

INTERLOCAL AGREEMENT between
COUNTY OF DODGE, NEBRASKA and
COUNTY OF DOUGLAS, NEBRASKA

This Agreement is entered into on this ____ day of November, 2021, by and between the County of Dodge, Nebraska and the County of Douglas, Nebraska.

Purpose: In order to increase the performance of the radio coverage for the existing Dodge County Sheriff's Judicial Center and County Courthouse Building, located in the City of Fremont, Nebraska, the County of Dodge would like to enter into this agreement with the County of Douglas. The County of Douglas is agreeable to allowing the County of Dodge to replace a broadcast tower located in Douglas County. Upon said tower's replacement, the County of Dodge will be able to utilize said tower for broadcasting and Douglas County will own and maintain the tower.

Now, therefore, pursuant to the authority granted by the Interlocal Cooperation Act of the State of Nebraska, being specifically § 13-801 et seq. (N.R.S. Reissue 2012) which enables local governments to cooperate on the basis of mutual advantage to thereby provide for services and facilities, in a manner and pursuant to forms of governmental organization that will accord with best geographic, economic, population, and other factors influencing the needs and developments of local communities and in consideration of the mutual covenants contained herein, the County of Dodge and the County of Douglas agree as follows:

- A. **Premises.** Douglas County currently owns and maintains a 50 foot Broadcasting Tower located at: The 911 Technical Building, 3603 N. 156th Street, Omaha, NE 68116;

Legal Description: Section II Township 15 Range II- Ex W 40ft & Irreg N 4.25AC for Maple St. Widening -NW ¼ NW ¼ 34.54 AC (PARCEL CONTAINS LEASED LAND #3000-3265-27) (hereinafter, "the site.")

- B. **Term.** This Agreement shall commence on November ____, 2021 and shall expire on transfer of ownership of the new tower to Douglas County.
- C. **Use of Premises.** Douglas County hereby permits Dodge County to replace the 50 foot Broadcasting Tower located at the site with a 60 foot self-supporting Broadcasting Tower (hereinafter, "the new tower") at the same site. The County of Dodge shall not allow any damage to be committed on any portion of the Premises.
- D. **Funding.** The cost of removal for the original tower and building the new tower will be covered, in its entirety by Dodge County.
- E. **Maintenance:** Upon completion, the cost of the new tower's maintenance will be the responsibility of Douglas County. Any equipment of Dodge County which is placed on the new tower will be maintained at the cost of Dodge County.
- F. **Ownership.** Upon completion, ownership of the new tower shall be transferred to Douglas County. The Parties agree to execute necessary documents, if any, to effectuate the transfer.

G. **Interlocal Cooperation Act.** This Agreement does not create a separate legal entity under the Interlocal Cooperation Act. For purposes of that Act, this Agreement shall be administered jointly by the Parties, in the event of a conflict, the Douglas County Communications Director's decision shall govern. This Agreement does not contemplate acquiring, holding, or disposing of joint property nor does it contemplate the levying or collecting of any tax.

H. **Legal Compliance.** The Parties to this Agreement shall conform to all existing and applicable city ordinances, resolutions, state and local laws, federal laws, and all existing and applicable rules and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska without giving effect to any choice or conflict of law provision that would cause the application of laws of any jurisdiction other than those of the State of Nebraska. Venue for any non-federal legal proceeding under this Agreement shall be in the State of Nebraska, District Court of Douglas County and for any federal legal proceeding in the United States District Court for the State of Nebraska located in Omaha Nebraska.

I. **Assignment and Delegation.** This Agreement is exclusive to the Parties and rights may not be assigned nor duties delegated by either Party except on prior written consent of the other. Any attempted assignment or delegation without such approval shall be void and shall constitute a material breach of contract. Any and all additional fees, charges, costs or expenses, which result from an approved assignment or delegation, shall be paid by the assigning/delegating Party. This Agreement shall be binding upon the Parties' successor and permitted assignees.

J. **Amendments.** This Agreement may be modified only by written amendment, duly executed by authorized officials of the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Every amendment shall specify the date on which its provisions shall be effective.

K. **Independent Contractors.** It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Any and all acts that either Party or its personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The Parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Neither Party, nor its personnel, employees, agents, or contractors shall be entitled to any benefits of the other. The Parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers' compensation insurance. Each Party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all

reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters. Any and all claims that may or might arise under the Workers' Compensation Act of the State of Nebraska on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment, including without limitation claims of discrimination against a Party its officers, employees, agents, or contractors shall in no way be the responsibility of the other Party. Neither Party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

L. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect.

M. **Release and Indemnity.** Each Party shall assume all risk of loss, indemnify the other against loss, and hold the other, its employees, agents, assignees, and legal representatives harmless from all liabilities, demands, claims, suits, losses, causes of action, fines, settlements or judgments and all expenses incident thereto, including but not limited to legal fees, for injuries to persons and for loss of, damage to, or destruction of property, arising out of or in connection with this Agreement and proximately caused by the indemnifying Party's negligent acts or omissions or those of its officers, employees or agents, and assigns, for any losses caused by failure of the indemnifying Party to comply with terms and conditions of the Agreement, and for any losses caused by other parties which have entered into agreements with the indemnifying Party, provided that the Indemnified Party gives the Indemnifying Party prompt, written notice of any such claim, suit, demand or cause of action. The Indemnified Party shall cooperate in the defense or settlement negotiation of such claim, suit, demand or cause of action. The provisions of this section shall survive expiration or termination of this Agreement. These Indemnification provisions are not intended to waive a Party's sovereign immunity. Each Party's liability is governed by and limited to the extent provided by the Nebraska Political Subdivision Tort Claims Act, or other applicable provisions of law.

The County of Dodge

By:

Date _____ of
Execution _____

Approved as to Form:


Deputy County Attorney

The County of Douglas

By: _____

Date _____ of

Execution _____

Approved as to Form:

Deputy County Attorney