

28 E AGREEMENT

This Agreement, (the "Agreement"), entered into accordance with and under the provisions of chapter 28E of the Iowa Code, and commencing on July 1, 2021, by and between the City of West Liberty, a municipal corporation in the State of Iowa, (the "City"); and the West Liberty Rural Fire District, duly organized under the laws of the State of Iowa, and encompassing parts or all of the townships of Wapsie, Goshen, and Lake in Muscatine County, Iowa; townships of Iowa and Springdale in Cedar County, Iowa; and Lincoln township in Johnson County, Iowa; but not including the City of West Liberty, (the "Fire District").

RECITALS

1. The City and the Fire District each have responsibility for providing fire protection and emergency services to their respective service areas as shown on the map in Exhibit A; and
2. The City and the Fire District have been parties to previous 28E agreements regarding the provision of fire services to their respective service areas, with the most recent on bearing an effective date of July 1, 2007; and
3. The City and Fire District jointly own the firefighting equipment listed on Exhibit B (the "Equipment"); and
4. The Parties desire for the City to be responsible for the operation a fire department and maintenance of the equipment; and
5. The Parties desire an agreement allocating the expenses and responsibilities of operating a fire department and maintaining their equipment; and
6. It is in the public interest that the parties use their resources and equipment to the fullest public benefit.

AGREEMENT

The City and the Fire District and agree as follows:

1. The cooperative undertaking resulting from this Agreement will not create any new or separate legal entity or administrative entity.
2. The City shall use the equipment for fire protection and emergency response both within the City and within the Fire District.
3. The City shall be responsible for ensuring the ongoing maintenance of the equipment, subject the financial provisions of this agreement.
4. The City and the Fire District shall jointly approve any expenditure of \$5,000.00 or more for the maintenance and repair of the equipment. City expenditures are also

subject to the City's Purchasing Policy.

5. The equipment shall be stored in the fire station located in West Liberty, Iowa.
6. The City shall furnish fire protection services and personnel for the fighting of all fires and emergency responses within the City of West Liberty and Fire District.
7. The City shall arrange for payment of all operating and maintenance expenses, including the cost of all insurance, necessary for furnishing fire protection and emergency services within the City and the Fire District, subject to the financial provisions of this agreement.
8. Financing.
 - a. The City and the Fire District shall divide the operating and maintenance expenses equally.
 - i. The City shall prepare a monthly statement specifying all expenses incurred and income received in the provision of services for the preceding calendar month and shall forward a copy of the monthly statement to the Fire District's treasurer by the 10th day of the following month.
 - ii. Upon the receipt of the statement, the Fire District's treasurer shall remit to the City their allocation of said expenses by the 25th of the month.
 - iii. In exception to the above, the City shall provide the public utilities for Fire Station at no expense to the Fire District.
 - b. The Parties shall levy taxes, within the tax limitations prescribed by the Code of Iowa, to pay for their agreed-upon share of the costs of new equipment. The parties may also receive donations and other revenues, as permitted by Iowa Code, to meet their obligations for new equipment.
 - i. The Fire District Treasurer shall promptly remit, on or before December 15 and June 15 each year, the agreed upon amount of monies received during the six months immediately preceding said dates resulting from the fire protection levies to the City Clerk.
 - ii. The City shall continue the established interest-bearing fund for the accumulation of monies designated for the purchase and/or replacement of capital equipment necessary for the operation of the fire department.
 - iii. The required contribution from each party shall be determined annually by the amount give each year will be \$ _____. (See, **Exhibit C**).

- iv. The parties may contribute additional funds received in excess of the required contribution.
 - v. The City Clerk shall promptly deposit the funds from the Fire District and the City's corresponding funds into the above referenced account and provide a statement of such deposit to the Fire Advisory Board.
 - vi. Expenditure of these funds requires the agreement of both parties.
9. The Parties acknowledge and agree that the equipment shall be available for use in fire protection areas outside the area covered by this Agreement in accordance with mutual aid agreements between the City and Fire District and other cities and fire districts.
10. The City shall provide and maintain the following minimum insurance coverages using commercially available products, self-insured retention, municipal insurance policies or any combination and shall name the Fire District as an additional insured:
- A. General Liability:
 - 1. Bodily Injury: \$1,000,000 per occurrence and \$3,000,000 annual aggregate.
 - 2. Property Damage: \$1,000,000 per occurrence and \$3,000,000 annual aggregate.
 - B. Worker's Compensation: Including employers' liability in accordance with the Workers' Compensation Laws of the State of Iowa.
 - C. Professional Liability/Errors & Omissions: \$1,000,000 per occurrence and \$3,000,000 annual aggregate.

The Parties each reserve their rights under the Iowa Municipal Tort Liability Act, the doctrine of sovereign immunity, and any other defenses available to it in response to all claims.

11. Each party (the "Indemnifying Party") shall at all times indemnify and hold harmless the other party and said other party's successors, assigns, shareholders, partners, directors, officers, agents, affiliates, and employees (collectively, the "Indemnified Parties") from and against any and all liabilities, damages, penalties, settlements, judgments, orders, losses, costs, charges, attorneys' fees, and all other expenses and shall, further, defend the Indemnified Parties from any and all claims, actions, suits, prosecutions, and all other legal and/or equitable proceedings resulting from or relating to (whether directly or indirectly) any allegation (whether founded or unfounded and regardless of the nature or character thereof) regarding: (i) any negligent, willful, reckless, or wrongful act or omission of the Indemnifying Party, its employees, representatives, contractors or agents; (ii) any breach of, or inaccuracy in, any representation and/or warranty made by the Indemnifying Party herein including,

without limitation, claims for personal injury, death or damage to property or other demands; (iii) any failure to perform by the Indemnifying Party, or any defect in said party's performance of, its obligations and duties pursuant to this Agreement; or (iv) any alleged violation by the Indemnifying Party of any law, statute, regulation or ordinance.

12. The parties agree to establish a Fire Advisory Board (the "Board") comprised of two representatives of the Fire District, two elected officials from the City, and the Fire Chief. The Board is created for advisory and communication purposes only, and is not responsible for the administration or operation of the fire department. The Board shall meet as often as may be necessary, but not less than twice annually on the second Tuesday in November and June each year. The Board shall not have any power to acquire property, real or personal; the fire protection equipment held under this agreement shall be held jointly by the parties. The Board shall prepare a proposed budget for the services provided pursuant to the agreement and shall submit the proposed budget to the City; however, pursuant to Iowa Code, the City shall have full and final authority over the budget and may alter the budget without approval of the Board or the District, but subject to the funding obligations of the parties as outlined in the Agreement.
13. In the event of any disagreement or dispute arising between the parties with respect to this Agreement, the parties consent to and agree that the jurisdiction and venue shall be the Iowa District Court for Muscatine County; and that this agreement shall be governed and interpreted in accordance with the laws of the State of Iowa.
14. The parties shall file this Agreement and any amendments in accordance with the provisions of Section 28E.8 of the Iowa Code.
15. This agreement shall be effective as of the date of last signature below.
16. This agreement shall commence as of the date written above, and shall automatically renew for subsequent one-year terms on the anniversary of the above commencement date unless sooner terminated by mutual agreement of the parties. Either party may terminate this agreement by notice given to the other party at least 6 months prior to the anniversary renewal date, of an intent to not renew. All notices must be in writing, signed by the party, and mailed by US mail to the other party as follows:
 - a. If to the City: Attn: City Manger and Mayor, 409 North Calhoun Street, West Liberty, Iowa 52776
 - b. If to the Fire District: Attn: President and Secretary, _____

This agreement may also terminate on the first anniversary of the commencement date in accordance with Section 19 below.

17. This agreement may be terminated by either party due to breach by the non-breaching party giving at least 90 days' notice (see section 16) to the breaching party, with a demand to cure the breach.
18. This Agreement and any amendments hereto, constitutes the entire agreement between the parties with respect to the matters contained herein. All previous agreements between the parties with respect to the matters contained herein are mutually terminated and revoked as of the commencement date first written above.
19. Upon termination of this Agreement, the jointly held assets will be distributed as per the schedules attached as **Exhibit D**. All future acquisitions of joint assets must have an agreement as to their distribution prior to the acquisition being approved by the parties. The schedules in **Exhibit D** shall be amended and updated as appropriate to reflect the current assets and planned distribution.
- a. The Parties acknowledge and agree that the schedules required in **Exhibit D**, encompassing all of the equipment listed in **Exhibit B** will require time to fully and fairly develop. As such, **Exhibit D** will be created and agreed to by the parties prior to the first anniversary of the commencement date of this agreement, or this agreement shall automatically terminate at the end of the first year.

CITY OF WEST LIBERTY, IOWA

WEST LIBERTY RURAL FIRE DISTRICT

Robert Hartman, Mayor Date

_____, President Date

Lee Geertz, City Clerk Date

_____, Secretary Date

