

**CITY OF WEST LIBERTY, IOWA**

**Consultant's Review of the Proposed  
Memorandum of Understanding (MOU)**

**Between**

**City of West Liberty, Iowa**

**West Liberty Fire District**

**West Liberty Volunteer Fire Fighter**

**May 3, 2022**

**Prepared by  
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**Consultant's Review of Memorandum of Understanding**

**Introduction**

Callahan Municipal Consultants, LLC (CMC) is a single member LLC that provides consulting services to cities in Iowa. CMC was established in 2013 by Patrick Callahan, a retired city manager, and provides the following services to cities:

- Mayor & City Council Goal Setting Sessions
- Capital Improvement Plans
- City Manager Searches
- Fire Department Reviews – In cooperation with George Oster (Retired Fire Chief)

The City of West Liberty requested on April 20, 2022 that Callahan Municipal Consultants reviewed a proposed Memorandum of Understanding (MOU) between the City of West Liberty, the West Liberty Fire District, and the West Liberty Volunteer Firefighters. While this type of review and analysis would normally be done over a 30 to 60 day period, CMC agreed to provide a preliminary review of our findings by May 2, 2022 due to the urgency of the situation. Therefore, it is important to note that this report was prepared as quickly as possible and that CMC reserve the right and option to modify this report as more information is made available.

**Previous CMC Fire Department Studies**

Callahan Municipal Consultants, LLC is not a law firm and Mr. Callahan is not an attorney. Mr. Callahan has 48 years of experience in city government and a copy of his resume is attached.

Mr. Callahan has worked in cooperation with George Oster, retired fire chief and former director of the ISU Fire Service Institute to conduct fire department reviews for the following cities in Iowa:

- City of Hiawatha, Iowa
- City of Mount Pleasant, Iowa
- City of Wapello, Iowa
- City of Richland, Iowa
- Rockwell Community Fire Services, Inc.

Since Mr. Oster is now semi-retired and lives in Ames, Iowa and due to the short notice, we were not able to discuss this report with Mr. Oster. If given more time to study this matter, we will contact Mr. Oster for his perspective. If Mr. Oster is not available, we will contact Steve Meyer, a retired fire chief, for his comments and suggestions at a later date.

**Information Reviewed**

In preparation for this report, CMC reviewed the following items or document:

1. Memorandum of Understanding (MOU) prepared by Attorney William Tharp.
2. Title 4 – Chapter 1 of the West Liberty City Code – Entitled “Fire Department.”
3. Agreement and Contract for Fire Protection dated July 1, 2007.

4. Bylaws - West Liberty Fire Department Inc. – Dated November 2016.
5. Letter to Steve Havercamp from William Tharp dated April 23, 2022.

#### **The Basic Options For Fire Protection Services**

Fire protection services in West Liberty are currently provided by the City of West Liberty Fire Department. The Fire Department trucks, equipment and fire station are titled in the name of the City of West Liberty (a municipal corporation) and are owned by the citizens of West Liberty. The West Liberty City Council, as the duly elected representatives of the citizens of West Liberty, is responsible for the oversight and supervision of the Fire Department. The day to day tasks or ongoing oversight of the Fire Department is assigned to the city manager and the fire chief, as authorized in Title 4 – Chapter 1- of the West Liberty City Code (Appendix A).

While fire protection service is provided in West Liberty by a municipal corporation, it is not the only option that is available. The vast majority of public entities in Iowa provide fire protection services with one of the following options:

1. City owned fire department that may provide service to nearby townships.
2. Township owned fire department that may provide service to nearby cities and/or townships.
3. 28E Agency created to provide fire protection service to multiple entities.

The Iowa League of Cities (ILC) prepared a very Comprehensive Special Report entitled “Fire and Emergency Response Services in Iowa.” This Special Report is attached as Appendix B. Part One of this ILC Special Report provides an excellent overview of all the methods of providing fire protection services. This report will not go into detail on these alternative methods. The ILC Special Report has enough detailed information that it will provide a good overview of all options.

#### **Code of Iowa – Sections Pertaining to Fire Protection**

There are sections in the Code of Iowa that pertain to fire protection services. Some of those sections include:

- 384.1 – City Fire Protection
- 359.42 – Township Fire Protection
- 359.50 – Township Tax Levies
- 364.00 – City General Fund Levy
- 28 E – 28E Agreement Required
- 504 – Non-Profit Corporations

Since these sections of the Code of Iowa have an impact on fire protection services, Appendix C has been prepared to list some of these sections of the Code of Iowa.

#### **The Key Components For A Fire Department**

In order to successfully and efficiently operate a fire department there are five key components that are required, regardless of the option selected or the entity in control.

1. The entity must own or lease a building to house trucks and equipment and serve as a base of operation.
2. The entity must own or lease fire trucks and equipment in order to suppress fires.

3. The entity will need trained fire fighters to physically do the job of putting out fires and related tasks. The fire department personnel can be volunteer firefighters or paid firefighters or a combination of both.
4. There needs to be a reliable source of revenue to pay the ongoing cost of operation. Most cities in Iowa fund their fire department with a combination of city property taxes from the General Fund, township payments for service, grants, and donations. Fire department associations or IRS 501(c) (3) nonprofit corporations will often fund a portion of the costs of operation, especially for equipment purchases.
5. Lastly, there needs to be a good basic "structure" in place, which can be established with written 28E agreements, contracts for service, city ordinances, and bylaws. Written policies for the budget preparation process, accounting, funding formulas, personnel, and best practices are also very useful and valuable.

If any of these five key components are missing or less than adequate, it is difficult to operate and maintain a fire department.

#### **The Current Option – City Owned Fire Department**

It is our understanding that the West Liberty Rural Fire District has filed a lawsuit against the City of West Liberty, Iowa regarding a dispute concerning, past transactions, past agreements, ownership of assets, fiduciary responsibilities, and the future of what is called the "partnership" between the two entities. Since this matter is now before the Court and a ruling or settlement has not yet been reached, we will not attempt to determine the validity of the contested items in this lawsuit. We will anxiously await the Court's ruling, like many other people.

For the purposes of this report, we have made some basic assumptions. If the Court should rule that any of these assumptions are not accurate, we reserve the right to modify this report. Therefore, we have assumed the following:

1. The fire station is titled to and owned by the City of West Liberty.
2. The fire trucks and equipment are titled to the City of West Liberty and listed under the City's insurance policies.
3. While the sources of funding to purchase the trucks and equipment may be in dispute, the trucks are titled to the City of West Liberty.
4. The West Liberty City Code (Title 4 – Chapter 1) establishes the City Fire Department and how it is to be operated.
5. There is an unsigned agreement or contract for fire protection between the City of West Liberty and the West Liberty Rural Fire District.
6. There is a West Liberty Fire Association, as listed on the Iowa Secretary of State website. The legal status of this entity is not known. A copy of what it is called "Bylaws - West Liberty Fire Department Inc. (Revised November 2016) has been provided, but it is not signed or dated.

### General Observations – Memorandum of Understanding

We have reviewed the proposed Memorandum of Understanding (MOU) and would provide the following general observations and comments:

1. *The Creation of a 28E Agency*

We are very familiar with the option of establishing a 28E agency to provide fire protection services. We think it is a very viable option. In fact, we recommended that the City of Center Point and Washington Township form a 28E Agency in 1990's. These two entities successfully used this option for over 20 years. The two entities reverted back to a city operated fire department 4 to 8 years ago, when there was a need to construct a new fire station. We think that it is possible for a 28E Agency to work in West Liberty, if the terms and conditions are acceptable to all parties.

2. *MOU Level of Commitment*

Our primary concern regarding the proposed MOU, as currently written, is the "level of commitment" or obligation. As it is currently written, it appears to us that if the City Council approves this MOU that there is "no turning back." The City has not been given an adequate amount of time to make such a "long term commitment" that will have far reaching impact on the citizens of West Liberty for many years. We cannot recommend that the City of West Liberty sign this MOU, unless it contains the following section:

*"This MOU is not a commitment or agreement to all of the provisions of this MOU, but rather a commitment to a process to start the negotiations that could possibly result in the establishment of a 28E Agency for fire protection services."*

3. *Time For Negotiations*

Based upon the level of detail, it appears that the parties who proposed and wrote the MOU have given much thought and consideration to its content. The level of detail was impressive. However, the City of West Liberty has not been given enough time to adequately comprehend the long term impact of this MOU on the City and its residents.

4. *28E Agency Board Members – section I-3*

The makeup of the Board of Directors as outlined in Section I-3 of the MOU is a critical component and will have a tremendous impact on future operations of the Fire Department. It appears to us that the citizens of West Liberty could be required to possibly "donate" the vast majority of assets to get this new 28E Agency in operation and could then be required to possibly pay the largest percentage of the cost of operations going forward in the future AND yet appoint only 3 of the 9 28E agency board members. Does that sound reasonable and appropriate? We think that Section I-3 could result in "taxation without representation" for the taxpayers in West Liberty.

5. *Appointment of a Clerk – Section I-7*

While a minor issue, Section I-7 raises a curious question. The 28E Agency Board of Directors has not even been created and this MOU tells the Board who they can and cannot appoint as a clerk. Would that not be a Board decision to make in the future?

6. *Expenses and Cost of Operation – Section I-10*

The City should never approve this MOU or any future 28E Agreement until Section I-10 has clearly been defined and agreed upon. Section I-10 is critical and will have tremendous and long lasting impact on the taxpayers of the City of West Liberty. The details of this section along with examples of how it will work should be determined prior to the approval of this MOU or a 28E agreement.

7. *Maximum Levy Rate – Section I-11*

Section I-11 makes reference to the townships having a state imposed maximum tax levy rate. What happens if this maximum levy rate is not adequate to cover the township's "fair share" for the cost of fire protection services. What happens if the "donations and grants" are not adequate to cover townships' "shortfalls?" Who picks up the balance or covers the shortfall – the West Liberty tax payers? Perhaps, there needs to be some "protection" for the West Liberty taxpayers too. It appears to us that the West Liberty taxpayers might be expected to subsidize the township taxpayers under the terms of this MOU and possibly any future 28E agreement.

8. *Donations and Grants – Section I-11*

It is great to imply that "grants and donations" will cover township "Shortfalls. However, there is no guarantee that the 28E Agency will be successful in obtaining these grants and donations. Who takes responsibility "to raise funds?" What happens if the fund raising efforts are less than successful?

9. *Transfer of City Assets – Section II - 1*

The decision to transfer a city owned building, city owned equipment, and city owned trucks to a newly created 28E entity, regardless of its purpose and organizational structure, is a very serious decision that requires much thought and deliberation. The mere legality of such a decision must be reviewed and clarified. If a 28E Agency is eventually created, then perhaps a possible compromise would be for the City of West Liberty to "lease" the fire station and "lease" the trucks to the 28E Agency for a specified period of time.

If the 28E Agency works as well as some people have predicted, then a more permanent transfer of assets could be negotiated in the future. It is our opinion that it would be a real disservice to the taxpayers of West Liberty to basically "donate" or "give away" these assets to the new entity, without any guarantee that it will work, as planned. If needed, there needs to be a more acceptable and workable way for the City to regain ownership of the fire station and the City owned fire station and fire trucks so that another city owned fire department could be re-established.

Prior to approving this Section II-1 of the MOU, we would recommend that a complete inventory of all assets be completed so that the City Council and the taxpayers of West Liberty have a very clear understanding of what is being "donated" to this new 28E Agency. We also think it is important to place a value on these assets prior to any transfer.

10. *Withdrawal from the 28E Agency*

Section 11-2-6 is extremely concerning! The City would never be in a position to effectively withdraw from the 28E Agency, unless it was able to take back control of the fire Station Building and the fire trucks that were "donated" to the new 28# Agency. This section makes

reference to a “unanimous vote” of all members of the Board of Directors “to determine the settlement for a vested interest” of the entity withdrawing from the 8E Agency. That is not going to happen? If there was a request to withdraw, it would most likely be decided by “mediation,” which is not been clearly defined in this MOU.

It would be our warning to the residents of West Liberty that if the City Council approves this MOU as presently written, there is no “turning back” with no easy option to ever get out of this “marriage.” We would compare this MOU to a situation where you were considering marrying someone (who is currently suing you in a court of law) and then after you should marry this person, you could never divorce them. Who would “sign up” for that plan?

11. *Unanimous Consent For Termination – Section II -2-a*

Section II – 2a of the MOU makes reference to a “unanimous vote” of the Board of Directors of the 28E Agency to terminate the entity. Would this clause commit the City to a long term contract that would basically never allow the City to end this relationship and seek an alternative way to provide fire protection. This clause could be a real disservice to the future generations of West Liberty Council Members and citizens, who might someday decide to pursue a different way to provide fire protection services, such as a joint agreement with a nearby City to form a combined fire department.

The language in Section II-2-a requires some very careful review and though. We found that language to be complicated and confusing. Perhaps, an example with estimated “real numbers” might be helpful to the Council Members and West Liberty taxpayers so they could clearly understand how this plan would work under this “worst case scenario.” For example, let’s assume that the 28E Agency actually existed today and there was “unanimous vote” to terminate the 28E Agency, how would the assets be divided? Is it possible that the City of West Liberty could donate 95% of the assets and then only get back 50% of the assets in the future upon termination?

12. *The Audit of Assets – Section III*

We found the section on the auditing of assets to be both interesting and challenging. This audit and analysis will require much City Hall Staff time, expense, and effort. What happens if one party disputes the findings? Who selects the auditor?

We noted that the West Liberty taxpayers would have to fund the entire cost of hiring a Certified Forensic Examiner (CFE) to conduct this audit. How much will that cost the taxpayers? How long will it take? Why shouldn’t all the interested parties and entities share in the cost of this audit? What happens if one or more parties dispute the findings of this audit? Is the audit binding on all parties with no right to object to the findings? What happens if the Judge in the impending court case issues a ruling different or contrary to the CFE’s audit report?

We found the language in Section III to be very confusing and difficult to understand. We think it needs to be deleted or written in “layman’s terms.” There is a clause in Section III-1 that makes reference to “improperly paid” from amounts the City allocated to the Fire Department. What exactly does that mean? Who decides what was “improperly paid?” and can that decision be disputed by the City?

**Impending Lawsuit**

What impact will the lawsuit filed by Mr. Tharp have on this entire process? If we were in the City's position, we would think that the City would want a final Court ruling on this lawsuit prior to working out the details of creating a 28E Agency with the party that just filed a lawsuit against the City. Would the West Liberty Fire District be willing to withdraw this lawsuit prior to signing an MOU or forming a 28E Agency?

**Ability to Resolve the Issues**

We certainly agree with the second to last paragraph of Mr. Tharp's letter to Steven Haverkamp dated April 23, 2022 when he said that "it is not too difficult to resolve." There are many entities and cities that have had similar issues and disputes. This matter will eventually be resolved. However, it is critical that the "five elements of success" are in place for the successful conclusion of the negotiation process. (See Appendix D.)

**Potential Loss of Some Volunteers**

We definitely recognize, appreciate, and acknowledge the invaluable contributions of all volunteer firefighters. We are confident that all City Council Members, City Employees, citizens, and taxpayers have this same level of appreciation and support. Every firefighter makes a personal decision as to whether they want to serve their community as a volunteer fire fighter. We commend them for that commitment.

It is quite possible that the final outcome of these discussions may result in the decision of some volunteer fire fighters to discontinue their service. That would be very unfortunate and would negatively impact the fire department and the West Liberty community. While we cannot predict the future, we suspect that if the current discussions are not successful, then some volunteers may leave. But, some volunteers may stay too. If some volunteer fire fighters decide to leave, then other residents may also accept the "call" and volunteer to serve.

We cannot imagine a situation where all the volunteers will resign and leave their friends, neighbors, and relatives without fire protection for even one minute. That is not who they are. They love their community and their fellow residents or they would have never volunteered to serve as a fire fighter in the first place.

**Final Comments**

We "teamed up" with George Oster in 2000 and wrote a manual for fire protection services, which was called Response 2020. The Iowa League of Cities (ILC) reviewed the content of the Response 2020 Report in 2018 and updated the report and re-named it as "Special Report – Fire and Emergency Response Services in Iowa." This Special Report can be accessed on the Iowa League of Cities website by referencing – "Resources" and then "Publications." It is highly recommended that all interested parties review this report and all the Appendices.

The (ILC) Special Report referenced above contains a section on the possible funding formula for financing fire department operations. This formula includes three factors – population served, taxable valuation of property protected, and number of calls – for all entities served by the fire department. (See Appendix E.)



The "bottom line" regarding this MOU, as presently written, is that it currently contains far too many "red flags" for us to recommend the approval of this MOU to the West Liberty Council. We do not think that the proposed MOU, as presently written, would be in the best interest of the current and future taxpayers and citizens of West Liberty.

Lastly, this report was prepared in "record time" with a limited amount of time to ponder all issues and possible solutions. We trust and hope that it has met the City's needs and expectations. If we are given some additional time to "fine tune," this report, we may include more observations and suggestions. We would like to thank City Clerk Lee Geertz for her timely response to our requests for information.

Callahan Municipal Consultants, LLC  
Patrick Callahan, Municipal Consultant

# TITLE 4

## FIRE REGULATIONS

### CHAPTER 1

#### FIRE DEPARTMENT

##### SECTION:

##### 4-1-1: Members

##### 4-1-2: Application For Membership

##### 4-1-3: Organization

##### 4-1-4: Officers

##### 4-1-5: Chief Of Fire Department, Duties

##### 4-1-6: Assistant Chief, Duties

##### 4-1-7: Department Members, Duties

##### 4-1-8: Authority To Require Aid

##### 4-1-9: Rules For Firefighters, Pedestrians And Drivers

##### 4-1-10: Parking Distance From Fire

##### 4-1-11: Prohibited Acts

##### 4-1-1: MEMBERS:

The Fire Department of the City shall consist of one volunteer fire company of as many members as the City Council shall, from time to time by resolution, direct. (1975 Code § 4-1-1)

##### 4-1-2: APPLICATION FOR MEMBERSHIP:

Any able-bodied person who works and/or lives within the City limits desiring to become a member of the Fire Department shall make application in writing to the secretary of the Fire Department who shall submit the same to the Fire Department for approval or rejection. (1975 Code § 4-1-2; amd. 1998 Code)

##### 4-1-3: ORGANIZATION:

The Fire Department may adopt such constitution, bylaws, rules and regulations for its government as the members thereof may deem best adapted to accomplish the objects of the Department, subject to the approval of the City Council and subject to the laws of the State and the provisions of this Code. (1975 Code § 4-1-3)

##### 4-1-4: OFFICERS:

A. Fire Chief: The City Council shall elect from the members of the Fire Department a Chief of the Fire Department, and in so doing shall elect such person as may be recommended by the members of the Department, provided such recommendation commends itself to the judgment of the Council.

B. Officers Of Department: The members of the Department shall elect annually from among their own number an Assistant Chief or Chiefs, secretary, treasurer and such other officers as they may require in accordance with the constitution or bylaws of the Department and in the manner provided therein. (1975 Code § 4-1-4)

##### 4-1-5: CHIEF OF FIRE DEPARTMENT, DUTIES:

A. General Supervision: The Chief of the Fire Department shall have the general supervision of the Department, subject to such limitations as the City Council may prescribe.

B. Annual Report To Council: He shall report in writing to the Council, within the first quarter of each year, everything in connection with the Department which will be of interest to the Council, the condition of the hose, hooks and ladders, chemical engine and other fire apparatus, and shall recommend such alterations, repairs and additions to such apparatus as he shall deem expedient.

C. Furnish List Of Members; Years Of Service: He shall furnish the Council at the same time a list of the members of the Department in good standing. He shall report at the same time the names of all persons who have served as members for ten (10) years.

D. Equipment Maintenance; Report To City Manager: He shall, whenever he finds any hydrant, hose or other fire apparatus out of order or in need of repair, forthwith report the fact to the City Manager.

E. Dismissal Of Members: He may dismiss any member of the Department for insubordination or inefficiency, and such dismissal

## APPENDIX A

It shall be the duty of the Assistant Chief to assist the Chief, obey his orders and in the absence of the Chief to take command and perform the duties imposed upon the Chief by law, ordinance, regulation or the bylaws of the Department. (1975 Code § 4-1-6)

**4-1-7: DEPARTMENT MEMBERS, DUTIES:**

It shall be the duty of the Fire Department to attend to and keep in proper order and repair the fire apparatus committed to its charge and the room in which the same is kept. All hoses, ladders, buckets, engines and other apparatus, when not in use, shall be kept in the fire station and in no other place. (1975 Code § 4-1-7)

**4-1-8: AUTHORITY TO REQUIRE AID:**

It shall be lawful for the Chief of the Fire Department or Assistant Chief or officers in command of any hose, hook and ladder, wagon or engine or for the Mayor, and Councilperson or any member of the Fire Department to require the aid of any driver with a vehicle or any bystander, citizen or other person in conveying any hose, truck or engine or other fire apparatus to or from a fire, or otherwise assist in the removal, care or preservation of property at any fire. The bill for utilization of mutual aid in the amount reasonable under the circumstances will be paid by the City upon approval of the person ordering the same. (1975 Code § 4-1-9; amd. 1998 Code)

**4-1-9: RULES FOR FIREFIGHTERS, PEDESTRIANS AND DRIVERS:**

A. Compliance With Traffic Regulations: All fire trucks when proceeding to a fire shall not exceed such speed as set by the State Traffic Code, and when returning to the station shall comply with the traffic rules applicable to all other vehicles.

B. Sounding Sirens; Right Of Way: When proceeding to a fire, the firefighters shall sound their sirens or bells and shall have the right of way on all streets, avenues or alleys over any automobiles, wagons, locomotives or other vehicles or conveyances. When the siren or bell is sounded, drivers of all vehicles shall immediately stop as near the curb as possible and clear of any intersection and remain in that position until the right of way of the fire trucks has been assured.

C. Pedestrians: All pedestrians along the streets on which the trucks are passing shall remain on the sidewalks and away from the street intersections. (1975 Code § 4-1-11; amd. 1998 Code)

**4-1-10: PARKING DISTANCE FROM FIRE:**

No person shall follow closer than five hundred feet (500') or park within the block where the fire apparatus is stopped or while the Fire Department of the City is engaged there in performance of its duties of extinguishing a fire. (1975 Code § 4-1-12; amd. 1998 Code)

**4-1-11: PROHIBITED ACTS:**

A. Removal Of Apparatus Prohibited: No member of the Fire Department shall take or permit to be taken away from the engine room, and no other person shall take away from the engine room with or without permission, any of the apparatus provided for use in case of fire, except to be used in case of fire or in practice work of the Department. (1975 Code § 4-1-8)

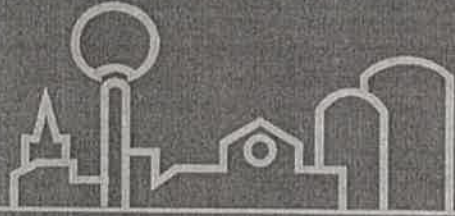
B. Injury To Fire Equipment: No person shall wilfully offer any hindrance to any officer or firefighter in the performance of his duties. No person shall wilfully deface, injure or destroy any of the fire equipment or apparatus whether the same be then in use or not. (1975 Code § 4-1-10)

C. Private Use Of Fire Equipment: No person shall take or use any truck, equipment or apparatus belonging to the Fire Department for private use. No member of the Department shall take any fire truck outside the City limits without orders to that effect from the Chief of the Fire Department. (1975 Code § 4-1-13)

D. False Alarms: No person shall give, make or cause to be made any false alarm of fire or police, or ring or cause to be rung any fire bell, siren or gong by which a false alarm of fire may be given. Anyone violating this provision shall, upon conviction, be subject to a misdemeanor. (1975 Code § 4-1-14)

E. Driving Over Fire Hose: No person shall drive or run any automobile, wagon, truck, locomotive or other vehicle across or upon any fire hose. (1975 Code § 4-1-15)

# APPENDIX B



Iowa League of Cities

## Special Report

### Fire and Emergency Response Services in Iowa

The League thanks all of those who contributed to this special report. We give special recognition to Patrick Callahan and George Oster, their knowledge and expertise was invaluable to the development of the report.

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A core, essential function of municipal government in Iowa is providing fire and emergency services. Doing so helps protect residents and property from harm while promoting the long-term viability of a community.

Cities have a variety of options for providing these services, from simply contracting with another entity to having fully-staffed city departments. This report will review the requirements cities have under the *Code of Iowa*, how fire and emergency services are provided and best practices for working with partners in the efficient delivery of those vital services.

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*Cities are encouraged to consult their city attorney to review any existing and proposed ordinances, policies and agreements regarding their fire and emergency response services.*

## ***Part I: Methods of Providing Fire and Emergency Services***

The *Code of Iowa* requires all cities (Section 364.16) and all townships (Section 359.42) to provide fire protection. Emergency medical services (EMS) and other emergency response (such as rescue and hazardous materials spill response) may also be provided, but are not required.

Under Section 364.16, each city must “provide for the protection of life and property against fire and may equip, staff, uniform and maintain a fire department.” The state code further explains that cities have the ability to adopt regulations on the storage, use and transportation of flammables, inspect and abate fire hazards, establish conditions for which a city fire department will answer calls outside city limits and more.

Importantly, the *Code* requires cities to provide for fire protection but leaves open the method for how the service is delivered. The state code regarding township fire protection is much the same, leaving township trustees the option of selecting how to provide the service. Cities and townships have developed a variety of ways of providing this essential service as each community tries to find the most efficient way of providing quality service. Below are 10 ways fire protection can be offered, along with additional services:

- ***City service*** – City establishes a department to provide fire and/or emergency services
- ***Township service*** – Township establishes a department to provide fire and/or emergency services
- ***Corporation*** – Corporation (either nonprofit or for-profit formed under the *Code of Iowa*) provides emergency services through a 28E contract to a city or township
- ***Benefitted Fire District*** – Taxing district established prior to 1975 to provide fire protection (*Code* Chapter 357B)
- ***City Emergency Medical Services District*** – Taxing district established to provide EMS service to a city (*Code* Chapter 357G)
- ***County Emergency Medical Services District*** – Taxing district established to provide EMS service to township and unincorporated area (*Code* Chapter 357G)
- ***28E agency*** – Two or more cities and/or townships form separate government agency under the provisions of Chapter 28E of state code
- ***Contracted service*** – City, township or county contracts (following the provisions of Chapter 28E) to provide service for a city, township, 28E agency, corporation or benefitted district
- ***Mutual Aid agreement*** – City, township, 28E agency, corporation or benefitted fire district agrees to assist other city, township, 28E agency, corporation or benefitted district, on an as-needed basis with no fees (mutual aid agreements are usually developed countywide)
- ***County resolution*** – County board of supervisors assumes responsibility for fire protection in a specific township and contracts with a city, township, 28E agency, corporation or benefitted fire district (*Code* Sections 331.385 and 331.424)

*It is common across Iowa for cities and townships to utilize volunteer firefighters and emergency responders for such services. Some cities staff their fire and/or EMS departments with career (salaried) personnel along with volunteers. Each city that operates a fire and/or EMS department should determine the best way to staff its department. Part IV of this report offers guidance on recruiting, retaining and training volunteers.*

#### **Establishing a City Fire/Emergency Services Department**

The enactment of an ordinance that establishes a fire, EMS and/or emergency response department will define the duties and responsibilities of the department, its personnel (including the appointment of a fire chief), how the department will operate and clarify the overall purpose of the department. Most importantly, it defines the city is legally responsible to manage and finance the department. Along with providing the establishment of a department, city ordinances should also describe how workers' compensation and other insurance coverages will be managed.

#### **Establishing a Fire/Emergency Services Department as a Corporation**

Fire, EMS and other emergency services may also be provided by a corporation. The corporation may be nonprofit or for-profit. For-profit corporations currently offer EMS services in many Iowa communities.

Some communities are served by nonprofit fire departments. If a group of firefighters or EMS providers wish to form a nonprofit corporation to provide protection and service (above and beyond fundraising and social activities), they must form a corporation under the provisions of Chapter 504 of the state code and apply for tax exempt status from the Internal Revenue Service (IRS) under the provisions of section 501(c)(3) of the tax code.

Providing fire protection and EMS service using this method is somewhat complex and requires a great deal of work on the part of the volunteers, who must not only provide the service but must manage all funds, purchase and operate the station and vehicles, provide the various insurance coverages needed and completely manage the fire and EMS department. The only responsibility of a city or township is to contract and pay for the service from the corporation.

It should also be noted that such corporations are required to account for all funds and expenses as well as be subject to auditing requirements and annual filings with the IRS.

#### **Benefited Fire Districts**

In Iowa benefited districts are special taxing districts for providing a specific service to the public. Until 1975, the state code permitted the creation of benefited fire districts (see Chapter 357B). After townships were given responsibility for fire protection in that year, no new benefited fire districts were allowed. There are approximately 55 remaining benefited districts and their authority replaces the authority of cities and township with regard to providing fire protection.

In 1995, the state legislature authorized formation of EMS districts. They may be formed in cities under the authority of Chapter 357G and in areas outside incorporated cities by Chapter 357F.

Benefited fire districts offer the ability to provide a service district with a critical mass of political, economic, social and financial capital and deliver a high-level of service. Further, they place the decision making at the local level and provide taxing and bonding authority.

### Using 28E Agreements for Fire, EMS and Emergency Services

Chapter 28E of the *Code* is a particularly useful tool for cities, townships and counties. It provides authority and guidance in various methods to share resources, provide services and develop new agencies for a public purpose. Virtually every city and township in Iowa uses some type of 28E agreement.

With regard to emergency services, Chapter 28E provides authority and guidance in three ways:

- **Share resources**  
Governmental entities may use 28E to develop mutual aid agreements, which make resources of one agency available to all others on an as needed basis.
- **Provide services**  
One entity, with the ability to provide a service, may contract with another entity to provide the service. The contract benefits both agencies because it spreads the cost of service over a greater population and provides service to an area which otherwise might be unable to provide service. The most common example in emergency services is the contract between a township and a city in which the city provides fire and/or EMS.
- **Form an agency**  
Two or more entities may join together to form a separate governmental body (called an “agency” or “28E agency”) to provide a service. An example is one city and three townships (four governmental entities) joining together to form a new, separate agency. A written charter forms the agency. In the case of a fire or EMS department, neither the city nor any of the townships are the legal parent for the department. The new agency is the legal authority and the department is operated by the agency, whose board of directors consists of members of the city and three townships. Any number of entities may join together to form a 28E agency. One disadvantage to a 28E agency is the inability to levy taxes or bond. This authority remains with the individual governmental bodies that comprise the agency.

The state code requires all 28E agreements to include the following items:

- The agreement, contract or charter between governing agencies must be executed in writing
- The document must, at a minimum, specify:
  - Duration of the agreement
  - The precise organization, composition and nature of any separate entity created and the powers of such entity
  - The purpose or purposes of the agreement
  - The manner of financing the joint or cooperative undertaking
  - The manner of establishing and maintaining a budget
  - The permissible methods to be used to partially or completely terminate the agreement
  - The permissible methods to be used to dispose of any property upon such termination
  - Any other necessary and proper matters
- The agreement, contract or charter must be filed electronically with the Iowa Secretary of State

In addition to the required elements, a 28E agreement may include an advisory board. To ensure good communications between all parties, an advisory board is highly recommended and should be instituted as part of the agreement.

### **County Resolution to Assume Emergency Services Responsibility**

A county may assume the responsibilities for fire and EMS services in a specific township and establish an emergency services fund for paying for such service. *Code* Section 331.385 permits this type of action, which was enacted for use when a township is not fulfilling its obligations.

A county that is providing fire protection service or emergency services to a township pursuant to Section 331.385 shall establish an emergency services fund and may certify taxes not to exceed \$.6075 per \$1,000 of the assessed value of taxable property located in the township. The county has the authority to use a portion of the taxes levied and deposited in the fund for the purpose of accumulating moneys to carry out the purposes of fire protection and emergency services.

### **Rural Fire Boards and Associations**

Prior to 1975 (when townships were first required to provide fire protection), many “rural fire boards” and “rural fire associations” were established to help rural residents contract for fire protection. Some of these fire boards and associations continue to exist today and have, in some cases, assumed the authority and responsibility of the township trustees. They may collect money from townships and negotiate a fire and/or EMS contract with a city.

Generally, there is no legal foundation for such rural fire boards and associations. This provides doubtful liability protection for the members of the board and, most importantly, provides no accountability. Further, cities and townships have a legal obligation to contract in writing for fire protection and EMS. It is suggested that such fire boards and associations either disband, establish as a legal entity to represent the townships (usually by incorporating as a nonprofit corporation or establishing a 28E agency) or establish the board or association as an advisory (only) board within the framework of a legal contract between the city and each township.

## ***Part II: Collaborating with Partners to Provide Services***

The working relationship between city officials, fire department personnel, emergency response department personnel and township trustees is an important factor in providing fire and emergency services to citizens. This partnership between city, township and department personnel sets the tone for delivery of services.

The type of relationship between these three groups can vary to a great degree. The relationship in some communities is one of mutual trust, respect, a cooperative spirit and a common goal of providing the best level of service in the most efficient way possible. However, the relationship of these same three groups in other communities can be described as one of mistrust, little or no mutual respect and a feeling that one entity is getting the better end of the deal.

Issues can arise in a variety of ways when collaborating to provide needed services. The following identifies potential areas for conflict as well as ways to resolve differences and build fulfilling partnerships.

### **Communication**

As in many instances where individuals or groups are not working together, a portion of the problem is caused by a lack of or poor communication. The relationship between city officials, township trustees, and fire/EMS personnel can be greatly improved with better communication. In order to improve this partnership, all three groups must make a sincere effort to improve communications and gain a better understanding of each other's needs. All three must communicate on a regular and ongoing basis. Most importantly, all must acknowledge that there is not “city protection” and “township protection”. There is an emergency response area in which there is an agency providing protection and service.



Communication can include both regular meetings of all the stakeholders in fire suppression and emergency response services as well as timely reports and summaries of activities. The reports can include financial statements, calls for service and other important activities provided by all three entities. Further, communication can be significantly improved by establishing a good, legal foundation for the services and activities of the department, city and township. Including a provision for an advisory board in 28E agreements is an excellent first step in ensuring good communication.

Effective communication requires a basic framework that clearly defines what is expected of all parties. The delivery and financial support for fire and emergency response services generally requires the following basic documents:

- Legal document creating a fire, EMS and/or emergency response department
- Written service contracts (meeting 28E requirements)
- Management by the city of public funds
- Organization of a firefighters nonprofit corporation (often called an association) and management of any donated funds
- Equitable and reasonable funding or cost-sharing formula for services
- Annual budget reports for the department
- Annual financial reports from all entities
- Annual service call reports

Developing these documents will help all parties understand their role in the partnership and the services being provided. It is also recommended to schedule regular meetings to review finances and services as well as discuss any needed changes to the agreement.

### **Funding**

Many of the disagreements between cities, townships and departments regarding fire suppression, emergency medical and other emergency response services can be found in the funding of these services. Control of the funds and how much money each entity should pay for services are often the main questions. An accounting of the funds that have been spent is often of concern or subject for discussion, too.

Volunteer departments also solicit money from local citizens through direct appeals for donations and various fundraising activities, such as pancake breakfasts, dances and the like. In some cases, fire and EMS departments charge fees for services. Funds raised from these efforts must be placed in the city's general fund and may not be managed by the department. The money so raised can be a source of contention, as there may be disagreements regarding the control and use of the money, proper accounting of the funds and the use of public resources to generate the funds.

These issues can be resolved by the volunteers forming a public-benefit, nonprofit corporation to perform the civic, social and fundraising activities of benefit to the community. Nonprofit corporations may also apply for grants, including some grants not available to local governments. When such a corporation is established by volunteers, it must conform to all requirements for such organizations. Further, due to its special relationship with the city it has an obligation to inform the public of their finances and activities.

With that in mind, a successful collaboration among local entities must include agreed upon funding and accounting standards. Each entity must clearly understand its role in the partnership and in particular its fiduciary responsibilities. Part III provides more guidance on properly managing and accounting fire and emergency services funds.

### ***Part III: Managing and Accounting for Fire and Emergency Services Funds***

A fundamental aspect of municipal government in Iowa is that any funds generated by taxes, contracts, fees, grants, donations and other sources must be managed by the governing body. The most common form of management for emergency services in Iowa is a city service. Therefore, the example used in this discussion will focus on a department formed by a city. However, most of the recommendations and practices described pertain to other forms of governance.

In general, city councils should establish the following practices for managing fire and emergency services funds:

- Ensure city's financial officer is in charge of managing the funds (this is often the city clerk)
- Levy taxes for emergency services
- In cooperation with the department and partnering townships, develop a budget for the department
- Negotiate a fair share of costs with other cities and townships for which service is provided
- Negotiate a 28E agreement with townships and other cities for fire and emergency response services
- Establish an "emergency services account" within the general fund
- Establish reserve funds for capital or large item replacement (such as vehicles and stations)
- Establish a policy to roll over surplus funds from each year's budget into the next year's budget or into a reserve fund
- Develop a good financial relationship with the firefighters/EMS nonprofit corporation/association (including an agreement to provide corporation/association financial statements in city audits or financial examinations since many cities are now required to include them as a component unit)

#### **Annual Fire/EMS Department Budget (as part of the city budget)**

The fire and/or EMS department should develop a comprehensive and detailed annual budget that identifies all expenditures and estimated revenues. Remember, a budget is a plan of how resources will be utilized. At a minimum the budget report should have three columns of revenues and expenditures for the following three fiscal years:

1. Actual expenses and revenues for the most recently completed fiscal year
2. Estimated expenses and revenues for the current fiscal year
3. Proposed expenses and revenues for the upcoming fiscal year

The proposed department budget should be as detailed and complete as possible. It should include all expenses for wages and benefits, training and instruction, liability insurance, property insurance, vehicle insurance, malpractice or errors and omissions coverage, workers' compensation insurance, supplies, equipment, utilities and vehicles. It should contain annual appropriations to vehicle, truck, equipment and building replacement funds. The revenue side of the budget should include a listing of all anticipated revenues including city general fund support, township fees (from contracts), refunds, donations, sales of equipment, interest on investments and any other sources.

#### **Annual Financial Reports**

One of the most important documents needed to inform all stakeholders of a department's fiscal condition is an annual financial report. The financial report should list all expenditures and revenues and beginning/ending account balances. It should also include similar reports for any equipment and truck replacement funds and building depreciation accounts.

It is also very important that the township trustees provide a similar annual financial report to all stakeholders or interested parties. The township financial report should include the following items:

- Current property tax levies for fire and emergency response services
- Total amount of all revenues generated during the fiscal year
- The disbursement of funds to all departments that serve the township
- The beginning and ending fund balances of township accounts
- The investment of reserve funds controlled by the township trustees

#### **Audit Reporting of Component Units**

During an audit auditors request and report information based on requirements from the Governmental Accounting Standards Board (GASB). Based on the GASB criteria, auditors review information, such as articles of incorporation and bylaws, of separately-established fire associations to determine whether or not they are required to be reported as a component unit of a city (i.e., as part of a city's "financial reporting entity"). GASB statements apply to all state and local governmental entities (in all 50 states) – this is not unique to Iowa.

The concept of "financial reporting entity" encompasses a government's responsibility to report financial activity pertaining to the public services provided, no matter how those services are paid for. When an organization exists entirely or almost entirely, to financially support or help a government provide certain public services, GASB requires the financial activity of those organizations be reported as a component unit of a government's financial reporting entity (i.e., be included in the audit report for that government).

Financial information included in a city's audit does not affect or change the separate legal status of a separate fire association as a nonprofit organization. The association is not a "department" of the government and is not subject to open meetings or other laws. Also, the association's financial information is not required as part of the city's budget or the annual or monthly reports.

If the association is determined to be a component unit of the city, failure to include the financial information in the city's audit could result in a modified opinion on the city's financial statements. Financial advisors have indicated a modified opinion could result in a reduction in the government's bond rating or increase interest rates paid on debt issued.

#### **Service Calls, Equipment Usage and Volunteer Time Reports**

Fire and emergency services departments need to report their activities to all stakeholders. This requires the department to maintain accurate records on the number of calls, hours of calls and type of calls by location. There should be a breakdown of the calls between the city and the individual townships, maintained by the department. This also helps describe the wide range of services provided and the usage of equipment in the delivery of services.

Another useful report that can be maintained is the number of hours contributed by volunteers. This should be kept for time spent in the station or "on-duty" and other hours spent (such as attending training out of town). Keeping a report for on-duty or station time can be helpful for insurance ratings since volunteers in a station or at a scene can be counted as full-time employees if enough time is accrued during a year.

These time reports can also be translated into dollars saved by the community. This is done by multiplying a dollar factor times the hours spent. For instance, if your volunteers contributed 7,800 hours in a year (this is only 6 hours per week per volunteer in a 25-person department) and the time was valued at \$10 per hour, the volunteers contributed \$78,000 in time to the city.

### Cost Sharing Among Cities and Townships

One of the critical aspects of providing fire suppression, medical and other emergency response services is establishing an equitable and reasonable formula for cost sharing among several taxing bodies (such as cities and townships). A rational, three-factor formula giving equal weight to population, assessed property valuation and the number of emergency calls is recommended to determine the allocation of costs for fire suppression, medical and other emergency response services provided to participating entities. It is important to note the use of the three-factor formula for funding the department requires accurate and current information on the location of service calls, assessed property valuations and populations.

Keep in mind, there is no perfect formula for determining a fair share since fairness is often in the eyes of the beholder. However, this formula is a rational approach and uses factors that can be objectively measured. It uses the best and most accurate figures available to put all partners on a level playing field. A summary and example of a recommended cost-share formula is available in the appendix.

### Fire Account within the General Fund

One of the most common roadblocks to preparing a financial report for the fire department is the fact that city fire and/or emergency services department budgets are contained and made a part of the general fund. The city's general fund includes many different activities and departments such as police, fire, public works, library, parks, recreation and administration. Most cities operate these different departments and services under the general fund. Therefore, it can be challenging for a city clerk to prepare a separate financial statement for just one department, such as the fire or EMS department.

The city's auditors often combine these activities within one statement known as the "General Fund Report". Since these departments are often combined under this one umbrella, there are no fund balances for the various city departments such as police, fire, parks and streets.

The city's accounting system and financial recording keeping is largely mandated by the Iowa Department of Management. However, the city does have some flexibility as to the degree of detail that can be provided by the city's internal accounting system. The *Code of Iowa*, for example, does not prohibit cities from establishing "departmental accounts" within the general fund. The creation of a fire and/or emergency services department account within the general fund makes it easier to access information and to provide the data needed to review revenues and expenditures pertaining to fire and emergency response services. While it may require some additional time to create and maintain a separate account, it is a legal and advantageous option.

A beginning and ending account balance can be maintained within the general fund for the fire and emergency services department. All expenditures and revenues for fire suppression, medical and other emergency response services can be listed within this special account which can continue to be a part of the city's general fund. The city's audit could also break out these numbers as a special account within the general fund.

If the city's accounting system is set up with a separate account for fire and emergency services, it will provide all interested parties with a complete and understandable financial picture. The reward for this additional staff time will be better informed officials and an improved understanding of the cost of providing the services. Hopefully, it will also enhance the working partnerships of the city officials, township trustees and fire/EMS personnel.

It is important to determine how to handle any surplus funds that are available if a department does not spend all allocated funds in a fiscal year. Cities are able to use such funds in different ways, although many have found it wise to roll surplus funds into a department's next fiscal year budget and/or into a reserve or replacement fund designated for future capital needs (rather than hastily spending remaining funds before the end of the fiscal year). This type of financial arrangement should be established in a policy approved in a resolution by the council.

#### **Building/ Truck/ Equipment/ Replacement Funds**

The operation of a fire and/or emergency services department requires the occasional purchase of very expensive items such as tankers, pumpers and fire stations. Given the cost, it is extremely important that cities and townships plan in advance for these expenditures.

Cities should establish truck replacement funds, equipment replacement funds and building depreciation funds. Cities should make annual transfers to these funds so that money is available to purchase trucks and equipment needed to provide quality services. If replacement or depreciation funds are not established and adequately funded, city and township officials will likely be faced with a difficult choice of either borrowing large sums of money to purchase these items or continuing to delay the purchases. As a result, the level of services could decline, it may become more difficult to recruit volunteers, and the reputation of the department and the community could diminish.

Note that if the city has established such a replacement fund as part of its budget and the city and townships are using the cost-share formula, then all partners are paying their share of future trucks and stations on a proportional basis.

#### **Financial Planning and Reviews**

While it is important to prepare written reports and financial statements regarding the fire and/or emergency services department, there is no substitution for periodic meetings among city officials, township trustees and department personnel. Therefore, it is highly recommended that annual meetings (or more) are scheduled of all the stakeholders involved with fire suppression, medical and other emergency response services. An advisory committee is also recommended as part of the contract between the city and each township. The best time to schedule an annual meeting is in the late fall of the year prior to the preparation of the next fiscal year budget.

The meeting could include reports on such topics as the department financial status, department accomplishments, data on calls, future needs of the department, trends in fire protection, condition of trucks and equipment, training of personnel, township financial report, and upcoming budget preparations.

## ***Part IV: Recruiting, Retaining, Training and Equipping Volunteers***

It is common for cities, townships and other entities to utilize volunteers to provide fire and emergency services. Many departments are staffed entirely with volunteers while some include a combination of volunteers (both unpaid and stipend-paid volunteers); paid on-call; and paid, professional members. With that in mind, it is imperative to find ways to recruit new volunteers, retain current members and ensure all firefighters and responders receive adequate training.

Recruiting volunteers is challenging for most communities as the demands of fire and emergency response services can narrow the pool of interested residents. Even so, cities, townships and other entities must make continual efforts to attract new members to help provide these essential public services. Effective recruitment includes frequent advertisements and notices in the local newspaper, utilizing social media and Web sites to announce recruitment drives, hosting open houses and other events to prospective volunteers, working with school districts to inform a community's youth of volunteer opportunities and more.

Retaining current members is equally important as veteran firefighters and emergency responders often possess the necessary training and experience to provide quality service. They can also help educate the next generation of volunteers while some may become leaders of the department. Retention of these valuable veterans can be done in several ways, but for many volunteer departments a simple recognition of their service is most appreciated. City council members and other city officials should develop ways to periodically recognize the contributions of volunteers and show their gratitude for providing essential services to the community. Additionally, cities should review available retirement fund options that are designed specifically for volunteer firefighters and responders.

Staffing a fire and/or EMS department with volunteers and professionals is vital to managing a successful department. Another important element is ensuring all members are sufficiently trained. In Iowa, any member of a fire department must complete training requirements identified in the job performance requirements for the Firefighter I classification by the National Fire Protection Association (NFPA) and meet continued training standards throughout their career. Similarly, those providing emergency medical services must meet minimum training standards.

Providing fire protection and emergency response services also requires a variety of equipment, gear, vehicles and apparatus. Not only does this equipment help provide services, it also keeps firefighters and emergency responders safe. City officials must understand the need to maintain the equipment necessary to do the job while working with department personnel and service partners to budget and fund future upgrades.

Cities, townships and other entities operating fire and/or EMS departments should recognize the need to recruit, retain and train its volunteers. In most cases, the members of a fire or EMS department volunteer to help provide a needed community service and make personal sacrifices to join a department. An adequate investment in city funds, resources and support will help build an effective and responsive department.

### ***Part V: Participating in Civic and Social Activities***

In addition to being a legally constituted department of a city, township or agency, fire and/or emergency services departments also serve important civic and social roles. They serve as focal points for many community activities and the members are often leaders in the community.

In many cases, the members of a department also perform fundraising activities. Sometimes, they manage the money raised by fees for service. It must be understood that *Code* Section 384.3 requires all money generated by a city (including city departments) through taxation, fees, donations, contracts and any other way, must be deposited in the government's general fund. Most commonly, this means the money goes into the city general fund and is managed by the city clerk under the direction of the city council.

In addition, there are a variety of grants available from foundations and corporations for fire and EMS services. However, some grants are not available to governmental agencies (such as cities and townships).

In recognizing the civic and social aspect of emergency services as well as providing a method for the department members to perform fundraising activities, manage donations and obtain grants, it is critical to separate the department members' social and civic activity from the governing body and its official functions. Activities should be separated legally, functionally and financially.

To this end, a fire and/or emergency service responders' association can be developed as a separate, legally-incorporated organization as a nonprofit corporation. These nonprofit corporations are often called "associations", although they are technically nonprofit corporations. To be legally incorporated under Chapter 504 of the state code as a nonprofit corporation, articles of incorporation and bylaws must be written and filed with the Secretary of State.

Further, the nonprofit corporation must file for tax-exempt status from the IRS under Section 501(c)(3) and obtain the corporation's own Employer Identification Number (EIN). Such filings provide a structure for managing the funds, and associations have the ability to account for their funds. It also provides donors, particularly corporations and foundations, a tax-exempt entity to donate money or provide grants.

### ***Part V: Appendix***

The following is a list of sample items that may be helpful in managing a local fire and/or emergency services department. These documents serve only as samples and will need to be modified to meet specific circumstances.

- City ordinance to establish a fire/EMS/emergency services department
- 28E agreement for mutual aid
- 28E agreement for fire, EMS and emergency services
- 28E agreement with charter to create agency
- Fire/EMS department financial report
- Township financial report
- Cost sharing formula for fire/emergency services
- Resolution to establish fire/EMS/emergency services account
- Resolution to establish vehicle replacement trust fund
- Resolution to establish building replacement trust fund

*Cities are encouraged to consult their city attorney to review any existing and proposed ordinances, policies and agreements regarding their fire and emergency response services.*



# APPENDIX C

## **364.16 Municipal fire protection.**

Each city shall provide for the protection of life and property against fire and may establish, house, equip, staff, uniform, and maintain a fire department. A city may establish fire limits and may, consistent with code standards promulgated by nationally recognized fire prevention agencies, regulate the storage, handling, use, and transportation of all flammables, combustibles, and explosives within the corporate limits and inspect for and abate fire hazards. A city may provide conditions upon which the fire department will answer calls outside the corporate limits or the territorial jurisdiction and boundary limits of this state. A city has the same governmental immunity outside its corporate limits when providing fire protection as when operating within the corporate limits. Fire fighters operating equipment on calls outside the corporate limits are entitled to the benefits of chapter 410 or 411 when otherwise qualified.

[R60, §1058, 1096; C73, §457, 525; C97, §711, 716; S13, §711; C24, 27, §5760, 5766; C31, 35, §5760, 5766; C39, §5760, 5766, 5766.1; C46, 50, §368.23, 368.29, 368.30; C54, 58, 62, 66, 71, 73, §368.11; C77, 79, 81, §364.16]

92 Acts, ch 1163, §84

Referred to in §357B.8, 357J.15

## **384.1 Taxes certified.**

A city may certify taxes to be levied by the county on all taxable property within the city limits, for all city government purposes. However, the tax levied by a city on tracts of land and improvements thereon used and assessed for agricultural or horticultural purposes, shall not exceed three dollars and three-eighths cents per thousand dollars of assessed value in any year. Improvements located on such tracts of land and not used for agricultural or horticultural purposes and all residential dwellings are subject to the same rate of tax levied by the city on all other taxable property within the city. A city's tax levy for the general fund shall not exceed eight dollars and ten cents per thousand dollars of taxable value in any tax year, except for the levies authorized in section 384.12.

[C97, §616, 890; S13, §616; C24, 27, 31, 35, 39, §6210; C46, 50, §404.4; C54, 58, 62, 66, 71, 73, §404.1, 404.2, 404.15; C75, 77, 79, 81, §384.1]

89 Acts, ch 296, §39

Referred to in §331.263, 357B.8, 357J.15, 373.10, 384.12, 384.15A, 386.8, 386.9

SUBCHAPTER V  
EMERGENCY SERVICES

**359.42 Township fire protection service, emergency warning system, and emergency medical service.**

Except as otherwise provided in section 331.385, the trustees of each township shall provide fire protection service for the township, exclusive of any part of the township within a benefited fire district and may provide emergency medical service. The trustees may purchase, own, rent, or maintain fire protection service or emergency medical service apparatus or equipment or both kinds of apparatus or equipment and provide housing for the equipment. The trustees of a township which is located within a county having a population of three hundred thousand or more may also establish and maintain an emergency warning system within the township. The trustees may contract with a public or private agency under chapter 28E for the purpose of providing any service or system required or authorized under this section.

[C31, 35, §5570-c1; C39, §5570.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §359.42; 81 Acts, ch 117, §1076]

84 Acts, ch 1008, §1; 85 Acts, ch 205, §1; 95 Acts, ch 123, §1; 2004 Acts, ch 1146, §5  
Referred to in §331.385, 357B.5, 357J.17, 359.17, 359.43

**359.43 Tax levy — supplemental levy — districts.**

1. The township trustees may levy an annual tax not exceeding forty and one-half cents per thousand dollars of assessed value of the taxable property in the township, excluding property within a benefited fire district or within the corporate limits of a city, for the purpose of exercising the powers and duties specified in section 359.42. However, in a township having a fire protection service or emergency medical service agreement or both service agreements with a special charter city having a paid fire department, the township trustees may levy an annual tax not exceeding fifty-four cents per thousand dollars of the assessed value of the taxable property for the services authorized or required under section 359.42 and in a township which is located within a county having a population of three hundred thousand or more, the township trustees may levy an annual tax not exceeding sixty-seven and one-half

cents per thousand dollars of assessed value of taxable property for the services authorized or required under section 359.42.

2. If the levy authorized under subsection 1 is insufficient to provide the services authorized or required under section 359.42, the township trustees may levy an additional annual tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value of the taxable property in the township, excluding any property within the corporate limits of a city, to provide the services.

3. The township trustees may divide the township into tax districts for the purpose of providing the services authorized or required under section 359.42 and may levy a different tax rate in each district, but the tax levied in a tax district for the authorized or required services shall not exceed the tax levy limitations for that township as provided in this section.

4. Of the levies authorized under subsections 1 and 2, the township trustees may credit to a reserve account annually an amount not to exceed thirty cents per thousand dollars of the assessed value of the taxable property in the township for the purchase or replacement of supplies and equipment required to carry out the services specified under section 359.42. Notwithstanding section 12C.7, interest earned on moneys credited to the reserve account shall be credited to the reserve account.

5. Township taxes collected and disbursed by the county shall be apportioned by the clerk and paid into the separate accounts of the tax districts no later than May 31 and November 30 of each year.

[C31, 35, §5570-c2; C39, §5570.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §359.43; 82 Acts, ch 1114, §1]

84 Acts, ch 1008, §2; 85 Acts, ch 205, §2; 89 Acts, ch 149, §1; 95 Acts, ch 123, §2; 95 Acts, ch 158, §1; 2000 Acts, ch 1117, §25

Referred to in §331.385, 331.424C, 357J.17, 359.45

# APPENDIX D

## A Case Study on Intergovernmental Sharing: The Greene County Intergovernmental Services Sharing Program

by

**Tim Moerman, Former City Manager  
City of Jefferson, Iowa  
Current City Administrator  
City of Mason City, Iowa**

Mr. Moerman did his thesis for his master of arts degree on the topic of intergovernmental sharing. After conducting his research, reviewing various service sharing programs, and preparing his report, Mr. Moerman concluded that all cities and counties have some structural similarities and face similar issues. The application of a service sharing program to other cities and counties could be done without "reinventing the wheel."

Mr. Moerman felt that in order for a governmental services program to be successful, several factors must come together at the same time. There were several conditions that must be present in order to make the program more successful. These could be called "conditions for success". The conditions are not mutually exclusive. Each one of them are required to be present for the program to be successful. The conditions for success are described as follows:

1. **Perceived Need to Act:** The governing bodies and the employees must perceive a need for their organization to take some type of action. This may be a need for a piece of equipment, a need to perform a current service better, or a need for a new service.
2. **Interest in Efficiency and Effectiveness:** The governing bodies and the employees must be motivated to seek cooperation by shrinking resources or a basic belief in using resources with more efficiency.
3. **Belief in Investing:** The governing bodies must understand that often an up front investment must be made in order to realize future or long term gains. They must be visionary in making decisions to participate in solving the problems.
4. **Mutual Benefits:** The participants must understand and work toward the goal of creating arrangements that are to the benefit of all the participants. Each participant must see that they are better off making arrangement than not participating.
5. **Mutual Trust:** The participants must trust and respect each other. The discussions will require creativity, risk, and some leaps of faith in order to be successful. Without trust by the participants, there will not be progress on the issues because participants will not be comfortable in taking risks.

# APPENDIX E

## Sample Cost Sharing Formula for Emergency Response Systems

This formula is an objective method which may be used to determine the portion cities and townships pay for shared emergency response services. It is based on this assumption: the cost of emergency service is, in large part, a function of three measurable factors, each affecting the cost of response. The three factors are:

### Assessed value

Emergency service departments protect property. The greater the value of property, the greater the need for, and cost of, protection. The "assessed value" is determined by all assessed value of real estate in each individual city and township protected by an emergency response system.

### Total calls

Each emergency call in a city or township has a cost. The more calls, the greater the cost of response. The emergency response department tracks calls to each city and township.

### Population

People are protected by emergency response systems. In addition, people cause the need for emergency response. Therefore, the greater the number of people, the greater the need for, and cost of, protection. Census data provides this factor.

This formula is used to determine an equitable cost share and may be included in contractual agreements. The formula is:

$$\text{Cost share} = \frac{\%AV + \%TC + \%POP}{3}$$

Where: AV = Assessed value of real estate in area served  
TC = Annual average of total calls to area served  
POP = Population of area served

### Notes

**AV:** When calculating the assessed value, the goal is to determine the value of property in each city and township. The goal is also to attempt consistency from one entity to another and to use the same definition of "assessed". Some real estate (such as state parks, governmental property, real estate owned by nonprofit organizations, etc.) is not taxed but is assessed. In such cases, users of this formula may wish to include those values in the calculations since such properties receive protection regardless of its tax exempt status (while being consistent across the area served). If a township is split between two or more response departments, only the assessed value of the portion protected is included. Some cities and townships agree to delete the value of agricultural land.

**TC:** Total calls should be a running average of 3-5 years. Some cities and townships do not include calls to highway crashes, thus spreading the cost of such response over the entire protection district. If a township is split, only the calls to the portion protected are included.

**POP:** If a township is split, only the population of the portion protected by the response department is included.

**Cost Sharing Formula Worksheets**

**1. TOTAL COST OF EMERGENCY RESPONSE: \$ \_\_\_\_\_**  
 (Include all costs for providing protection to the entire area or district served including operating, training, insurance, utilities, workers' compensation, personnel, debt service, etc.)

**2. CALCULATE AV, TC AND POP FOR EACH CITY AND TOWNSHIP**

|            | Assessed Value (AV) | Total Calls (TC) | Population (POP) |
|------------|---------------------|------------------|------------------|
| City 1     |                     |                  |                  |
| City 2     |                     |                  |                  |
| Township A |                     |                  |                  |
| Township B |                     |                  |                  |
| Township C |                     |                  |                  |
| Township D |                     |                  |                  |
| Township E |                     |                  |                  |
| Township F |                     |                  |                  |
| Total      |                     |                  |                  |

**3. CALCULATE PERCENT AV, TC AND POP FOR EACH CITY AND TOWNSHIP**

|            | % Assessed Value (AV) | % Total Calls (TC) | % Population (POP) |
|------------|-----------------------|--------------------|--------------------|
| City 1     |                       |                    |                    |
| City 2     |                       |                    |                    |
| Township A |                       |                    |                    |
| Township B |                       |                    |                    |
| Township C |                       |                    |                    |
| Township D |                       |                    |                    |
| Township E |                       |                    |                    |
| Township F |                       |                    |                    |
| Total      | 100%                  | 100%               | 100%               |

**Calculate Cost Share for Each Entity**

**CITY 1** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**CITY 2** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOWNSHIP A** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOWNSHIP B** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOWNSHIP C** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOWNSHIP D** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOWNSHIP E** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOWNSHIP F** \_\_\_\_\_

\_\_\_\_\_ (%AV) + \_\_\_\_\_ (%TC) + \_\_\_\_\_ (%POP) = \_\_\_\_\_ / 3 = \_\_\_\_\_ % of Total Cost (\$ \_\_\_\_\_ )

**TOTAL COST OF EMERGENCY RESPONSE \$** \_\_\_\_\_

### Cost Sharing Formula Example

1. TOTAL COST OF EMERGENCY RESPONSE: \$50,000
2. CALCULATE AV, TC AND POP FOR EACH CITY AND TOWNSHIP:

|                 | Assessed Value<br>(AV) | Total Calls (TC) | Population (POP) |
|-----------------|------------------------|------------------|------------------|
| Cityville       | \$26,000,000           | 92               | 1,595            |
| Big Township    | \$50,000,000           | 62               | 465              |
| Small Township  | \$38,000,000           | 14               | 130              |
| Medium Township | \$25,000,000           | 32               | 254              |
| Total           | \$139,000,000          | 200              | 2,444            |

3. CALCULATE PERCENT AV, TC AND POP FOR EACH CITY AND TOWNSHIP

|                 | % Assessed Value<br>(AV) | % Total Calls (TC) | % Population<br>(POP) |
|-----------------|--------------------------|--------------------|-----------------------|
| Cityville       | 19                       | 46                 | 65                    |
| Big Township    | 36                       | 31                 | 19                    |
| Small Township  | 27                       | 7                  | 6                     |
| Medium Township | 18                       | 16                 | 10                    |
| Total %         | 100                      | 100                | 100                   |

4. CALCULATE COST SHARE

CITY: Cityville

$$19 (\%AV) + 46 (\%TC) + 65 (\%POP) = \underline{130} / 3 = 43\% \text{ of } \$50,000 = (\$21,500)$$

TOWNSHIP: Big

$$36 (\%AV) + 31 (\%TC) + 19 (\%POP) = \underline{86} / 3 = 29\% \text{ of } \$50,000 = (\$14,500)$$

TOWNSHIP: Small

$$27 (\%AV) + 7 (\%TC) + 6 (\%POP) = \underline{40} / 3 = 13\% \text{ of } 50,000 = (\$6,500)$$

TOWNSHIP: Medium

$$18 (\%AV) + 16 (\%TC) + 10 (\%POP) = \underline{44} / 3 = 15\% \text{ of } \$50,000 = (\$7,500)$$

TOTAL COST OF RESPONSE: \$ 50,000

### **Cost Share Formula – Additional Considerations**

1. The formula is neither a legally required nor a perfect formula. It is a best projection of an equitable share, based on objective information.
2. The purpose of the three factors in the formula is to use objective data that puts everyone on a level field to compare relative costs of response with one another (i.e. each city and township)
3. When there are unusual situations in any of the three factors, the best solution is for the city and the townships to negotiate the definitions of the three factors. A good contract between a city and township will have a clause establishing an advisory committee for resolving such issues.
4. Emergency calls are easy to determine assuming the department keeps good records. Highway car crashes are sometimes an issue for townships. They tend to slightly skew the rural call numbers. If these responses are an issue, they can be removed from the formula. When so removed, the cost of response is then spread evenly to all taxing entities.
5. Population is more difficult in townships that are split between two or more departments. In such cases, a plat book and the knowledge of the trustees about who lives where can help. With part-time residents (as in resort communities), one approach is to make an estimate of the average household during the summer months and use that number. They are citizens of your community when there and generate response needs. Once again, this is something to discuss and work out through a process of communication between the city and the townships.
6. The purpose of using the "assessed value" of property in each city and township is to determine the best estimate of the value of property protected. However, not all property is assessed. Some property owned by nonprofits (churches and schools for example) and governmental entities (state parks) are often not assessed. Yet, these properties and the people in them require emergency response. Using "assessed value" is not perfect – it is only a means to the end of determining the most practical value of property protected in the area served.