

RESOLUTION

VILLAGE OF GILBERTS

Resolution authorizing an Intergovernmental Agreement between the Village of Gilberts and Quadcom for use of the Water Tower located in Indian Trails

Be it Resolved by the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

Section 1:

The Village of Gilberts hereby authorizes the Village President and Village Clerk to execute a Intergovernmental Agreement with Quadcom for use of the Water Tower located in Indian Trails, and such documents as are necessary and convenient to effectuate the use agreement as here by attached.

Section 2:

This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

Passed this 21st day of November, 2017 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Elissa Kojzarek	_____	_____	✓_____	_____
Trustee Dan Corbett	✓_____	_____	_____	_____
Trustee Nancy Farrell	✓_____	_____	_____	_____
Trustee Louis Hacker	_____	_____	✓_____	_____
Trustee Jeanne Allen	✓_____	_____	_____	_____
Trustee Guy Zambetti	✓_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS 21st DAY OF November 2017

RZ

Village President, Rick Zirk



Debra Meadows
Village Clerk, Debra Meadows

**INTERGOVERNMENTAL AGREEMENT BETWEEN QUADCOM AND
THE VILLAGE OF GILBERTS**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into this 21st day of ~~June~~ ^{July}, 2017, by and between QuadCom 911 Emergency Communications (“**QuadCom**”) of Carpentersville, Illinois, and the Village of Gilberts (“**Village**”), an Illinois municipal corporation.

WITNESSETH

WHEREAS, QuadCom is a joint public safety intergovernmental cooperative of the Villages of Barrington Hills, Carpentersville, East Dundee, Sleepy Hollow, South Barrington, West Dundee, the East Dundee & Countryside Fire Protection District, and the Rutland Dundee Fire Protection District, created for the purposes of providing emergency police, fire, and ambulance service communications; and

WHEREAS, the Village owns and maintains certain real property known as the Gilberts Elevated Water Tower located at 598 Sleeping Bear Lane, Gilberts, Illinois (“**Water Tower**”); and

WHEREAS, QuadCom has installed certain radio equipment and associated antennas for the benefit of the users of QuadCom’s public safety communication system on and within the Water Tower owned by the Village, as depicted on the attached **Exhibit A** (collectively, the “**Equipment**”); and

WHEREAS, the parties hereto desire to evidence the terms and conditions upon which the Village will grant a license to QuadCom to continue to allow the Equipment to remain on the Water Tower and to define the duties of QuadCom to maintain the Equipment; and

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, provide that units of local government may contract among themselves to obtain or share services and to exercise, combine or transfer any power or function, in any manner not prohibited by law or by ordinance; and

WHEREAS, the Village and QuadCom find that it is in the interest of the public health, safety, and welfare, and in the best interest of QuadCom and the Village to enter into this Agreement for the continued use and maintenance of the Equipment on the Water Tower.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTAL PROMISES CONTAINED HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, **IT IS AGREED**, as follows:

1. **Incorporation of Recitals.** The recitals to this Agreement as set forth above are incorporated into and made a part of this Agreement.
2. **Grant of License.** The Village hereby grants a non-exclusive license to QuadCom to install, operate, and maintain the Equipment on the Water Tower as depicted on ***Exhibit A*** and pursuant to the terms and conditions of this Agreement.
3. **License Fee.** QuadCom shall pay to Village of Gilberts as a license fee for the right to so locate its equipment, the sum of \$180.00 per year, payable on the date this Agreement is executed by both parties and thereafter on each following anniversary date of this Agreement.
4. **Term and Termination.** This Agreement shall be effective upon execution by both parties and shall be for a term of ten (10) years. By mutual agreement, this Agreement shall renew for an additional term of ten (10) years unless either party provides written notice to the other party at least one hundred eighty (180) days prior to the time for the automatic renewal that such renewal shall not take place. In the event of such notice, this Agreement shall terminate at the end of the original term. The parties hereto further agree that if, at any time during the term of this Agreement, either party gives one hundred eighty (180) days written notice of cancellation to the other party, this Agreement will terminate. Upon the termination of this Agreement for any reason, QuadCom will promptly remove the Equipment and any other QuadCom antennas and radio equipment installed at the Water Tower at QuadCom's sole expense, and will, as nearly as possible, restore the Village's property to its original condition.
5. **Maintenance.** QuadCom agrees that it will be solely responsible to adequately maintain the Equipment on the Water Tower in good working order, condition, and repair, in accordance with any applicable laws, ordinances, or regulations. QuadCom shall be solely responsible for the payment of all expenses related to the ongoing operation and maintenance of the Equipment. The Village agrees to allow QuadCom access to the Equipment on the Water Tower at reasonable hours. QuadCom shall provide the Village with no less than 48 hours notice of QuadCom's need to access the Equipment on the Water Tower, except for emergency situations.
6. **Interference.** QuadCom agrees that it will not install or use the Equipment in a manner which will damage the Water Tower or interfere with the Village's use of the Water Tower. Further, QuadCom agrees and warrants that its Equipment shall not interfere in any way with the existing antennas and other radio equipment currently installed on the Water Tower as of the effective date of this Agreement.
7. **QuadCom Connections.** QuadCom, at its own expense, agrees to make the Water Tower suitable for its Equipment by supplying telephone lines to interconnect the

Equipment on the Water Tower to its radio networks. In addition, QuadCom will install its existing Equipment in a single rack enclosure with electrical outlets inside the rack, and wired connections to the transmitter exiting the rack enclosure encased in a rigid or flexible conduit. The rack enclosure and conduit is intended to protect QuadCom Equipment from accidental damage caused by work within the water tower. Example rack illustrated in *Exhibit A*. The Village agrees to provide AC electrical access for electrical power at the Water Tower.

8. **Equipment Removal.** The Village reserves the right to perform maintenance on the Water Tower, including painting, whenever deemed necessary by the Village in its sole discretion. If the Village determines that maintenance of the Water Tower requires the removal of QuadCom's Equipment, the Village shall notify QuadCom by telephone at (847)428-8784. Upon notification by the Village, QuadCom shall, at its sole expense, remove or temporarily relocate the Equipment on the Water Tower to allow the Village to perform the required maintenance. QuadCom shall be solely responsible for reinstalling its Equipment on the Water Tower at its sole expense. The Village shall attempt to provide QuadCom with thirty (30) days notice of any planned maintenance of the Water Tower which will require the removal or relocation of QuadCom's Equipment.
9. **Indemnification.** QuadCom agrees to protect, indemnify, save, defend, and hold harmless the Village, and its officers, officials, volunteers, employees, and agents, from and against any and all liabilities, claims, damages, causes of action, costs, and expenses, including reasonable attorneys' fees, arising out of or related to QuadCom's use of the Water Tower, including, but not limited to, the installation, maintenance, operation, or removal of the Equipment, except to the extent attributable to the negligence or willful misconduct of the Village. Further, QuadCom shall protect, indemnify, save, defend, and hold harmless the Village, and its officers, officials, volunteers, employees, and agents from any against any and all liabilities, claims, damages, causes of action, costs, and expenses, including reasonable attorney's fees, arising out of related to the acts and/or omissions of QuadCom's agents or contractors relating to QuadCom's use of the Water Tower, including, but not limited, the installation, maintenance, or removal of the Equipment, except to the extent attributable to the negligence or willful misconduct of the Village.
10. **Insurance.** QuadCom shall obtain and maintain, at its sole expense, comprehensive general liability insurance in an amount not less than \$1,000,000 per occurrence to insure against personal injury, death, or property damage occurring in connection with QuadCom's Equipment or QuadCom's use of the Water Tower. In addition, all of QuadCom's contractors shall procure and provide evidence to the Village of insurance in the same amounts as required of QuadCom. QuadCom and all of QuadCom's contractors performing any work at the Water Tower shall name the

Village, and its officials, officers, agents and employees as additional insureds on a primary and non-contributory basis and provide a certificate of insurance evidencing the required coverage and additional insured status to the Village.

11. **Additional Users.** QuadCom shall have the right to allow other public safety communication providers to use and share the QuadCom UHF antenna located on the Water Tower and its appurtenant cables, receivers and equipment, but only with the express prior written consent of the Village. Any additional users must not interfere with the Village's use of the water tower or interfere with any of the existing antennas and other radio equipment currently installed on the Water Tower as of the effective date of this Agreement. Any costs associated with the use of QuadCom's Equipment by other public safety communication providers shall be the responsibility of the additional provider. Additional users shall not be permitted to install any of their own antenna, radio, or other equipment on the Water Tower.

12. **General Provisions.**

a. **Notices.** All notices required or permitted to be given under this Agreement shall be given by the parties by: (i) personal delivery; (ii) deposit in the United States Registered Mail, return receipt requested, enclosed in a sealed envelope with first class postage thereon; or (iii) deposit with a nationally recognized overnight delivery service, addressed as stated in this Section 12.A. The address of any party may be changed by written notice to the other parties. Any mailed notice shall be deemed to have been given and received within three days after the same has been mailed and any notice given by overnight courier shall be deemed to have been given and received within 24 hours after deposit. Notices and communications to the parties shall be addressed to, and delivered at, the following addresses:

If to the Village:	Village of Gilberts Attn: Village Administrator 87 Galligan Road Gilberts, Illinois 60136
If to QuadCom:	QuadCom 911 Regional Dispatch Center Attn: QuadCom Executive Director 505 Elm Ridge Road Carpentersville, IL 60110

b. **Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois. Venue for any dispute arising under this Agreement shall be in the Circuit Court of Kane County, Illinois.

- c. **Amendments and Modifications.** No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by the parties hereto.
- d. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, whether oral or written, with respect to the subject matter hereof. The parties expressly understand and acknowledge that there are no other oral or written promises, conditions, representations, understandings, warranties or terms of any kind as conditions or inducements to execute this Agreement and none have been relied upon by either party. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.
- e. **Assignment.** This Agreement may not be assigned or transferred by QuadCom without the express written consent of the Village.
- f. **No Third Party Beneficiaries.** This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.
- g. **Headings.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.
- h. **Counterpart Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- i. **Severability.** The provisions of this Agreement shall be deemed to be severable. If any term, covenant or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein, and the remainder of this Agreement shall continue to be valid and enforceable to the fullest extent permitted by law.


[Signature page follows]

Witness the hands and seals of the parties to this agreement, the day and year above written.

Village of Gilberts

By: 

_____, President

Attest: 
Village Clerk

QuadCom 911

By: _____

_____, Chairman

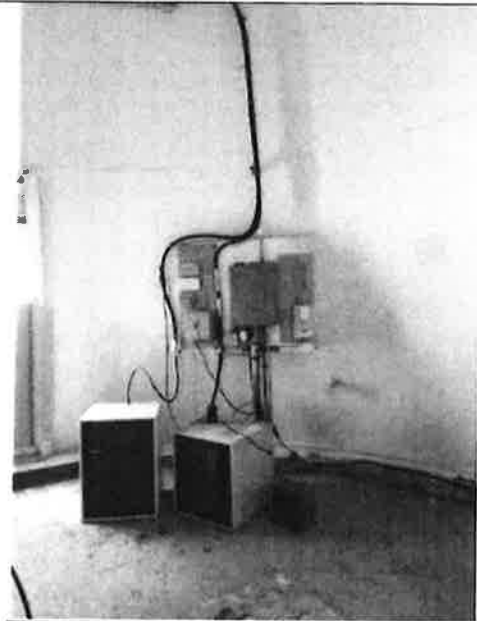
QuadCom Board of Directors

Attest: _____
Director

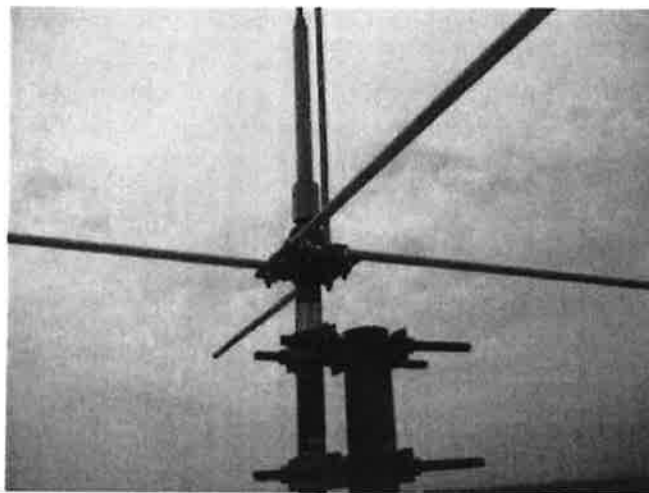
EXHIBIT A

The Equipment

Equipment Inside the Water Tower



Antenna Structure Mounted on Water Tower



Rack Equipment Cabinet Example

