

IOWA CODE CHAPTER 28E AGREEMENT

This Iowa Code Chapter 28E Agreement is made on _____, 2023, and is between the State of Iowa, acting through its Iowa Department of Corrections, Clarinda Correctional Facility (the "State") and the Clarinda Community School District (the "District").

The State owns real estate formerly known as the Clarinda Academy located at 1820 N 16th Street in Clarinda, Iowa (the "Property"). The Property includes a gymnasium, parking lot and practice fields (the "Facilities") suitable for the District to use for recreational purposes. The State desires to permit the District to use the Facilities located on the Property on the terms described in this agreement.

The parties therefore agree as follows:

1. **Purpose.** Under Iowa Code Chapter 28E, the State is permitted to make efficient use of its powers by providing joint services and facilities with other agencies and to cooperate in other ways of mutual advantage. The purpose of this agreement is to permit the District to use the Facilities and to describe the parties' respective rights and responsibilities related to the District's use of the Facilities and presence on the Property.

2. **Administration.** No separate legal or administrative entity shall be created for the governance or administration of this agreement. This agreement shall be administered jointly by the District's Superintendent and the Clarinda Correctional Facility's Warden.

3. **Term.** This agreement will commence on the date it is filed with the Secretary of State in accordance with Iowa Code § 28E.8 and will terminate on May 1, 2026.

4. **Use.** During the term of this agreement, the District shall have exclusive use of the Facilities for any school purpose.

5. **Use Fees.** The District shall not be required to pay any usage or rental fee for its use of the Facilities. The State acknowledges receipt of good and valuable consideration inherent in the District's use and observation of the Facilities and agrees that it has received consideration sufficient to support this agreement.

6. **Utilities.** The State will contract and pay for all utilities required to operate the Facilities. The District will reimburse the State monthly for any water it uses at the Facilities within 30 days of receipt of an invoice from the State. Payments for water use invoices shall be sent to Clarinda Correctional Facility, Meredith Baker, AWA, 2000 N. 16th Street Clarinda, Iowa 51632.

7. **Maintenance.** The District shall repair any damage to the Facilities to the extent caused directly by the District or its employees or students, ordinary wear and tear excepted. The State shall remain responsible for all other maintenance, repairs, and replacements required to keep the Facilities in current operating condition. The District is responsible for custodial services.

8. **Notice.** For a notice under this agreement to be valid, it must be in writing and must be delivered either (i) in person, (ii) via certified mail to the address noted below, or (iii) via email if the receiving party consents to receiving notice via email. All notices shall be effective upon receipt.

To the State:
Stephen Weis, Warden
Clarinda Correctional Facility
2000 N. 16th Street
Clarinda, Iowa 51632
712-659-7092

To the District:
Jeff Privia, Superintendent
Clarinda Community School District
423 Nodaway Street
Clarinda, Iowa 51632

9. **Termination.**

- a. This agreement may be terminated at any time during its term by mutual written agreement of the parties.
- b. This agreement may be unilaterally terminated by either party if (i) the federal or state legislature takes any action rendering either party's performance impossible or impracticable, (ii) the Facilities are significantly damaged or destroyed, or (iii) the other party breaches this agreement and fails to cure its breach within 30 days after receiving notice of its breach. Unilateral termination under this subsection will be effective upon receipt of notice of termination given in accordance with section 8 of this agreement.
- c. Upon termination of this agreement, the State shall retain the Property and the Facilities, and the District shall promptly remove all its personal property from the Property.

10. **Choice of Law.** All claims relating to this agreement shall be governed by the laws of the State of Iowa without regard to principles of conflicts of law.

11. **Forum.** The sole and exclusive jurisdiction for any action arising from or relating to this agreement shall be in the state or federal courts located in the State of Iowa.

12. **Assignment.** Neither party may transfer to any other person (i) any discretion granted under this agreement, (ii) any right under this agreement, (iii) any remedy under this agreement, or (iv) any obligation imposed under this agreement.

13. **Modification.** No amendment of this agreement will be effective unless it is in writing and signed by both parties.

14. **Waiver.** No waiver under this agreement will be effective unless it is in writing and signed by the party granting the waiver.

15. **Surrender.** District will surrender the Facilities in good order and condition., except for ordinary wear and tear at the expiration or termination of the agreement.

16. **Covenants Clause.** District will maintain the facilities in clean and good condition; comply with all statutes, codes and ordinances. Give the State reasonable notice of accident, damage, and allow the State reasonable access.

17. **Entire Agreement.** This agreement represents the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties.

18. **Severability.** The parties agree that if a dispute between the parties arises out of this agreement, they would want the court to interpret this agreement as follows: (i) with respect to any provision that it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision; (ii) if an unenforceable provision is modified or disregarded in accordance with this section, by holding that the rest of this agreement will remain in effect; (iii) by holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable; and (iv) if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this agreement, by holding the entire agreement unenforceable.

The parties are signing this agreement as of the date stated in the introductory clause.

Clarinda Community School District

State of Iowa

By: _____
Darin Sunderman, Board President

By: _____
Stephen Weis, Warden
Clarinda Correctional Facility
Iowa Department of Corrections