

## TOWER SITE & SHELTER USE AGREEMENT

### Agreement between Franklin County and Osage County, KS for co-location of radio equipment

THIS TOWER SITE & SHELTER USE AGREEMENT (this "Agreement") is made entered this 5th day of December, 2022 by and between Franklin County, Kansas and Osage County, Kansas.

#### RECITALS

1. Franklin County is the owner of radio towers and telecommunication shelters at 1024 John Brown Road, Williamsburg, Kansas, and 632 Shawnee Road, Pomona, Kansas.
2. Osage County desires to locate radio equipment within radio shelters at both the Williamsburg and Pomona locations.
3. Adding equipment to each tower site benefits both Osage & Franklin Counties by adding channel capacity and receiving amplifiers to each site, increasing range for responders.
4. Pursuant to K.S.A. 12-2908, Franklin County and Osage County may contract each other to perform any governmental service, activity or undertaking which each contracting municipality is authorized by law to perform if authorized by each respective governing body.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties agree as follows:

1. **Recitals.** The above and foregoing recitals are a material part of this agreement.
  - a. Franklin County will allow Motorola Solutions or its designee to install two (2) repeaters and a tower top amplifier at each of the Pomona and Williamsburg sites on behalf of Osage County.
  - b. Franklin County will provide utilities, backup power, and connection to the state core at both sites.
  - c. Osage County will have unlimited radio access to the current infrastructure at both sites.
  - d. Osage County will provide all equipment needed for installation as well as frequency coordination and optimization.
  - e. Osage County will provide SUAll maintenance for the equipment installed on its behalf.
  - f. Franklin County will provide all other maintenance at the sites.
2. **No Guarantee of Coverage.** Osage County understands that, while Franklin County is allowing certain equipment to be installed on its towers, Franklin County is not guaranteeing that Osage County will have radio coverage in all areas or at all times. Osage County hereby agrees to indemnify and hold Franklin County harmless from any and all liability, expense, judgment, suite, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue as a result of any such lack of radio coverage or signal.
3. **Termination.** By a majority vote of both governing bodies, the Osage County Board of Commissioners and the Franklin County Board of Commissioners may terminate this Agreement at any time by jointly executing a separate agreement of termination. Either party may unilaterally terminate this agreement without the written permission of the other

party, provided that the terminating party provides ninety (90) days written notice to the other party. In the event of any termination of this Agreement, the site, together with all improvements, will remain the sole property of Franklin County or its successors and assigns.

4. **Approval and Authorization.** Each of the parties warrants and represents that this Agreement has been approved by its governing body, and by its legal counsel as to form and legality, and that the execution, delivery, and performance of this Agreement by such party has been authorized by resolution or motion duly adopted by its governing body, and that this Agreement constitutes a legal, valid, and binding obligation of such party enforceable in accordance with its terms.
5. **Duration.** The duration of this Agreement shall be perpetual, unless terminated as herein provided.
6. **Survival of Representation and Warranties.** All representations, warranties, covenants, and agreements contained herein shall survive the termination of this Agreement.
7. **Assignment and Binding Effect.** Neither party may assign this Agreement without the prior written consent of the other, which consent will not be unreasonably withheld or delayed. This Agreement shall be binding upon and inure to benefit of the parties hereto and their respective successors and permissible assigns.
8. **Applicable Law.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Kansas.
9. **Prior Agreements.** This Agreement constitutes the entire understanding and agreement between the parties hereto with respect to the subject matter contained herein and supersedes all prior agreements, negotiations, and discussions concerning any matter contained herein.
10. **Resolution of Disputes.** The parties shall in good faith attempt to resolve any controversy, dispute, or disagreement arising out of or relating to this Agreement, or the breach thereof, by negotiation. If any such controversy, dispute, or disagreement is not resolved within thirty (30) days, then the controversy, dispute, or disagreement will be submitted to mediation prior to litigation.
11. **Nature of Agreement.** Pursuant to K.S.A. 12-2908, this Agreement is not an interlocal agreement subject to the approval of the Kansas Attorney General.
12. **Term.** The Effective Date of this Agreement shall be January 1, 2023 and shall continue until otherwise terminated with or without cause by either party.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this agreement by their duly authorized representatives as of the effective date.

**Osage County, Kansas**

By: \_\_\_\_\_

Vernon Bailey Jr, Osage Co. Commission Chairman

Attest: \_\_\_\_\_

Rhonda Beets, Osage Co. Clerk

**Franklin County, Kansas**

By: \_\_\_\_\_

Roy Dunn, Franklin Co. Commission Chairman

Attest: \_\_\_\_\_

Janet Paddock, Franklin Co. Clerk

12/5/2022

OSCO\_\_\_\_\_ FRCO\_\_\_\_\_