COUNTY a comprehensive listing of all users transmitting radio frequencies (RF) from any VILLAGE-owned facility. (Said users might include cellular communication carriers, police and fire departments, etc.) Said listing shall include, for each user, the name of said user, the frequency at which that user operates and the power level at which that user transmits his/her/its signal. Using the data from said comprehensive listing, the COUNTY shall then evaluate the potential for radio-frequency (RF) interference between its equipment and any of the existing equipment. Provided, however, the Village makes no warranty as to the accuracy of the information provided to the COUNTY under this Paragraph.
7. The COUNTY warrants that the operation of the NETWORK EQUIPMENT, or any part thereof, shall not create RF interference with any of the users now operating RF equipment at any VILLAGE-owned facility and the COUNTY warrants that the operation of the NETWORK EQUIPMENT, or any part thereof, shall not create RF interference with any of such users.

8. The COUNTY agrees to perform, or cause to have performed, at its sole expense, maintenance upon the NETWORK EQUIPMENT, ensuring that it is kept in proper working order.
9. At any time and at the request of the VILLAGE, the COUNTY shall, at its sole expense, paint, or cause to be painted, the NETWORK EQUIPMENT (or portions thereof, as specified by the VILLAGE) in a color substantially similar to that of the WATER TOWER.
10. The COUNTY shall, at its expense, keep the antenna and related equipment fully insured for fire, windstorm and other casualties and shall maintain general liability insurance, workman's compensation insurance and any other insurance reasonably requested by the VILLAGE. The general liability insurance shall have a minimum limit of \$1,000,000 and the workman's compensation insurance shall meet applicable statutory requirements. The COUNTY's current self-insurance program is acceptable to the Village so long as the minimum coverages provided herein are met. The COUNTY shall provide and maintain with the VILLAGE a certificate of insurance disclosing the required coverage and the VILLAGE shall be named as an additional insured thereon. The certificate shall provide that coverage will not be canceled without at least thirty (30) days prior written notice to the VILLAGE.
11. So long as the Network Equipment draws less than 100 watts of electricity, the VILLAGE agrees to pay one-hundred percent (100%) of all energy costs required for the operation of the NETWORK EQUIPMENT.
12. The VILLAGE reserves the right to perform maintenance on the WATER TOWER as it sees fit, in its sole discretion. The VILLAGE reserves the right to request that the COUNTY, at its sole expense, temporarily remove (or at a minimum, protect) all or a portion of the NETWORK EQUIPMENT. At the completion of the VILLAGE's maintenance activity, the COUNTY shall, also at its sole expense, reinstall the necessary NETWORK equipment or portions thereof and return the installation to its condition prior to the commencement of the VILLAGE's maintenance activity. Except under emergency conditions, the VILLAGE shall provide to the COUNTY a minimum of thirty (30) days written notice prior to the commencement of the VILLAGE's maintenance activity.

**SECTION III.**  
**General Provisions**

1. The COUNTY shall indemnify and hold harmless the VILLAGE (including its elected officials, duly appointed officials, officers, employees and agents) from any and all losses, damages, claims and causes of action, including attorneys' fees and court costs (hereinafter CLAIMS) arising from the installation, operation or maintenance of the NETWORK EQUIPMENT.
2. It is mutually agreed by and between the parties hereto that nothing contained in THIS AGREEMENT is intended or shall be construed as in any manner or form creating or establishing a relationship of co-partners between the parties hereto, or as constituting the VILLAGE (including its elected officials, duly appointed officials, officers, employees and agents) the agent, representative or employee of the COUNTY for any purpose or in any manner, whatsoever. The VILLAGE is to be and shall remain independent of the COUNTY with respect to all services performed under THIS AGREEMENT.
3. It is mutually agreed by and between the parties hereto that each party warrants and represents to the other party and agrees that (1) THIS AGREEMENT is executed by duly authorized agents or officers of such party and that all such agents and officers have executed the same in accordance with the lawful authority vested in them, pursuant to all applicable and substantive requirements; (2) THIS AGREEMENT is binding and valid and will be specifically enforceable against each party; and (3) THIS AGREEMENT does not violate any presently existing provision of law nor any applicable order, writ, injunction or decree of any court or government department, commission, board, bureau, agency or instrumentality applicable to such party.
4. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be deemed to take effect on March 1, 2009 provided the duly authorized agents of the parties hereto duly execute THIS AGREEMENT by affixing their signatures prior to March 1, 2009. In the event the date that the last authorized agent of the parties hereto affix their signature to THIS AGREEMENT is subsequent to March 1, 2009, the effective date of THIS AGREEMENT shall then be the first day of the month which follows the date that the last authorized agent of the parties hereto affixes his/her signature.

5. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be enforceable in any court of competent jurisdiction by each of the parties hereto by any appropriate action at law or in equity, including any action to secure the performance of the representations, promises, covenants, agreements and obligations contained herein.
6. It is mutually agreed by and between the parties hereto that the provisions of THIS AGREEMENT are severable. If any provision, paragraph, section, subdivision, clause, phrase or word of THIS AGREEMENT is for any reason held to be contrary to law or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of THIS AGREEMENT.
7. It is mutually agreed by and between the parties hereto that the agreement of the parties hereto is contained herein and that THIS AGREEMENT supersedes all oral agreements and negotiations between the parties hereto relating to the subject matter hereof. Any prior agreements between the parties hereto shall remain in full force and effect, except as modified by THIS AGREEMENT.
8. It is mutually agreed by and between the parties hereto that, at such time as the NETWORK EQUIPMENT is no longer of use to the COUNTY, the COUNTY shall, at its sole expense, remove, or cause to be removed, the NETWORK EQUIPMENT from the WATER TOWER. Following said removal, the COUNTY shall be responsible for returning the WATER TOWER to, as nearly as possible, the same state and condition existing prior to the installation of the NETWORK EQUIPMENT.
9. It is mutually agreed by and between the parties hereto that any alterations, amendments, deletions or waivers of any provision of THIS AGREEMENT shall be valid only when expressed in writing and duly executed by the parties hereto.
10. Except as provided in Provision II 4, it is mutually agreed by and between the parties hereto that any written communication required under THIS AGREEMENT (including, but not limited to, that pursuant to Provisions II.6., II.9., II.12. and III.9 of THIS AGREEMENT) shall be conducted through standard U.S. Postal Service delivery, and shall be addressed as follows:

If to the COUNTY:

County Engineer

Lake County Division of Transportation  
600 W. Winchester Rd.  
Libertyville, IL 60048  
(or current address)

If to the VILLAGE:

Mayor  
Village of Wauconda  
101 N. Main St.  
Wauconda, IL 60084  
(or current address)

12. It is mutually agreed by and between the parties hereto that THIS AGREEMENT shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. Provided, however, the COUNTY shall not sell, transfer or assign all or any portion of its rights under THIS AGREEMENT without first obtaining the prior written consent of the Village, which consent shall not be unreasonably withheld.
13. It is mutually agreed by and between the parties hereto that THIS AGREEMENT may be executed in multiple identical counterparts, and all of said counterparts shall, individually and taken together, constitute THIS AGREEMENT.
14. THIS AGREEMENT shall continue until terminated by either party on ninety (90) days prior written notice to the other party, except that in the event of a default or violation of any of the terms and conditions of THIS AGREEMENT by the COUNTY, the Village may terminate THIS AGREEMENT on thirty (30) days written notice to the COUNTY unless the COUNTY cures such default or violation within such time period.
15. Upon termination of THIS AGREEMENT, the COUNTY shall, at its expense, remove the antenna and related equipment within thirty (30) days thereafter. In the event the COUNTY fails to do so, the VILLAGE may thereupon remove or cause to be removed the antenna and related equipment and the COUNTY shall reimburse the VILLAGE for the cost thereof within thirty (30) days of being invoiced by the VILLAGE for such cost.

16. Upon being invoiced therefor, the COUNTY shall reimburse the Village in an amount not to exceed \$975.00 as and for the Village's costs of its legal review and negotiation of THIS AGREEMENT.

ATTEST:

By:

\_\_\_\_\_  
Village Clerk

**VILLAGE OF WAUCONDA**

\_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

**RECOMMENDED FOR EXECUTION**

\_\_\_\_\_  
Martin G. Buehler, P.E.  
Director of Transportation / County Engineer  
Lake County

ATTEST BY:

**COUNTY OF LAKE**

\_\_\_\_\_  
County Clerk  
Lake County

\_\_\_\_\_  
Chair  
Lake County Board

Date: \_\_\_\_\_

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