RESOLUTION NO. 788-20

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE VILLAGE OF ELMWOOD PARK AND NORCOMM PUBLIC SAFETY COMMUNICATIONS, INC. FOR THE PROVISION OF EMERGENCY DISPATCH SERVICES

PASSED AND APPROVED BY
THE PRESIDENT AND BOARD OF TRUSTEES
THE 4th DAY OF MAY, 2020

Published in Pamphlet form by
Authority of the Corporate
Authorities of Elmwood Park, Illinois
the 4th day of May, 2020.

905530

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A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE VILLAGE OF ELMWOOD PARK AND NORCOMM PUBLIC SAFETY COMMUNICATIONS, INC. FOR THE PROVISION OF EMERGENCY DISPATCH SERVICES

WHEREAS, the residents of the Village of Elmwood Park ("Village") are provided emergency services by the Village's Police and Fire departments; and

WHEREAS, NORCOMM Public Safety Communications, Inc. ("NORCOMM") is in the business of furnishing personnel and equipment for police, fire and emergency medical 9-1-1 dispatch services; and

WHEREAS, the Village wishes to enter into a contract with NORCOMM for emergency dispatch services.

NOW, THEREFORE, BE IT RESOLVED by the Village President and Board of Trustees of the Village of Elmwood Park, Cook County, Illinois as follows:

Section 1. The recitals set forth above are hereby incorporated as part of this Resolution.

Section 2. The corporate authorities of the Village of Elmwood Park hereby approve the contract between the Village of Westchester and NORCOMM Public Safety Communications, Inc. for the provision of emergency dispatch services, a copy of which is attached hereto as Exhibit "A" (the "Contract").

Section 3. The corporate authorities of the Village hereby authorize and direct the Village President to execute, and the Village Clerk to attest to, the Contract, on behalf of the Village.

Section 4. This Resolution shall be in full force and effect upon its passage, as provided by law.

ADOPTED this 4th day of May, 2020

AYES: 7
NAYS: Ø
ABSENT: Ø

VILLAGE PRESIDENT

ATTEST:

VILLAGE CLERK

905530

NORCOMM

PUBLIC SAFETY COMMUNICATIONS, INC.

EMERGENCY DISPATCH SERVICES CONTRACT

FOR THE

VILLAGE OF ELMWOOD PARK

CONTRACT FOR EMERGENCY DISPATCH SERVICES

This Contract is made on the last day signed below between the Village of Elmwood Park (hereinafter referred to as "Elmwood Park", "Village" or "Client"), an Illinois municipal corporation, and NORCOMM Public Safety Communications, Inc. (hereinafter referred to as "NORCOMM" or "Contractor"), an Illinois corporation. Both Parties shall collectively be referred to as "The Parties".

WHEREAS, NORCOMM is in the business of furnishing personnel and equipment for police, fire and emergency medical 9-1-1 dispatch services; and

WHEREAS, the residents of the Village of Elmwood Park are provided emergency services by the Village of Elmwood Park and its Police and Fire Departments; and

WHEREAS, the Village of Elmwood Park wishes to obtain necessary equipment and NORCOMM's services for 9-1-1 dispatch services, and NORCOMM wishes to provide such equipment and services; and

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises hereinafter set forth, the Parties agree as follows:

ARTICLE 1. Contract Term

Conditions Precedent:

This Agreement shall become effective upon the date that the last Party hereto executes this Agreement.

The Parties agree that NORCOMM cannot begin providing emergency 9-1-1 dispatch services on behalf of the Village any time prior to June 1, 2021, and not until a Consolidation Application Request Process is completed, which is required

by the Statewide 9-1-1 Advisory Board (herein referred to as "Advisory Board") and the Office of the Illinois State Police Statewide 9-1-1 Administrator.
The services provided by this Agreement shall be for a period of five (5) years commencing on the date for which NORCOMM actually begins providing Village's 9-1-1 emergency dispatch services from the NORCOMM 9-1-1 dispatch center, as described in Article 2.1 through 2.6 ("Initial Term") unless cancelled earlier by written notice by either Party or terminated by written notice of a breach of this Agreement, as outlined in this Agreement or by operation of law, in which case this Agreement will terminate immediately on the date of such written notice.

The Initial Term of this Agreement shall automatically renew for a subsequent five (5) year term ("Subsequent Terms"), unless either Party informs the other Party of their desire for the Agreement to expire at the end of the term, by providing written notice to the other Party not less than one hundred eighty (180) days prior to the end of either the Initial Term or of any new agreement executed by the Parties prior to termination date.

After NORCOMM begins providing emergency 9-1-1 dispatch services on behalf of the Village from NORCOMM's 9-1-1 Dispatch Center, either Party may terminate this Agreement at any time, without cause, by providing not less than one hundred eighty (180) days written notice to the other Party. In addition, if either Party commits a material breach of this Agreement, the non-breaching Party shall provide a detailed written statement of the claimed material breach. If the alleged breaching Party fails to cure such breach, if curable, within thirty (30) business days, (unless residents' safety forms the basis, in whole or in part, of the material breach, in which case, the breach must be cured within forty-eight (48) hours of notice of such breach), then the Agreement shall terminate at the expiration of the thirty (30) business day period, unless the Parties agree that additional time is necessary to cure such breach. In the event that the failure to perform is of a type that cannot be reasonably cured within said thirty (30) business day cure period, the party failing to perform shall not be deemed to have breached this Agreement, so long as they have taken significant action necessary to cure their non-performance, to the reasonable satisfaction of the complaining Party within thirty (30) days of their receipt of notice and have thereafter diligently and continuously acted, without delay or suspension of activity, to cure their failure to perform and successfully cure their failure to perform. The acceptance of such cure shall not be unreasonably withheld. Where the cure has not been accepted,

the Contractor shall have an opportunity to be heard by the Village's Board of Trustees or the Village Manager, before any decision on termination or cancellation is made. In all cases where there is a termination for cause, services to the Village shall continue for such reasonable period of time as agreed upon by the Parties, to ensure an orderly transfer of dispatch services in a manner that is protective of public safety.

Notwithstanding anything to the contrary in this Agreement, should any early cancellation or termination give rise to liability to either Party under the federal or state laws known as WARN Acts or similar laws, such cancellation or termination shall be delayed so the Parties can provide appropriate notices or take other steps to avoid liability under such laws, as allocated under this Agreement or by operation of law.

ARTICLE 2. NORCOMM'S Duties at NORCOMM'S 911 Center

NORCOMM will provide telecommunicators and supervision to adequately provide 9-1-1 dispatch service for the Village. NORCOMM will provide an assigned Director and telecommunicators to provide 24-hours per day, 7-days per week, and 365-days per year coverage. All telecommunicators provided by NORCOMM will be LEADS certified in accordance with 20 IL Adm Code Sec 1240 *et seq.*, and NORCOMM will at all times provide a sufficient number of Emergency Medical Dispatchers who are certified pursuant to 210 ILCS 50/3.70.

2.1 NORCOMM will answer all calls for service for the Village that are directed to NORCOMM via the following telephone circuits: 9-1-1 ESN Telephone Circuits, as well as non-911 emergency and non-emergency lines that are directed from the Village of Elmwood Park "Phone Tree" that are directed for a request for dispatch. Additionally, NORCOMM shall answer dedicated "Ring Down" Circuits that are routed from the Village to NORCOMM.

2.2 After receiving a call for service by the means set forth in subsection 2.1, NORCOMM will immediately alert the Village by the following means: In-House Fire Station Alerting, "Ring Down" on a dedicated telephone line, telephone, radio, tone paging devices or commercial pagers.

2.3 NORCOMM will provide service through radio equipment capable of transmitting all frequencies currently being used by the Village, as determined by the Parties.

2.4 NORCOMM will provide a "TTY" or "TDD" capable machine for the hearing impaired at the Dispatch Center for the receipt of requests for service required by this type of device. The device supplied by NORCOMM will meet or exceed specifications mandated by the Americans with Disabilities Act.

2.5 NORCOMM shall record, via an audio recording device, all telephone and radio frequencies 24 hours of every day during the term of the Contract. These recordings shall be generated in accordance with Illinois law and shall be kept by NORCOMM for a minimum of 90 days after the call is received. NORCOMM will not dispose of, destroy or record over, any record of a request for the Village's service until at least 90 days have passed since NORCOMM received the call. All records shall be accessible to the Village at all times upon request from the Village or its designee. NORCOMM shall maintain records and recordings for any calls indefinitely upon request of the Village. The Village shall notify NORCOMM when it needs records and recordings for calls that need to be maintained indefinitely. In such instances, NORCOMM shall preserve said records via a Compact Disk (CD) or Digital Video Disk (DVD) and provide a copy of the Disk to Elmwood Park, and NORCOMM shall maintain the record until otherwise advised by the Village. NORCOMM shall comply with all Court orders regarding the maintenance of records and recordings.

2.6 NORCOMM shall establish a "Board of Advisors" ("Board") to assist in the coordination of the overall function of the Dispatch Center and NORCOMM's provision of communication services. This Board shall not have any voting rights within NORCOMM, but shall serve in an advisory capacity on issues which concern communications and dispatching. NORCOMM will adhere to all reasonable operational practices and procedures required by the Board, provided that such operational practices and procedures are legal and consistent with industry standards. The Village shall have a seat on this Board and the Board shall consist of Public Safety Directors, Police Chiefs, and Fire Chiefs (or their designees) whose

departments utilize NORCOMM for Primary Dispatch. "Primary Dispatch" shall mean the receiving, prioritization, alerting and record keeping of all requests for services by that department. NORCOMM shall provide a representative who shall act as a liaison between the Village and NORCOMM.

2.7 NORCOMM shall direct, guide and control the activities of staff in accordance with procedures established by agreement of the Parties. Standard Operating Guidelines (SOG) and General Orders (GO) are subject to revision and should always be considered a work in progress. New SOG's or GO's or any revisions to existing SOG's or GO's will be reviewed at the bi-monthly Police and Fire Administration meetings, which are held at the NORCOMM 911 Center and shall be mutually agreed upon by the Board and NORCOMM.

2.8 During the term of this Contract, NORCOMM shall maintain, in full force and effect, insurance policies written on an incurred loss basis, being of the kind and with the limits designated below and making the Village an additional insured party on all applicable policies.

[redacted]

All insurance companies issuing policies required herein shall certify to the Village that such policies, where applicable, have been issued with the Village listed as an additional insured party and are in force and effect and will remain not materially changed, canceled or annulled, except upon thirty (30) days prior written notice to the Village.

2.9 The Parties agree that each Party shall, as soon as practicable, provide to the other Party written notice of any claim against any Party that is related to the services to be performed under this Agreement. In addition, if a Party is aware of any act or omission in the course of performing its duties under this

Agreement that might reasonably be expected to be the basis of a claim or suit against the other Party, such Party shall provide written notice to the other Party, as soon as practicable.

2.10 NORCOMM, at no additional cost to Elmwood Park, shall provide consultation services to Elmwood Park as follows:

a) Completion and submission of a Consolidation Plan to be submitted to the Office of the Illinois Statewide 9-1-1 Administrator.

b) Completion of the migration of Elmwood Park's dispatch center to NORCOMM, so that Elmwood Park's dispatch center consolidates into NORCOMM's Dispatch Center.

c) NORCOMM shall complete whatever paperwork is necessary for Elmwood Park to become a member of the Proviso-Leyden Joint 9-1-1 Authority.

ARTICLE 3. Village's Duties

3.1 Fees.

a) Upon full execution of this Agreement, Village shall be responsible for all one-time and/or reoccurring actual costs related to the infrastructure and labor needed to connect Elmwood Park to the NORCOMM dispatch center. The one-time and/or reoccurring costs related to infrastructure needed to connect Elmwood Park to NORCOMM is estimated to be, during the term of this Agreement, between [redacted], depending upon the type of infrastructure Elmwood Park chooses to use in order to connect to NORCOMM, in addition to any expansion modules needed for NORCOMM's equipment to accommodate Elmwood Park Public Safety. Such costs shall include, but not be limited to:

i. Microwave connections.

ii. Wide-area networks (fiber optic network needed to connect Elmwood Park Public Safety Buildings to NORCOMM).

iii. Expansion modules to NORCOMM's equipment located within its dispatch center. For example, expansion cards to NORCOMM's radio console (Motorola MCC5500, Zetron Max Call Taking System, Zetron IPFSA Fire Station Alerting system, and Eventide Digital Recorder.

iv. Labor performed by NORCOMM technicians.

v. Third party contractors needed to identify circuits that will need to be redirected to NORCOMM; or to purchase and install equipment to connect Elmwood Park to NORCOMM. For example, telephone companies, 9-1-1 vendors (such as Chicago Communications and/or Mercury Systems).

vi. Computer Aided Dispatch (CAD) Records/Data Conversion, including increases in CIS maintenance fees from Computer Information Systems (CIS).

b) One-Time and/or reoccurring costs related to infrastructure or equipment needed to connect Elmwood Park to NORCOMM shall be actual costs incurred by Elmwood Park. Where applicable and upon request, NORCOMM shall supply Elmwood Park with any and all quotes, receipts, and invoices for work provided. NORCOMM shall not mark up these costs. In addition, before any purchases are made, NORCOMM shall seek approval from Elmwood Park.

3.2 Annual Costs for Dispatch Services:

NORCOMM shall begin invoicing the Village for annual Costs of Dispatch Services once Village's dispatch services are actually being provided by NORCOMM.

a) [redacted]

b) [redacted]

c) [redacted]

[redacted]

d) [redacted]

e) [redacted]

3.2.1 If compensation or benefits to NORCOMM's personnel should vary during the term of this Agreement, due only to a change in local, state or federal law, limited to minimum wage increases or mandatory scheduling requirements, the Parties will re-negotiate in good faith to cover Contractor's costs of labor, plus a reasonable administrative fee for such additional personnel or required compensation required by law.

a. The Contractor shall be solely responsible for:

i. Compensating and providing the employment benefits set forth in this Agreement, if any, to such personnel.

ii. Making all required deductions from compensation paid to the personnel and timely remitting such deductions and any required contributions from the Contractor to the appropriate government agency as required by law.

iii. Complying with all applicable federal, state and local laws and regulations regarding the employment of such personnel.

iv. The Contractor will properly and timely file all required reports and other information with the Internal Revenue Service, Social Security Administration, and all applicable state and local tax agencies.

v. The Contractor's personnel and employees shall not be entitled to participate in any of the Village's employee benefit plans, including pension, retirement, deferred compensation, insurance, disability, bonus, vacation pay, severance pay, and other similar plans, programs and agreements, whether reduced to writing or not.

vi. The Contractor will use its best efforts to ensure that all personnel assigned pursuant to this Contract will be at least 18 years of age and either a United States citizen or an individual lawfully entitled to perform work. The Contractor shall be solely responsible for any audits, fines or other penalties resulting from its failure to fulfill the obligations of this paragraph and shall defend, protect, and hold harmless the Village, to the extent permitted by law, from such audits, fines or penalties described above.

vii. The Village will promptly advise the Contractor in writing of any billing dispute or any other problem. The Village and the Contractor will identify and attempt to promptly resolve all billing disputes through face-to-face meetings between the Village and Contractor. If the Parties are unable to resolve the dispute through face-to-face meetings, the Parties agree to submit the dispute to a mediator agreed upon by the Parties or in accordance with the rules of the JAMS, with each Party bearing half of the mediation costs. The Village will pay the undisputed portion of billable transactions, as set forth above. For all disputes, the Contractor and the Village will promptly furnish to the other Party such information that such other Party may request to enable each of them to analyze the services and the activities of the other Party and the personnel involved in the dispute.

3.3. In the event that there is any increase in the cost of equipment required by Section 3.1 to implement this Agreement for the period after this Contract is executed, the Village and NORCOMM shall negotiate and mutually agree to

the Village paying their fair share of the actual cost of such increase in addition to the fees quoted in Article 3.1 of this Agreement. NORCOMM shall not seek payment from Village for any equipment purchase or upgrade without first obtaining the Village's written consent to such purchase or upgrade.

For the purpose of this Article, "cost of equipment" is defined as follows: any equipment that Village demands be added to the 911 Center; any hardware or software upgrades to the existing Zetron Max CT Telephone System, Motorola MCC5500 Radio System, Zetron IPSFA, CIS CAD system, or Uninterrupted Power Supply Systems; any upgrades or replacements to computer servers used to operate the aforementioned systems; any new hardware or software needing to be purchased or replaced due to "end of life notices" issued by manufacturers of the aforementioned systems; and any and all equipment costs not specifically identified in this Agreement.

3.4. The Village shall provide NORCOMM with an updated copy of the Village's MSAG/GIS Data files (Master Street Address Guide) (Geographic Information System) database on an annual basis or more often, if necessary. This information is necessary to help maximize the accuracy of NORCOMM's Computer Aided Dispatch and Next Generation 9-1-1 mapping software. The Village agrees to hold NORCOMM harmless for any and all claims or damages arising from the Village's failure to provide information or from inaccurate or outdated information in the Master Street Address Guide/GIS data files.

3.5. The Village shall comply with and file any reports required by law or local ordinance.

ARTICLE 4. Compliance with Law

The Parties agree to use their best efforts to adhere to all local, county, state, and federal rules, regulations, codes, ordinances, and charters as they may apply to emergency dispatch services, including but not limited to the following:

a) **State of Illinois Anti-Discrimination Laws (775 ILCS 5/101/ *et seq.*).** In carrying out the performance required under this Agreement, the Parties

agree to use their best efforts to comply with all applicable provisions of the Illinois Human Rights Act, and rules and regulations promulgated by the Illinois Department of Human Rights, prohibiting unlawful discrimination in employment. Contractor's deliberate, willful, or repeated failure to comply with all applicable provisions of the Illinois Human Rights Act, as determined by the Illinois Human Rights Commission or a court of competent jurisdiction, including specifically, provisions related to sexual harassment, or applicable rules and regulations promulgated thereunder, may result in a determination that the Contractor is ineligible for future contracts with the Village or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, provided that the provisions of this Agreement for the termination of this Agreement are followed, the Contractor is given a thirty (30) day period in which to cure any non-compliance or violations, and an opportunity to be heard by the board of trustees of the Village or similar entity before any decision has been made to cancel or void this Agreement and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

b) **Drug-free Workplace Act (30 ILCS 580/1, *et seq.*).** All Parties must comply with all of the provisions of the Drug-free Workplace Act, which are applicable to the Contractor. Knowing or repeated false certification or violation of the requirements of the Drug-free Workplace Act as determined by the Village's Board of Trustees or similar entity may result in sanctions including, but not limited to, termination of this Agreement. NORCOMM shall prohibit its employees from using marijuana and enforce this prohibition.

c) **Freedom of Information Act (5 ILCS 140/1 *et seq.*).** Applications, program reports and other information obtained by the Village pursuant to this Agreement shall be administered in accordance with the Freedom of Information Act. The Village shall give Contractor at least three (3) business days advanced written notice of any FOIA requests related to this Agreement and opportunity to review and object to any FOIA requests.

d) **Educational Loan Default Act (5 ILCS 385/3).** The Contractor certifies that this Agreement is not in violation of the Educational Loan Default Act

prohibiting certain contracts to individuals who are in default on an educational loan.

e) **Americans with Disabilities Act.** As a condition of receiving this Agreement, the Contractor certifies that services and activities provided under this Agreement comply, and will continue to comply, with The Americans with Disabilities Act (hereinafter "ADA") (42 U.S.C. 12101 *et seq.*) and the regulations there under (28 CFR 35.130).

f) The Contractor shall be required to execute the Contractor's certification form attached hereto as Exhibit "A."

The Village shall not require the Contractor to perform any act which is contrary to the aforesaid and the Contractor shall use its best efforts to prohibit its employees from performing any act which violate the aforesaid and will take prompt remedial action to rectify or resolve any such violations.

Each Party, their respective directors, trustees, officers and employees shall abide by their respective organization's ethical guidelines, including, but not limited to, guidelines related to gifts, political contributions, the federal Anti-Kickback Act (Section 1128B(b) of the Social Security Act) and the False Claims Act (31 USC 3729) and any amendments thereto.

The Contractor warrants that it is properly licensed to provide the personnel described in this Agreement to the Village under all applicable federal, state, and local laws. The Contractor shall maintain all such licenses and all others as may be required by law during the term of this Agreement and will furnish a copy of each license and license renewal to the Village upon request. Except as permitted in Article 7a of this Agreement, for purposes of any defenses or immunities to claims and liabilities to third parties that the Village and/or its employees may be entitled under applicable laws, the Parties agree that, to the extent permitted by law, the Contractor will be deemed the agent of the Village or standing in the shoes of the Village with respect to such defenses and immunities available to the Village.

ARTICLE 5. Limitation of Authority.

Contractor and its employees shall have the authority to provide services under this Agreement and to make and implement day-to-day decisions that are necessary in the performance of its obligations herein, and provide direction to all third parties in connection therewith. Notwithstanding anything contained herein to the contrary, in no event shall Contractor have the right or authority, express or implied, to commit, bind or obligate the Village contractually or otherwise to any liability or agreement or to cause the Village to incur any obligation to any third party.

The Parties agree that they shall not use the name, trademarks, or service marks of the other Party for the purposes of advertising, sales promotion or other similar purposes without the prior written approval of the other Party. Neither the Contractor nor the Village shall publicly announce or disclose the terms and conditions of this Agreement without the prior written approval of the other Party, absent a legal obligation to do so or pursuant to a subpoena or legal process.

ARTICLE 6. Administration

a) The Village shall be responsible for processing all reports, as required under federal, state, or local rules and regulations. The Contractor will cooperate fully in processing such forms.

b) If this Agreement or any provision or report prepared in accordance with this Agreement is subject to or requested by any governmental agency, the Village shall have primary responsibility for complying with such request and shall truthfully respond to all agency requests, with notice to the Contractor, to the extent such notice is permitted by law or the applicable agency, and the Contractor shall preserve such books and records for the legally required time period.

c) The Contractor shall keep adequate original records at the Contractor's principal place of business to allow the Village and its agents to obtain information regarding the personnel furnished and services rendered under this Agreement. The Village and its agents shall have the right to inspect such records and shall be given access to such records at any reasonable time

upon the Village's request. This provision shall survive the termination of this Agreement. The Contractor shall maintain the records pertaining to the services rendered upon the behalf of the Village during the term of this Agreement and for a period of not less than seven years following any termination.

ARTICLE 7. Relationship of the Parties

a. Notwithstanding anything to the contrary in this Agreement or elsewhere, the Contractor and the Village are independent contractors. There is no agency, employment relationship, partnership, or joint venture between the Contractor, its employees, and the Village and/or the Village's employees. No one connected with the Contractor, except in a writing signed by the chief executive of the Contractor, has any authority to make any binding promises or agreements contrary to the foregoing.

b. Contractor's employees shall be, for all purposes, bona fide employees of Contractor and not of the Village. All employment-related costs, benefits and expenses arising out of the relationship between the Village and Contractor, including, but not limited to, wages, state, local and federal taxes, benefits, insurance premiums, and contributions to insurance, pension, or other deferred compensation plans, including Social Security, unemployment insurance and workers' compensation obligations, shall be the sole responsibility of Contractor. Contractor's employees shall also be subject to all personnel policies and regulations applicable to Contractor's employees generally, including time off with or without pay and leaves of absence, including under the Family and Medical Leave Act or any similar state law. The Village will use its best efforts to provide a safe, healthy and non-discriminatory working environment in compliance with all applicable federal, state and local laws, regulations and ordinances. Neither Party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other Party, except as specifically outlined herein. The Contractor, including its employees, shall not be considered, entitled or eligible to participate in any benefits or privileges given or extended by the Village or be deemed an employee of the Village for any purposes, including but not limited to, for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers'

compensation and other employer contributions not specifically provided for in this Agreement. The Contractor shall retain the exclusive right to hire, discipline, compensate and terminate its employees pursuant to the Contractor's policies and procedures and consistent with the terms of this Agreement.

ARTICLE 8. Subcontracting Forbidden

NORCOMM shall not subcontract the services agreed to herein.

ARTICLE 9. Indemnification

It is expressly understood and agreed that each Party, to the extent permitted by law, shall in all events defend, indemnify, save, and hold harmless the other, their parents, affiliates, successors and assigns, and their respective present and former agents, officers, volunteers, and employees from any and all claims, liabilities, obligations, debts, charges, settlements or judgments (including attorneys' fees) arising from death, illness, physical injuries or property damage to any third party or the other Party's present and former agents, officers, volunteers, and employees, including but not limited to any and all employment-related causes of action, to the extent attributable to the acts or omissions of the offending Party, its agents, officers, and employees while engaged in the performance of duties under this Agreement; provided, that no Party shall have any obligation under this Article to indemnify, defend or hold harmless the other Party with respect to liabilities caused by the other Party's gross negligence, willful and wanton conduct, reckless, fraudulent, deliberately dishonest conduct, or intentional misconduct; and in the event that a final determination that such claims or liabilities resulted from such Party's gross negligence, reckless, fraudulent, deliberately dishonest conduct, or intentional misconduct is made by a court of competent jurisdiction, the indemnified Party shall immediately refund such monies and expenses paid pursuant to this Article. Neither Party shall be obligated to indemnify the other Party for any claim or liability: (a) involving a claim by one Party against the other Party; (b) to the extent prohibited by law; (c) to the extent the Party seeking indemnification receives indemnification or insurance coverage from any other source. Provided that a Party is not in breach of its indemnification obligations hereunder, no Party being indemnified shall settle or compromise any claim subject to indemnification hereunder, without the consent of the Party providing such indemnification. Each Party also agrees to indemnify and hold each other

harmless for: (a) any settlement or judgment based upon the sole theory of apparent agency arising from the negligent acts or omissions of the other and/or its employees or agents, and (b) any settlement or judgment of an employment discrimination charge or claim arising from one Party's employees committing discriminatory, retaliatory, or harassing acts against the other Party's employees or against third parties.

Notwithstanding the above paragraph, neither Party shall be liable to the other for indemnification for, and each Party hereby releases the other from, any liability for punitive, exemplary and consequential damages which may be suffered by such Party arising directly or indirectly out of the performance of this Agreement, including but not limited to the loss of use, loss of profits or business interruption (collectively, the "excluded damages"); provided that amounts owed as consideration under this Agreement shall not be deemed excluded damages.

Notwithstanding the foregoing, nothing contained within this Agreement is intended to be a waiver or estoppel of the Contractor, the Village, or its respective insurer's ability to rely upon the limitations, defenses and immunities contained within Illinois law, including, but not limited to Illinois Local Government Tort Immunity Act or the Emergency Medical Systems Act that may be applicable to the Village or Contractor. To the extent that indemnification is available and enforceable, the Parties or their respective insurers shall not be liable to indemnify or to contribute an amount greater than the limits of liability for claims established by law. Each Party's obligation to indemnify hereunder is subject to the limits of applicable insurance coverage, as set forth in Section 2.8 of this Agreement. Under no circumstances shall either Party be required to indemnify the other Party for the negligent or intentional conduct or omissions of the other Party and/or the other Party's present and former agents, officers, volunteers, and employees.

This indemnification obligation shall be deemed to be contractual in nature and shall survive any termination of this Agreement.

In the event an employee of a Party to this Agreement makes any claim for personal injury against the other Party, the Party employing the person making the personal injury claim shall waive any right to claim that its liability to the other Party is limited by the amount of any damages, compensation or benefits payable

by or for it under any workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10. Confidentiality.

Trade secrets and confidential information that may be received by either Party or its employees, directly or indirectly, that are exempt from public disclosure under applicable laws shall remain the property of the disclosing Party and shall be kept confidential by the Party to whom such trade secrets or confidential information was disclosed. Such information will be utilized only for the purposes of carrying out the services and purposes of this Agreement, and each Party to which such information is disclosed shall cause each of its employees to comply with the foregoing. Upon termination of this Agreement, each Party agrees to surrender to the disclosing Party any and all trade secrets, confidential information, material or tangible items or written information supplied by the disclosing Party. The obligations of this Article will survive the termination or expiration of this Agreement.

ARTICLE 11. Publicity.

The Parties shall not, without the prior written consent of the other Party: (a) refer to, identify, or use the name or any trade name or trademark of the other Party or any of its employees in any advertising or communications to the public by the other Party made in any form; or (b) take any photographs, video or other recordings of the property of the other Party or any of its employees.

ARTICLE 12. Non-Solicitation Agreement.

The Village agrees not to, directly or indirectly, solicit, or cause or induce on its own behalf or for any third party to solicit, for the purpose of hiring any of Contractor's employees placed with the Village to perform like services for the Village for the duration of this Agreement and one year thereafter; unless mutually agreed by the Contractor and the Village.

ARTICLE 13. Force Majeure.

Neither Party shall be liable for any delay in delivery or nonperformance in whole of its obligations under this Agreement, if prevented from doing so by a cause or causes beyond its control, including, without limitations, acts of nature or public enemy, pandemics, quarantines, fire, floods, storms, earthquakes, riots, strikes, war, and restraints of government. The suspension of performance shall be of no greater scope and no longer duration than is reasonably required and the non-performing Party shall promptly notify the other Party of such event and use reasonable efforts to remedy its inability to perform.

ARTICLE 14. Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ARTICLE 15. Notices.

All notices provided for or permitted herein shall be in writing and shall be delivered personally, sent by a national overnight courier service, or sent by United States certified or registered mail, postage prepaid, return receipt requested, directed to the Parties at the following addresses or to such address as any Party shall designate by written notice delivered or sent in the above manner. If a notice is sent by national overnight courier service, it shall be deemed to have been received by the addressee upon receipt. If a notice is sent by mail, it shall be deemed to have been received by the addressee two (2) days after the post marked date, which it bears.

NORCOMM:

Donald J. Nielsen, Executive Director
NORCOMM Public Safety Communications, Inc.
2600 N. Mannheim Rd.
Franklin Park, Illinois 60131

With a Copy to:	Michael G. Tillman, Vice President NORCOMM Public Safety Communications, Inc. 395 W. Lake St. Elmhurst, IL 60126
Village of Elmwood Park:	Mayor Angelo "Skip" Saviano Village of Elmwood Park 11 Conti Parkway Elmwood Park, IL 60707
With a Copy to:	Village Manager Paul Volpe Village of Elmwood Park 11 Conti Parkway Elmwood Park, IL 60707

ARTICLE 16. Entire Agreement, Amendment, and Waiver

This Agreement contains the entire agreement and understanding between the Parties in regard to the subject matter hereof; it supersedes and replaces all prior agreements, negotiations, and arrangements concerning its subject matter; and this Agreement is not subject to modification, alteration or amendment, except by further written Agreement signed by all Parties. No waiver of any provision shall constitute a waiver of any other provision, nor shall any waiver be deemed continuing unless otherwise expressly so provided in writing by the Party against which the waiver is asserted. A waiver of right or remedy on any one occasion will not be construed as a bar to or waiver of any such right to remedy on any other occasion. If the consent of either Party is necessary pursuant to the terms of this Agreement, such consent shall not be unreasonably withheld.

ARTICLE 17. Governing Law.

This Agreement and the Parties' relationship shall be construed in accordance with, and governed by the laws of the State of Illinois without regard to applicable conflict of law principles. In the event of any dispute between the Parties, the prevailing Party shall be entitled to its reasonable attorney fees and costs. All disputes relating to or arising out of this Agreement or the Parties' relationship shall be resolved exclusively in the federal and state courts located in the County

of Cook, Illinois, and the Parties hereby waive all objections to personal jurisdiction, venue, or forum non-conveniens therein.

ARTICLE 18. Severability.

Should any provision of this Agreement be deemed by either Party to be contrary to the provisions of said Laws, then the court may revise such provision so that it is enforceable or the Parties agree to attempt in good faith to renegotiate the problematic provision to the mutual satisfaction of the Parties. All other portions of this Agreement shall remain in full force and effect. In the event the Parties are not able to mutually agree on modification of the problematic provision, then either Party may terminate this Agreement upon thirty (30) calendar days written notice to the other Party if the terminating Party has a good faith belief based on the advice of legal counsel that the problematic provision creates an unfavorable exposure under applicable laws.

ARTICLE 19. Authority.

The Contractor represents that this Agreement is executed pursuant to approval of its President, and the Village represents that this Agreement is executed pursuant to resolution of its Board of Trustees.

ARTICLE 20. Headings.

The headings and subheadings in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

ARTICLE 21. Assignment.

This Agreement cannot be assigned or delegated to a third party by either Party without the prior written consent of the other Party, which shall not be unreasonably withheld, and any attempted assignment without such consent shall be considered null and void; except that either Party may assign this Agreement to a parent, sister, subsidiary or affiliated corporation. Subject to the foregoing limitation, this Agreement shall be binding upon and inure to the benefit of the Parties' successors, assigns, affiliates or other legal representatives.

IN WITNESS, the Parties hereto have caused this Contract to be executed by the properly authorized officials on the date the last Party hereto executes this Agreement.

VILLAGE OF ELMWOOD PARK

VILLAGE PRESIDENT
TITLE

5/04/20
DATE

ATTEST:

M Rosko

VILLAGE CLERK
TITLE

NORCOMM PUBLIC SAFETY COMMUNICATIONS, INC.

Vice President
TITLE

5/5/2020
DATE

ATTEST:

Gina E Biagi

Director of Human Resources
TITLE

OFFICIAL SEAL
GINA E BIAGI
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:04/25/21

905993.3

EXHIBIT "A"

CONTRACTOR'S CERTIFICATION FORM

The assurances hereinafter made by NORCOMM Public Safety Communications, Inc. (hereinafter the "Contractor") are each a material representation of fact upon which reliance is placed by the Village of Elmwood Park in entering into the contract with the Contractor. The Village of Elmwood Park may terminate the contract if it is later determined that the Contractor rendered a false or erroneous assurance.

I, Michael Tillman (*Name of Owner or Officer*), hereby certify that I am the Vice President (*Title or Office*) of NORCOMM Public Safety Communications, Inc., and as such, hereby represent and warrant to the VILLAGE OF ELMWOOD PARK, a municipal corporation (hereinafter the "Village"), that the Contractor and its shareholders holding more than five percent (5%) of the outstanding shares of the corporation, its officers and directors are:

(a) not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1-1;

(b) not barred from contracting as a result of a violation of either Section 33E-3 (bid rigging) or 33E-4 (bid-rotating) of the Criminal Code of 1961 (720 ILCS 5/33E-3 and 5/33E-4);

(c) not in default, as defined in 5 ILCS 385/2, on an educational loan, as defined in 5 ILCS 385/1.

In addition, the Contractor hereby represents and warrants to the Village, that:

(A) the Contractor, pursuant to 30 ILCS 580/1 *et seq.* ("Drug-Free Workplace Act"), will provide a drug-free workplace by:

(1) Publishing a statement:

a. Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance including cannabis, is prohibited in the Contractor's workplace;

b. Specifying the actions that will be taken against employees for violations of such prohibition;

c. Notifying the employee that, as a condition of employment on such Contract, the employee will;

i. Abide by the terms of the statement;

ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(2) Establishing a drug-free awareness program to inform employees about:

a. the dangers of drug abuse in the workplace;

b. the Contractor's policy of maintaining a drug-free workplace;

c. any available drug counseling, rehabilitation, and employee assistance program; and

d. the penalties that may be imposed upon employees for drug violations;

(3) Making it a requirement to give a copy of the statement required by Subsection (A)(1) to each employee engaged in the performance of the Contract, and to post the statement in a prominent place in the workplace;

(4) Notifying the Village within ten (10) days after receiving notice under paragraph(A)(1)e from an employee or otherwise receiving actual notice of such conviction;

(5) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by 30 ILCS 580/5;

(6) Assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicating that a trained referral team is in place;

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of this section;

(B) the Contractor has not excluded and will not exclude from participation in, denied the benefits of, subjected to discrimination under, or denied employment to any person in connection with any activity funded under the contract on the basis of race, color, age, religion, national origin, disability, or sex;

(C) no Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent

child of a Village officer or a beneficiary is a holder of any interest in the Contractor; or, if the Contractor's stock is traded on a nationally recognized securities market, that no Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of more than one percent (1%) of the Contractor, but if any Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of less than one percent (1%) of such Contractor, the Contractor has disclosed to the Village in writing the name(s) of the holder of such interest;

(D) no officer or employee of the Village has solicited any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer from the Contractor in violation of Section 2-8A-3 of the Municipal Code of the Village of Elmwood Park;

(E) the Contractor has not given to any officer or employee of the Village any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer in violation of Section 2-8A-3 of the Municipal Code of the Village of Elmwood Park;

(F) neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person and that the Contractor and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person;

(G) the Contractor acknowledges that, pursuant to the provisions of the Illinois Freedom of Information Act, (5 ILCS 140/1 *et seq.*), documents or records prepared or used in relation to work performed under this agreement are considered a public record of the Village; and therefore, within thirty (30) days of completion of the work required of the Contractor under this agreement, the Contractor shall produce to the Village, in electronic format, all records that

directly relate to the governmental function performed by the Contractor under this agreement at no additional cost to the Village; and furthermore, the Contractor shall review its records and promptly produce to the Village any additional records in the Contractor's possession which the Village requires in order to properly respond to a request made pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), and the Contractor shall produce to the Village such records within three (3) business days of a request for such records from the Village at no additional cost to the Village.

If any certification made by the Contractor or term or condition in this contract changes, the Contractor shall notify the Village in writing within seven (7) days.

Dated: May 5, 2020 Contractor: NORCOMM Public Safety Communications, Inc.

By: _____

Michael G Tillman, Vice President

(Name of Owner or Officer (Title or Office)

STATE OF IL)
) *ss.*
COUNTY OF DuPage)

I, the undersigned, a notary public in and for the State and County aforesaid, hereby certify that Michael G Tillman *(Name of Owner or Officer)* known to me to be the Vice President *(Title or Office)* of NORCOMM Public Safety Communications, Inc., appeared before me this day in person and, being first duly sworn on oath, acknowledged that he executed the foregoing certification as his free act and deed.

Dated: May 5, 2020

_____
Notary Public

OFFICIAL SEAL
GINA E BIAGI
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:04/25/21

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