## CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date:	03/17/2023		
Contract/Lease Control #:	C23-3306-CAO		
Procurement#:	N/A		
Contract/Lease Type:	AGREEMENT		
Award To/Lessee:	BLACKMAN FIRE DISTRICT CORPORATION		
Owner/Lessor:	OKALOOSA COUNTY		
Effective Date:	03/14/2023		
Expiration Date:	03/13/2073 W/ (2) 25 YR RENEWAL		
Description of:	TOWER SITE AGREEMENT		
Department:	CAO		
Department Monitor:	HOFSTAD		
Monitor's Telephone #:	850-651-7105		
Monitor's FAX # or E-mail:	JHOFSTAD@MYOKALOOSA.COM		
Closed:			

CC: BCC RECORDS

#### **TOWER SITE AGREEMENT MARCH 2023**

THIS AGREEMENT ("Agreement") is made this <u>14<sup>th</sup></u> day of March, 2023, by and between the Okaloosa County, a political subdivision of the state of Florida, (the "County") and the Blackman Fire District Corporation, ("the Fire District") for use of site to construct and maintain a radio tower to enhance Public Safety as part of a countywide Emergency Communications System for Okaloosa County. Collectively the County and the Fire District shall be referred to as the "Parties"

#### WITNESSETH

WHEREAS, the Fire District owns Property located at 1850 Co Rd 2, Baker, Florida 32531 (22-5N-24-0000-0002-0010) (site 8); and,

**WHEREAS**, the "Property" is shown on Exhibit A inclusive of a route of ingress and egress from and to the site and other utility easements; and,

WHEREAS, the County desires to construct and maintain an Emergency Communication radio tower and other related emergency radio communications equipment and devices to enhance the county Public Safety emergency communications; and,

WHEREAS, the Emergency Communication System ("System") will operate as part of a comprehensive countywide network of 12 towers, 911 centers, and mobile and portable units for such emergency communications; and,

WHEREAS, The System will serve over 30 different public safety entities to include all Emergency Medical Services, Fire/Rescue, Law Enforcement, and Okaloosa Emergency Management Agencies, as well as Transit, Utilities and similar countywide support agencies including the Fire District;

WHEREAS, The County may permit additional tenants on the Property to defray the costs of maintaining the System, which may also provide additional benefits to the Fire District property for other types of non-emergency coverage.

**NOW, THEREFORE**, in consideration of these premises and the mutual covenants of the parties it is agreed as follows:

- 1. <u>Property.</u> The Fire District hereby grants the County an easement over the Property to install, maintain, operate, and remove a radio tower, communication equipment and appurtenances the location of which is shown on a detailed map attached hereto as Exhibit A, which are further combined together with easements for access, utilities, and temporary construction easements. Upon approval of this agreement a survey with legal description shall be added to Exhibit A to definitively identify the Property.
- 2. <u>Use.</u> The County shall be permitted to install a self-supporting, 300 ft Emergency Grade Radio tower on the Property in accordance with the details set for in Exhibit B attached hereto and incorporated herein, to include but not limited to all cabling, emergency power generators, utilities, fencing, site work, and related equipment on the Property and to install or improve utilities and access to get to the Property and the granted Easements.

CONTRACT #: C23-3306-CAO
BLACKMAN FIRE DISTRICT CORPORATION
TOWER SITE AGREEMENT

- 3. <u>Term.</u> The initial term of this Agreement shall be for a period of fifty (50) years commencing on the day of execution of this agreement. Within 5 years of the end of any term, the County shall have the right to extend this Agreement with written notice for two additional Twenty -Five (25) year periods conditioned upon it still being used as part of the emergency communication system.
- 4. <u>Construction</u>. County shall be solely responsible and cost to ensure that County's construction on and off the Property to include but not limited to: the tower installation, all tower mounted equipment, ground equipment, site development, stormwater, utilities, fencing access road from the parking lot and all related construction necessary is performed by County or its contractors in a safe manner consistent with current industry engineering and construction standards and practices.
- 5. <u>Construction Site Maintenance</u> During construction on the Property, any Construction Area Easement and any other work within any related easement shall be maintained in a safe and workmanlike manner and shall seek to minimize aesthetics blight and the creation of any attractive nuisances. Any prolonged construction stoppage over thirty days may require additional measures to address the aesthetics of the site until construction resumes. Additionally, during hurricane season the site shall be secured prior to any emergency event to avoid creating windblown hazards.
- 6. <u>Property and Easement Egress/Ingress Access Easement</u>. The County shall be permitted, through the duration of this agreement and any future amendments, to ingress and egress on and to the Property and related easements for the purpose of design, construction/installation, upgrading repair, testing, refueling, and maintenance of the Property, Tower, Utilities, Communications equipment and all other related equipment. Access shall be to provide the County's employees and/or agents ingress and egress to the Property and related easements twenty-four hours a day, seven days a week. The Fire District may provide equal, alternative ingress and egress for the Property and related easements during emergency situations where access is restricted, during the initial construction period for construction traffic, during special events, and if the other construction at the Fire District alters the traffic patterns of the campus. In furtherance of providing the County with access to the Property and related Easements, there is hereby executed an easement, a copy of which is attached as Exhibit "C" and attached hereto.
- 7. <u>Temporary Construction Area Easement(s)</u>. An additional area outside the Property is necessary for the initial construction and any major construction upgrades that may be necessary during the term of this agreement. This may include the staging of vehicles, cranes, tower sections and other related equipment for the Property. The Fire District hereby grants an initial temporary construction easement to the County for a duration of up to 12 Months, a copy of which is attached hereto as Exhibit "D."

The Fire District agrees to utilize best efforts to work with the County for any future construction area easements necessary to support future construction on the Property to include but not limited to: adding/removing tower equipment including utilities thereto, major tower or utility maintenance, repair and/or replacement, and similar more significant construction on the Property. Shall temporary future construction easements shall be for the minimum durations necessary and the Parties shall work cooperatively together on these locations.

- 8. <u>Approvals/Permitting</u>. The County with BFD's cooperation if needed, shall obtain all required governmental and quasi-governmental land use, permits, licenses, approvals and authorizations including but not limited to the FAA (which includes military coordination) for height and airspace penetration issues.
- 9. <u>Consideration</u>. The cost of allowing County to place equipment on the Property shall be at no cost. The Parties believe that it is in the public interest for the Parties, local residents, and first responders.
- 10. <u>Utilities.</u> The County will construct at its expense all required electrical, fiber, or other utilities necessary to support equipment on the property. The County shall be fully responsible for all utility usage for the Property. Beyond the initial construction, future utility construction may be necessary to serve the Property.
- 11. <u>Subleasing</u>. The County in its sole discretion has the right to sublease any portion of the tower site to another entity for purposes of use of the tower system, non-exclusively or exclusively. Sublessee's shall have the rights granted to the County hereunder to use of the Property, ingress, egress, construction and utilities.
- 12. <u>Acknowledgment of the Parties</u>. It is expressly understood and acknowledge that the property is continuously being used as the Blackman Community Fire Department as an active fire department. The communications tower which will provide assistance to the Fire Department will further support the use of the property as an active fire department. The property is not being sold or leased as part of this Agreement.

## **General Provisions**

- 13. Governing Law & Venue. This agreement shall be interpreted in accordance with the laws of the State of Florida without regard to its principles of conflicts of laws. Venue for any legal proceedings shall be in the state courts of Okaloosa County, Florida.
- 14. <u>Notices</u>. All notices shall be in writing. Such notices or demands shall be mailed or hand-delivered to the other party at the following address which may be changed in writing from time to time:

## County:

Okaloosa County BCC Attn: County Administrator 1250 N. Eglin Pkwy Suite 102 Shalimar, FL 32579

## With a Copies to:

Nabors, Giblin, & Nickerson, LLC Attn: Okaloosa County Attorney 1250 N. Eglin Pkwy, Suite 102 Shalimar, FL 32579

Okaloosa County Sheriff's Office Attn: Facilities Director 50 2nd Street Shalimar, Florida, 32579

## BFD:

Blackman Fire District Corporation Attn: Chairman, Board of Fire Commissioners P.O. Box 279 Baker, FL 32531

## With a Copy to:

Blackman Fire Department Attn: Chief P.O. Box 279 Baker, FL 32531

Either party may change the notice designation, at any time, by providing the other party with written notice five (5) days in advance of the change.

- 15. <u>Independent Contractor</u>. The parties to this Agreement shall at all times be acting in the capacity of independent contractor and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so.
- 16. <u>Indemnification</u>. Unless otherwise stated herein, each party shall be solely responsible for the conduct of its employees and agents in connection with their performance or obligations under this Agreement, and hold the other harmless for any injuries or damages arising hereunder, and shall defend any claims for injuries or damages, even if such claims be groundless or fraudulent, except that liability in such cases shall not exceed the waiver limitations set forth in section 768.28, F.S., as it now exists or as it may be amended.
- 17. <u>Sovereign Immunity</u>. Nothing herein is intended to serve as a waiver of sovereign immunity by either party or of any rights or limits to liability existing under section 768.28, F.S. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.
- 18. <u>Confidential and Exempt Security and Safety Plan Information</u>. The parties acknowledge that the plans and information related to the System to be installed are exempt from section 119.07(1), F.S, and section 24(a), Article I of the State Constitution, pursuant to section 119.071(3), F.S. In addition, such System plans and specifications constitute information relating to the security systems for property owned or leased by a political subdivision of the State of Florida and, pursuant to section 281.301(1), F.S., are confidential and exempt from public disclosure.
- 19. <u>Third Party Beneficiaries</u>. It is specifically agreed between the parties executing this AGREEMENT that it is not intended by any of the provisions of any part of this AGREEMENT to create in the public or any member thereof, a third-party beneficiary under this agreement, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this AGREEMENT.
- 20. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior oral or written agreements. The parties acknowledge that they have not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements or warranties, except such as are expressed herein. The terms of this AGREEMENT can only be amended in writing upon mutual agreement of the parties and execution of the amendment by both parties.

- 21. <u>Conflicting Provisions</u>. The terms, statements, requirements, or provisions contained in this Amendment shall prevail and be given superior effect and priority over any conflicting or inconsistent terms, statements, requirements or provisions contained in any other document or attachment.
- 22. <u>Severability</u>. If any term of this AGREEMENT is deemed, by the court having appropriate jurisdiction, invalid or unenforceable, the remainder of the terms of this AGREEMENT shall remain in full force and effect. This AGREEMENT shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all the terms and provisions herein.
- 23. Effective Date. Once executed by both parties this Agreement shall become effective immediately.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

\*\*\*\*\*\* SIGNATURE PAGE FOLLOWS \*\*\*\*\*\*\*\*

## **BLACKMAN FIRE DISTRICT CORPORATION**

Larry Cunfingham, Chairman

Board of Fire Commissioners

ATTEST:

, Chief

Blackman Fire Department

MIRANDA J. SARGENT

Notary Public - State of Florida
Commission # HH 149600

My Comm. Expires Oct 27, 2025

Bonded through National Notary Assn.

6

## **OKALOOSA COUNTY, FLORIDA:**

Robert A. "Trey" Goodwin, Chairman

3/14/2023

Date

ATTEST

J.D. Peacook/II Clerk

STOOM COLORS

# Exhibit "A" Tower Location

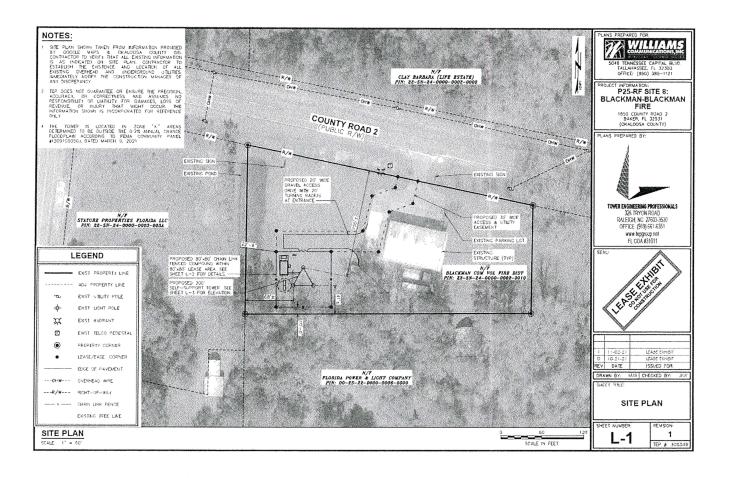
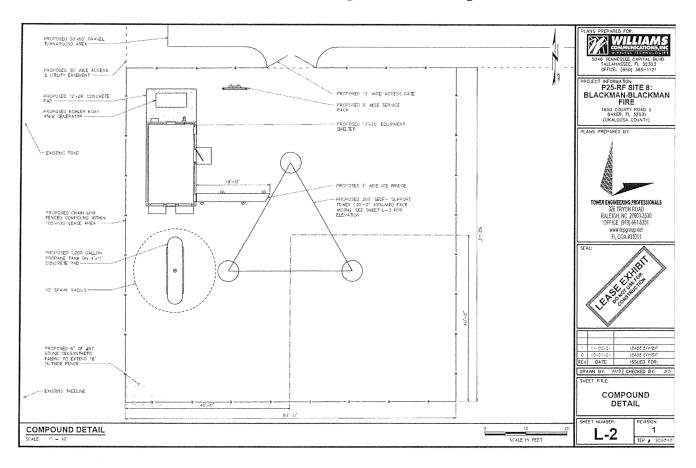
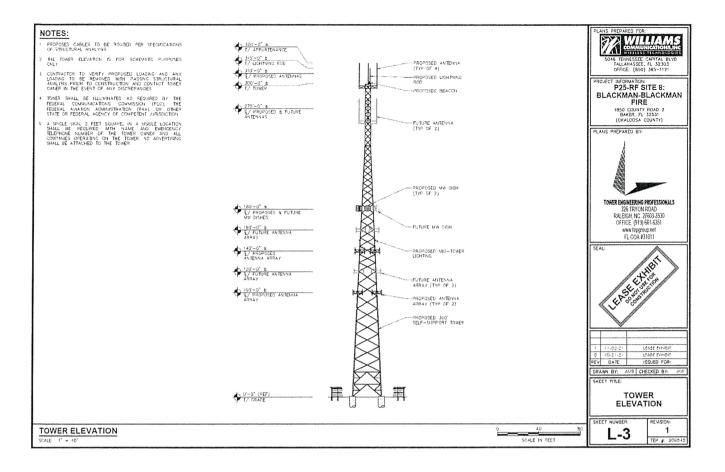


Exhibit "B"
Radio Tower design and description





# **Exhibit "C" Easement for Ingress and Egress**

Prepared by and return to: NAME ADDRESS TELEPHONE NUMBER

## **EASEMENT**

THIS EASEMENT made this <u>14<sup>th</sup></u> day of March, 2023, by and between Blackman Fire District Corporation, whose address is 1850 Co Road 2, Baker, FL 32531, hereinafter called "Grantor," and Okaloosa County, Florida with a mailing address of 1250 N. Eglin Parkway, Suite 102, Shalimar, FL, 32579, its successors and assigns, hereinafter called "Grantee";

## WITNESSETH:

That Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, by these presents does hereby give, grant, bargain and release to the Grantee, a non-exclusive easement for the purpose of ingress, egress and maintenance of a radio tower and improvements upon, over and through the following described land in Okaloosa County, Florida, described as follows:

The entrance into the Fire Department site and continuing onto the drive on the west side of the Fire Station as depicted within Exhibit A.

This easement shall terminate in one hundred years from the date of recording.

(Signatures on following page)

**IN WITNESS WHEREOF,** Grantor has caused these presents to be executed in its name by its proper officers hereunto duly authorized, on the day, month and year first above written.

Signed, sealed and delivered in the presence of:	INSERT NAME
Sign: De Ne	
Print: Duane Melanson	Fry Cum Le
Sign: James L Lawson Print: JAMES L LAWSON	- dre Transcontinue
Print: JAMES L LAWSON	
STATE OF <u>Florida</u> COUNTY OF <u>Okaloosa</u>	
SWORN TO and subscribed [  March, 2023, by Dvane M me, or who has [] produced	in person or [ ] online order, this Ind day of Melanson *James Lawson who is [ ] personally known to as identification.
No	Milanda S. Dagent otary Public
[P	MIRANDA J. SARGENT Notary Public - State of Florida Commission # HH 149600 My Comm. Expires Oct 27, 2025 Bonded through National Notary Assn.

## Exhibit "D" TEMPORARY CONSTRUCTION EASEMENT

Prepared by and return to: NAME ADDRESS TELEPHONE NUMBER

THIS EASEMENT made this 14th day of March, 2023, by and between Blackman Fire District Corporation, whose address is 1850 Co Road 2, Baker, FL 32531, hereinafter called "Grantor," and Okaloosa County, Florida with a mailing address of 1250 N. Eglin Parkway, Suite 102, Shalimar, FL, 32579, its successors and assigns, hereinafter called "Grantee";

#### WITNESSETH:

That Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, by these presents does hereby give, grant, bargain and release to the Grantee, a temporary construction easement for the purpose of constructing a radio tower and improvements according to the construction plans for said improvements in, upon, over and through the following described land in Okaloosa County, Florida, described as follows:

The open space/grass area west of the Fire Station entrance and drive and north of the emergency tower communication site.

IT IS UNDERSTOOD and agreed by the parties hereto that the rights granted herein shall terminate upon completion of the project, but no later than the last day of February 28th, 2024.

(Signatures on following page)

**IN WITNESS WHEREOF,** Grantor has caused these presents to be executed in its name by its proper officers hereunto duly authorized, on the day, month and year first above written.

_	sealed and delivered resence of:	II	NSERT NAME	
Sign:	Que Me	***************************************		
Print:	Duanc Melanen			
Sign: Print: <u>J</u>	TAMES L LAUSOI	<u></u>	Tany Cu	unif_
COUN	OF <u>Florida</u> TY OF <u>Okaloosa</u>			
Duane Melanson	SWORN TO and subscribed who as identification is subscribed.	is [ personall	<u>Ind</u> day of <u>N</u> y known to me,	narch, 2023, by or who has [] produced
		Notary Public	rda Ship	n+
		[PLACE NOTAI	RIAL SEAL]	MIRANDA J. SARGENT Notary Public - State of Florida Commission # HH 149600 My Comm. Expires Oct 27, 2025 Bonded through National Notary Assn.



## BOARD OF COUNTY COMMISSIONERS AGENDA REQUEST

DATE:

March 14, 2023

TO:

Honorable Chairman and Distinguished Members of the Board

FROM:

Craig Coffey

**SUBJECT:** 

Long Term Easement Agreement for a Tower Site at Blackman Fire

District

**DEPARTMENT:** 

County Administrator

**BCC DISTRICT:** 

1.

**ACTION ITEM:** Request approval of a long-term easement agreement with Blackman Fire District Corporation at the station site in Blackman to provide for the location of an 800Mhz P25 Phase II Emergency Communication Tower Site.

**BACKGROUND:** The Emergency Communications Radio System will serve over 30 different public safety entities to include all Emergency Medical Services, Fire/Rescue, Law Enforcement, and Okaloosa Emergency Management Agencies, as well as Transit, Utilities and similar countywide support agencies. As part of creating the County's Emergency Communication Systems, the County has to acquire 12 sites that are spatially located to provide proper emergency radio area coverage and building penetration. The sites are somewhat co-dependent in their location and generally must be high and dry, and located near power and a paved road to minimize site development costs. Each site must also receive approvals by the FAA and Eglin AFB for airspace issues.

The long-term easement agreement in the backup provides for an initial agreement term for 50 years, with up to two additional 25-year renewals. The site itself is behind the Blackman fire station near the rear of the property. The Fire District Board as well as the new Fire Chief and Miranda Sargent (a volunteer) have been great to work with and a tremendous help in moving this project forward. The agreement was approved on March 2, 2023 at their monthly board meeting. All permitting for this tower will go through the County processes, which is currently in the works with construction to occur in the near future. This is one of the worst areas in the County for emergency radio reception.

This long-term easement is at no cost to the County. However, the County did pay \$40,000 for the underlying reverter clause from the donating family. In the event the property ever ceases to be used as a fire station, the County would become the owner.

The County will be running fiber to the tower and staff hopes to use the tower for other nonemergency County uses in the future. The County will also try to assist the department in improving their broadband access.

FUNDING SOURCE, (If Applicable): N/A

**OPTIONS:** Approve/Deny/Postpone

**RECOMMENDATIONS:** Approve the Long-term Easement Agreement presented and authorize the Chairman to execute the Agreement and related utility and construction easements. Additionally, authorize the County Administrator, with concurrence from the County Attorney, to make any minor adjustments necessary to finalize the easement attachments.

Craig Coffey, Deput Jounty Administrator - Operations 3/9/023

**RECOMMENDED BY:** 

John Hofstad, County Administrator 3/9/2023

**APPROVED BY:**