SOUTHWEST IOWA TRAINING FACILITY
REVISED JOINT 28E AGREEMENT

This AGREEMENT ("Agreement") is hereby entered into as of this 14th day of July, 2020, by and between the City of Council Bluffs, Iowa ("City") and Pottawattamie County ("County"), both together hereafter referred to as the "Parties."

WHEREAS; the Parties entered into a joint 28E Agreement on March 28, 2005 (Original Agreement) to construct, operate, and maintain the Southwest Iowa Training Facility, hereinafter referred to as the "Facility"; and

WHEREAS; the Facility is a voluntary joint undertaking of units of government in Pottawattamie County, Iowa, as authorized by Chapter 28E of the Code of Iowa; and

WHEREAS; Operation and maintenance of the Facility shall be a voluntary joint effort between the Parties, and no new organization shall be created by this Agreement; and

WHEREAS; the parties wish to modify terms of the Original Agreement to better reflect current operations and the addition of a 100-yard rifle range.

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby agree that:

1. **Purpose** – The Facility is established for the purpose of coordinating law enforcement training in and around the Southwest Iowa area. This Facility is intended and is hereby declared to be a combination of units of government organized for the purpose heretofore set out, as authorized by Chapter 28E of the Code of Iowa.

2. **Principal Place of Business** – The principal place of business of the Facility shall be 10073 192nd St. Council Bluffs, IA 51501.

3. **Conduct of Business** – The City shall be responsible for the day-to-day operation and maintenance of the Facility, including all staffing, training, scheduling, grounds maintenance, facility maintenance and bookkeeping. Any usage of the Facility by the County shall be at no cost to the County, however, County shall contact City prior to any proposed usage and schedule such usage accordingly.

4. **Term** - This Agreement shall commence pursuant to authority granted by the resolution being attached hereto and, by reference, made a part hereof. Upon commencement under this paragraph, the term of this Agreement shall be perpetual unless either party provides the other party with one hundred eighty (180) days prior written notice to terminate or dissolve this agreement, with the following conditions:
    a. The land is owned by the City, and the building/fixtures are jointly owned by the City and County. If the parties agree on the value of the building and fixtures as of the termination date of this Agreement, then the City shall pay one-half of that value to the County.

b. If the parties cannot agree on the value of the buildings and fixtures, either party may hire an appraiser to set the value and send the appraiser's report to the other party. The other party may accept the appraiser's report, or reject it and hire an appraiser of its own.
c. If the parties still cannot agree on a value once both appraiser's reports have been submitted and exchanged, then the parties shall agree on the hiring of a third appraiser and the value set by the third appraiser shall be binding on both parties.
d. The County's obligation to share in expenses ends upon the effective date of the termination of this Agreement.

5. **Staffing** – City shall provide staffing to operate the Facility at its own expense and shall have full administrative authority on the operation and habitation of the Facility. Any usage fees generated by the Facility, not including any payment or usage by the County, shall be kept by the City to offset staffing costs under this paragraph.

6. **Operations Financing** – The City shall pay all costs associated with the operations and maintenance of the Facility, including but not limited to the following expenses and/or services: electrical, propane, heating and cooling, custodial services, grounds and building maintenance, building supplies and insurance coverage.

7. **Capital Expenditures** – Capital Expenditure items for the Facility, excluding staffing, operation and maintenance costs as outlined in paragraph 5 and 6 above, shall be separately proposed and identified in each fiscal year Facility budget and, unless otherwise agreed at the time such budget is approved by the Council Bluffs City Council and the Pottawattamie County Board of Supervisors, the Parties hereby agree that upon approval of said budget each shall bear one-half the cost of acquiring such capital items. The Parties also agree to each bear one-half the cost of any unplanned or unforeseen Capital Expenditures that arise during the term of this Agreement. The replacement or repair of fixtures or improvements with costs in excess of Ten Thousand Dollars ($10,000), after the application of insurance proceeds (if any), is presumed to be a Capital Expenditure.

8. **Budgets** – On or before January 31st of each year under this Agreement, the City of Council Bluffs Chief of Police and the Pottawattamie County Sheriff shall recommend and submit the Facility budget to the Council Bluffs City Council and Pottawattamie Board of Supervisors, respectively, for review and formal approval as part of their respective budgeting procedures. Said budget will be for the fiscal year commencing July 1st following submission. Said budget shall reflect anticipated costs of operation, maintenance and capital expenditures, as well as anticipated revenues and the sources thereof.

    a. **Budget/Financials Preparation** – The City agrees to prepare the Facility budget and financial report at its own expense and to provide all data entry and bookkeeping related to the preparation of said budget and financial report at its own expense.

b. **Budget Administration** - The City of Council Bluffs Chief of Police and the Pottawattamie County Sheriff shall be charged with the administration of the budget for the Facility and shall; keep their respective governing bodies informed of the status of said budget through such expenditures (foreseen and unforeseen), balance, and revenue reports as may from time to time be requested by their respective governing bodies.

c. **Budget Approval** – The commitment to pay budgeted expenditures for any particular fiscal year shall be deemed to have been made by the City and the County upon their approval of their respective budgets reflecting expenditures, operations and maintenance costs of the Facility. Expenditures over-budget, or unforeseen capital expenditures, shall not be made unless they have been approved in advance by the City of Council Bluffs Chief of Police and the Pottawattamie County Sheriff, in accordance with their respective budgetary allocation and approval process.

9. **Severability** – If any provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provision(s) or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or the validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with this paragraph, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in intent to the stricken provision as is legally possible.

10. **Modification** – This Agreement may be supplemented, amended, or modified only in writing and by mutual agreement of the Parties.

11. **Entire Agreement** – This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the Parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment or warranty outside those expressly set forth in this Agreement.

12. **Notice** – Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile, or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows, or to such other address as either party may from time to time specify in writing to the other party:

City of Council Bluffs, IA
Mayor's Office, City Hall
209 Pearl St.
Council Bluffs, IA 51503

Pottawattamie County, IA
Board of Supervisors
227 S. 6th St.
Council Bluffs, IA 51501

Any notice shall be effective only upon delivery, which for any notice given by facsimile shall mean notice which has been received by the party to whom it is sent as evidenced by confirmation receipt.

June 30, 2020

Justin Schultz, Chairman,
Board of Supervisors
Pottawattamie County, Iowa

July _____, 2020

Matt Walsh, Mayor,
City of Council Bluffs, IA