

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN FAYETTE COUNTY 911 SERVICE BOARD**  
**AND THE CITY OF OELWEIN**

1. **Parties.** This Memorandum of Understanding (hereinafter referred to as “MOU”) is made and entered into by and between Fayette County 911 Service Board, established and existing under Iowa Code §34A.3, (hereinafter referred to as “Board”) and the City of Oelwein (hereinafter referred to as “City”) the Board and the City jointly being referred to herein as “Parties”.

2. **Purpose.** The purpose of this MOU is to establish the terms and conditions of agreement between City and Board related to Board use of City owned radio tower, and data room located on the property of Oelwein Police Department, 501 Rock Island Road, Oelwein, IA 50662, to install Board owned and operated public safety paging equipment. (“Equipment”)

3. **Effective Date / Term / Termination.** This MOU shall be effective upon the date last signed and executed by the duly authorized representatives of the Parties and their governing bodies, where appropriate, and shall continue in effect unless and until terminated by either Party, by giving the other Party ninety (90) days prior written notice. Should either party terminate the MOU, Fayette County 911 Service Board will, at its sole cost, remove all Equipment, including but not limited to antennas and cabling from the tower and data room, and to restore City property to as close to the condition as it existed before installation and placement of the Equipment.

4. **Responsibilities of Fayette County 911 Service Board.** The Board is responsible for all costs associated with preparation of the space/location of installation including any structural analysis and related items. All costs associated with the installation, connections or connectivity, testing, maintenance, repair and replacement of paging equipment, antennas, lines, dishes, and backhaul (“Equipment”) are the responsibility of the Board. If any of the Equipment installed by or on behalf of Board creates interference with any City equipment, the Board, upon notification, will take immediate action to resolve the interference. The City may require, when deemed to be in the public interest, the disconnection of any Equipment creating interference until such time that it may be connected without creating interference.

5. **Responsibilities of The City of Oelwein.** The City is responsible for providing generator back up power for Board Equipment and necessary rack space in the data closet/room at no cost to the Board. City further agrees to provide twenty-four-hour access, by qualified and approved personnel or contractors, to inspect, maintain, and/or to repair the Equipment.

6. **Property and Liability Insurance.** Board agrees to obtain and keep in force, a policy of comprehensive general liability insurance for and an errors and omissions policy in an occurrence form with a carrier authorized to do business in Iowa and in an amount not less than one million dollars combined single limit. Said insurance policy shall name City as an additional insured, shall provide that it may not be cancelled or materially altered without at least 30 days prior written notice to Board and City as additional insured, and shall cover claims of bodily injury, including death, property damage, and personal injury based upon alleged acts or omissions of the Board, its officers, employees, agents, contractors and assigns, arising out of the installation and operation of Board property and equipment on City property as agreed to herein. The Parties each agree to insure their respective property interests.

7. **Amendments.** This Agreement may only be amended by the mutual written consent and agreement of the Parties, any and all amendments to be in writing and as they pertain to the City, approved by the City Council, and the Board, by the Board.

8. **Applicable Law.** The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of Iowa. Jurisdiction over the parties and any dispute shall lie in the Iowa District Court in and for Fayette County.

9. **Notice to Cure:** If either Party fails to meet their obligations under this Agreement, and is, therefore, in breach of the agreement, the non-breaching Party may give written notice to the other Party of the alleged breach. After service of the Notice to Cure, the party alleged to be in breach may request a hearing before the party alleging the Breach. If the City is alleging breach, the hearing shall be before the City Council, while if the City is alleged to be in breach, the hearing shall be before the Board. If the breach is not remedied within fourteen (14) days of the notice, or such other timeframe as agreed upon by the Parties, the non-breaching party may immediately terminate the Agreement.

10. **Entirety of Agreement.** This Agreement constitutes the entire understanding and intent of the Parties. This Agreement supersedes all prior negotiations, discussions, representations, and agreements by the Parties, if any. Any modifications of this agreement must be made with the same formality as the original (including approval by the City Council), in writing, and signed and endorsed by both Parties

11. **Severability.** Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

12. **Immunity.** Neither the Board, the City, nor their respective governing bodies waive any sovereign or statutory immunity to which they are entitled under applicable law by entering this MOU, and fully retain all immunities and defenses provided by law with respect to any action based upon or relating to this MOU.

13. **Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this MOU shall not be construed to create such status. The rights, duties and obligations contained in this MOU shall operate only between the Parties to this MOU and shall inure solely to the benefit of the Parties. The provisions of this MOU are intended only to assist the Parties in determining and performing their obligations under this MOU. The Parties to this MOU expressly agree that only those executing this MOU shall have any legal or equitable right to seek the enforcement of any term hereof, to seek any remedy arising out of or resulting from any Party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.

14. **Indemnification.** Except for the negligence of the City, the Board shall indemnify, defend and hold the City, its' elected officials, officers, directors and employees (collectively, the "indemnified parties") harmless from and against any and all claims, demands, liabilities, suits, actions, judgments, losses, costs, and expenses (including, without limitation, attorneys' fees) arising or resulting from, or suffered, sustained, or incurred as a result of any accident or other occurrence causing or inflicting injury or damage to any person or property, happening or done in connection with the installation, inspection, repair/replacement, removal or other actions in any way related to the operation or use of the Equipment.

15. **Agreement Binding on Successors in Interest.** This Agreement shall apply to and bind the successors in interest of the parties.

16. **Non-Waiver of Rights.** No delay or failure by either Party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

17. **Construction.** Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

18. **Signatures.** In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

**Fayette County 911 Service Board**

**City of Oelwein**

\_\_\_\_\_  
[Name and Title]

Date

\_\_\_\_\_  
Brett DeVore, Mayor

Date: December 18, 2023

Approved by formal action of the Fayette County 911 Service Board on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Approved by formal action of the Oelwein City Council on the 18<sup>th</sup> day of December, 2023.