

RESOLUTION R-2018-35

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WHEATON AND
THE VILLAGE OF WINFIELD FOR WIRELESS ALARM MONITORING**

WHEREAS, the City of Wheaton, DuPage County, Illinois ("City") is an Illinois Home Rule municipality pursuant to provisions of Article VII, Section 6, of the Illinois Constitution, 1970, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this resolution pertains to the government and affairs of the City and its residents; and

WHEREAS, the City and Village of Winfield (“Winfield”) explored methods to enhance fire alarm monitoring; and

WHEREAS, the City and Winfield find the City's Wireless Alarm Network will provide enhanced alarm monitoring and reduce redundancy in the provision of alarm monitoring infrastructure; and

WHEREAS, Winfield desires to participate in the City's Wireless Alarm Network due to it being the fastest and most efficient fire alarm monitoring and signal transmission for properties made available within the jurisdiction of Winfield to the DuComm Emergency Dispatch Facility.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to sign, and the City Clerk is hereby directed to attest to an Intergovernmental Agreement Between the City of Wheaton and the Village of Winfield for Wireless Alarm Monitoring.

DATED this 16th day of April 2018.

ATTEST:

Sharon Bennett Hyatt
City Clerk

Mayor

Ayes:

Roll Call Vote:

Councilman Scalzo
Councilman Suess
Councilman Barbier
Councilwoman Fitch
Councilman Prendiville
Mayor Gresk

Councilman Rutledge

Nays: None
Absent: None

Motion Carried Unanimously

JP/10

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WHEATON AND THE VILLAGE OF WINFIELD FOR WIRELESS ALARM MONITORING

This Agreement is entered on this 17th day of April, 20¹⁸ by and amongst the City of Wheaton (hereinafter referred to as "Wheaton") and the Village of Winfield (hereinafter referred to as "Winfield"), agree as follows:

RECITALS

WHEREAS, Article VII, Section 10, of the Constitution of the State of Illinois, Ill. Const., art. VII, sec.10(a) provides that in furtherance of the exercise of their powers, units of government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited; and

WHEREAS, the Intergovernmental Cooperation Act provides that a public agency may jointly exercise or combine any power, privilege, function or authority with other public agencies, 5 ILCS 220/1 et seq.; and

WHEREAS, Wheaton and Winfield are units of local government under Ill. Const., Art. VII, Sec. 1, and public agencies under 5 ILCS 220/2; and

WHEREAS, Wheaton maintains and operates a Wireless Alarm Network for transmission of private fire alarm systems to connect to the emergency dispatch facility known as DuComm; and

WHEREAS, Wheaton is an Illinois home rule municipality; and

WHEREAS, Winfield has a comprehensive building code, which in part, seeks the protection of persons and property from fire hazards; and

WHEREAS, Winfield wishes to provide an opportunity for the fastest most efficient fire alarm monitoring and signal transmission for properties within the jurisdiction of Winfield to the Du Comm emergency dispatch facility in order to maximize public safety and welfare; and

WHEREAS, collectively there are approximately 54 properties within Winfield that may be serviced by the Wheaton Wireless Alarm Network; and

WHEREAS, wireless networks have proven to reduce false alarms by as much as 30%; and

WHEREAS, the Wheaton Wireless Alarm Network transmits activated premise alarms, supervisory and trouble signals at a transmission rate to the emergency dispatch facility of no more than thirty (30) seconds; and

WHEREAS, Wheaton, as a fire protection mutual aid agency and member of a fire alliance with the Winfield Fire Protection District, which provides firefighting services within the corporate boundaries of the Village of Winfield, is directly impacted by Winfield's fire alarm systems.

NOW, THEREFORE, in consideration of the promises and provisions contained herein, and upon further consideration stated in the foregoing Recitals, it is hereby agreed by, and between and among Wheaton, and Winfield (sometimes referred to hereafter as the "Parties") as follows:

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1. Incorporation. The above stated recitals are material and are restated and incorporated herein as material covenants and representing the intent of the parties.
2. Lead Agency. Wheaton agrees to function as the administrative coordinating agency and equipment provider for Winfield's remote wireless alarm programming by: (i) Maintaining the head end equipment, contracting with the alarm monitoring vendor, billing and collection, and general administrative/customer services, (ii) a distribution process for fees generated by the Wireless Alarm Network to the Parties as provided for in Section 7 herein, including quarterly financial reports and an annual financial audit.
3. Equipment Location. The head end equipment shall be owned by Wheaton and the equipment will be located within property owned by Wheaton (currently 1 Fapp Circle, Wheaton, Illinois, commonly known as Wheaton Fire Station #1), or at any other location deemed appropriate by Wheaton.
4. Term. This Agreement shall be valid and enforceable for a period of two (2) years from the date this Agreement is executed, or until Wheaton in its sole discretion adopts an alternative wireless alarm program or discontinues its Wireless Alarm Network; whichever is sooner. After expiration of the initial term, or any successive term thereafter, this Agreement will automatically renew for successive one (1) year terms without further action of the parties unless either party provides a notice of termination thirty (30) calendar days prior to expiration. Wheaton may terminate this Agreement without cause upon one hundred twenty (120) days written notice to Winfield.
5. Subscriber Agreement or Ordinance. During any term of this Agreement Winfield shall operate its Wireless Alarm Network by subscriber agreement or Ordinance which agreement or ordinance, or any amendment thereto, shall be subject to the reasonable acceptance of the City of Wheaton. A copy of the initial accepted (insert subscriber agreement or ordinance) is attached hereto and incorporated herein as if fully set forth.

6. Wireless Alarm Monitoring Fees and Other Charges. The following monitoring fees and charges shall be collected by Wheaton from each Winfield Wireless Fire Alarm Network subscriber:

Monthly rate for monitoring and radio lease	\$85.00
Replacement of damaged radio	\$804.00
Remove subscriber location radio	\$55.00
New subscriber connection fee	\$150.00
Disconnect/reinstall radio	\$200.00

Wheaton may change the amounts in foregoing fee schedule in its reasonable discretion.

7. Fee Distribution. Wheaton shall retain fifteen dollars (\$15.00) per month per radio (subscriber) connected to the Wireless Alarm Network to offset costs including but not limited to maintenance contracts, billing and collection and in addition a fourteen-dollar (\$14.00) DuComm monthly connection fee for total per subscriber fees of twenty-nine (\$29.00) dollars. Winfield shall be responsible to pursue subscribers who do not pay their fees and Wheaton may deduct from payments to Winfield unpaid Winfield subscriber fees. Winfield shall keep any fees it collects

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from a subscriber after Wheaton's deduction. Should DuComm increase the monthly monitoring fee Wheaton shall decrease its remittance to Winfield by the same amount as DuComm's increase per subscriber per month. Only for amounts collected by Wheaton the difference between the total eighty-five dollar monthly (\$85.00) fee less the current twenty nine dollar (\$29.00) Wheaton fee per subscriber per month, or as may be changed by Wheaton, shall be remitted to Winfield on a quarterly basis.

8. Ownership. All equipment which is part of the Wireless Alarm Network, including equipment at the subscriber's location shall be owned by, and remain the property of, the City of Wheaton. Should this Agreement not be renewed or otherwise terminate, or if a subscriber's service is otherwise terminated for any other reason, then the subscriber shall remain liable to Winfield for any unpaid debt associated with the equipment if it is not returned. Winfield shall be responsible to insure that the subscriber equipment is returned to Wheaton and if it is not shall reimburse Wheaton for the depreciated value of the equipment.

9. Winfield's Governance. Throughout the effective term of this Agreement Winfield shall create, implement and administer its Wireless Alarm System by subscription agreement or ordinance. Winfield's initial ordinance for this purpose is attached hereto and incorporated herein as Exhibit 2, and is a material condition of this agreement. Any amendment to the ordinance or use of a subscription agreement shall require the acceptance of Wheaton.

10. Indemnification. The Parties hereby agree to mutually defend, indemnify and hold the other Party harmless for any and all damages, actions, causes of action, liabilities, obligations, lawsuits, claims, injuries, or expenses, including claims regarding the legal efficacy of this Agreement, and costs of any kind incurred by either Party arising out of or in any manner connected with the other Party, its elected and appointed officials and employees in the effectuation and administration of this Agreement, equipment provision and/or operation of the Wireless Alarm Network. This indemnification shall survive termination of this Agreement. Winfield agrees to defend, indemnify and hold Wheaton harmless from any damages, actions, causes of action, liabilities, obligations, lawsuits, claims, injuries, or expenses, and costs of any kind incurred by Wheaton, its elected and appointed official and employees that are based on a challenge to Winfield's authority to enter into this agreement as a non-home rule municipality or challenges to, or claims or actions inconsistent with, Sections 9-8-9 or 9-8-10 of the Winfield Alarm Ordinance (Exhibit B) or any similar provision in a Winfield Subscriber Agreement if any.

11. Insurance. Wheaton shall have and keep in place all casualty insurance appropriate to cover the replacement head end equipment and other material, equipment or supplies related to the Wireless Alarm Network which is stored or housed at Wheaton's Fire Station #1. Each Party shall have and keep in place all insurance appropriate to cover the indemnification required under paragraph 10 of this Agreement.

12. Authorized Officer. The corporate authorities of each party shall approve this Agreement and any material amendment hereto by ordinance or resolution.

13. Non-Waiver of Rights. No failure of any of the participating units of local government to exercise any power given to it hereunder or to insist upon strict compliance by any other participating units of local government with their obligations hereunder, and no custom or practice of any of the participating units of local government at variance with the terms hereof, shall constitute a waiver of any party's right to demand exact compliance with the terms hereof.

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14. Amendments and Modifications. This Agreement may be modified or amended from time to time by the authorized representatives of the participating units of local government, provided, however, that no such amendment or modification shall be effective unless reduced to writing and duly authorized and signed by the authorized representatives of the participating units of local government.

15. Immunities. Neither party waives, releases, or in any manner compromises its privileges and immunities; all being reserved to the greatest extent allowed by law.

16. No Third-Party Rights. The terms and provisions of this Agreement exist for the benefit of the contracting parties and are not intended to establish, impose, or acknowledge any duty to provide to third parties, nor shall the terms and provisions of this Agreement be interpreted to give any other rights to third parties.

17. Savings Clause. If any provision of this Agreement, or the application of such provision, shall be rendered or declared invalid by a court of competent jurisdiction, or by reason of its requiring any steps, actions or results, the remaining parts of portions of this Agreement shall remain in full force and effect.

18. Captions and Section Headings. Captions and section headings are for convenience only and are not part of this Agreement and shall not be used in construing it.

19. Governing Law. This Agreement shall be deemed to be an intergovernmental agreement made under and shall be construed in accordance with and governed by the laws of the State of Illinois.

20. Notices. Any notice required to be given by this Agreement shall be deemed sufficient if made in writing and sent by certified mail, return receipt requested, by personal service, or by facsimile to the persons and addresses indicated below or to such other addresses as either party hereto shall notify the other party of in writing pursuant to the provisions of this section:

TO WHEATON:
City Clerk
City of Wheaton
303 W. Wesley
Wheaton, IL 60187

TO WINFIELD:
Village Manager
Village of Winfield
27W465 Jewell Rd
Winfield, IL 60910

Notice delivered by regular mail, messenger, overnight delivery, or facsimile shall be deemed to have been given at the time of mailing.

21. Force Majeure. Whenever a period of time is provided for in this Agreement for any party to do or perform any act or obligation, that party shall be liable for any delays or inability to perform due to causes beyond the control of said party such as war, riot, unavoidable casualty or damage to personnel, materials or equipment, fire, flood, storm, earthquake, tornado or any act of nature, but not strikes, lockouts, or adverse weather conditions or due to inoperable equipment or the breakdown of equipment. Said time period shall be extended for only the actual amount of time said party is so delayed.

22. Counterparts. This Agreement and any amendments hereto may be executed in any number of counterparts with the same effect as if all signatures were upon the same document.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by its duly authorized representative who has signed this Agreement as of the date set forth below indicating the parties' intention to be bound by this Agreement.

CITY OF WHEATON

By: Mark D. Gross
Mayor

Date: 4/17/18

Attest:

Shawn Bennett Hagan
City Clerk

VILLAGE OF WINFIELD

By: Ed Pande
Village President

Date: 4/5/18

Attest:

Anne Mareecker
Village Clerk

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