

Intergovernmental Emergency Warning Siren Donation Agreement

This Intergovernmental Emergency Warning Siren Donation Agreement (the "**Agreement**"), dated as of _____, 2024, is entered into by and between CITY OF AURORA, an Illinois municipal corporation ("**Aurora**"), and the VILLAGE OF SUGAR GROVE, an Illinois municipal corporation, ("**Sugar Grove**") and together with Aurora, the "**Parties**," and each, a "**Party**").

WHEREAS, Article VII, Section 10, of the Illinois Constitution of 1970 encourages and provides for units of local government to contract or otherwise associate among themselves to obtain or share services; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* further authorizes intergovernmental cooperation; and

WHEREAS, Aurora and Sugar Grove are each "units of local government" as defined by Article VII, Section 1, of the Illinois Constitution of 1970 and are authorized to contract and agree with one another on matters of mutual concern; and

WHEREAS, Aurora and Sugar Grove entered into an Agreement for Activation of Emergency Warning Sirens, dated July 13, 1999, and an Emergency Warning Siren Location Agreement, dated April 6, 2001, regarding the location, maintenance, and activation of emergency warning sirens, including a shared siren located within the boundaries of the Village (collectively, the "**Siren Agreements**"), true and accurate copies of the Siren Agreements are attached hereto as **Exhibit A**; and

WHEREAS, under these Siren Agreements, Aurora maintained primary responsibility for the activation of certain sirens within the Village's jurisdiction through Aurora's dispatch center, while the Village retained responsibility for other aspects of the siren system, including its maintenance; and

WHEREAS, since the time of the Siren Agreements, Sugar Grove has developed the capability to independently activate and manage its own emergency warning siren system, which includes six outdoor emergency warning sirens within Sugar Grove, and has enhanced its system to better serve the needs of its community; and

WHEREAS, Aurora and Sugar Grove have each determined that it is in their mutual best interests to terminate the existing Siren Agreements and to transfer ownership and all future responsibility for maintenance and activation of the one remaining shared siren, located within Sugar Grove's boundaries, specifically located at Route 56 and Blackberry Creek, Sugar Grove, Illinois (the "**Siren**"), to Sugar Grove; and

WHEREAS, Sugar Grove has expressed its intention to incorporate the Siren into its local emergency warning system and utilize advanced technology, including integration with the National Weather Service, to improve the overall efficiency and responsiveness of its warning system for future emergencies; and

WHEREAS, Aurora and the Sugar Grove wish to memorialize their agreement regarding the termination of the Siren Agreements and the transfer of ownership and all related responsibilities of the Siren from Aurora to Sugar Grove;

WHEREAS, Aurora has title to the Siren and related equipment, as described and depicted in Exhibit B;

WHEREAS, Aurora desires to donate the Siren to Sugar Grove, and Sugar Grove desires to accept the Siren, under the terms and conditions hereinafter set forth; and

WHEREAS, Aurora and Sugar Grove each find that entering into this Agreement is in their respective best interest and that of their citizens.

NOW, THEREFORE, the Parties agree as follows:

Termination of Prior Agreements.

Termination of Siren Agreements. Upon execution of this Agreement, the Parties hereby mutually agree to terminate, rescind, and render null and void all prior intergovernmental agreements between Aurora and the Sugar Grove related to the ownership, location, maintenance, and activation of emergency warning sirens, including but not limited to the Siren Agreements, as defined in the recitals of this Agreement. The termination of the Siren Agreements shall be effective immediately upon the transfer of ownership of the Siren, as set forth in Section 2 of this Agreement, and all rights, obligations, and duties of the parties under the Siren Agreements shall cease as of that date, except as expressly set forth herein.

Release of Obligations. Aurora and Sugar Grove hereby release and discharge each other from any and all claims, demands, liabilities, or obligations arising under or related to the Siren Agreements as of the effective date of termination. Neither Party shall have any further obligation to the other under the Siren Agreements, except as expressly set forth herein.

Survival of Indemnification Provisions. Notwithstanding the termination of the Siren Agreements, any rights, obligations, or liabilities of either Party that arise under the indemnification provisions of the Siren Agreements, shall survive termination and shall remain in full force and effect until fully performed or discharged.

Transfer of Siren Ownership; Assignment of Location Rights. Aurora agrees to donate the Siren to Sugar Grove. The donation of the Siren shall grant Sugar Grove irrevocable ownership, rights, title, and interest in the Siren upon the terms and conditions set forth in this Agreement and without monetary payment to Aurora, but nonetheless in consideration of the mutual promises and covenants contained herein. **THE SIREN WILL BE TRANSFERRED TO SUGAR GROVE "AS IS" WITH ALL FAULTS**, pursuant to the Bill of Sale in substantially the same form as attached hereto as Exhibit C and made a part hereof. Transfer of ownership shall occur upon delivery of the Bill of Sale by Aurora to Sugar Grove, which shall occur within seven (7) days of the date of this Agreement.

Further, upon transfer of ownership, Aurora shall assign all of its rights and obligations under any agreement related to the location of the Siren, which is located on land owned by the Fox Metro Water Reclamation District.

Representations and Warranties; Disclaimer of Warranties.

Representations and Warranties of Aurora. Aurora represents and warrants to Sugar Grove that:

it is an Illinois home rule municipal corporation duly organized and validly existing under the laws of the State of Illinois;

it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; and

the execution of this Agreement by each of the individuals whose signature is set forth at the end of this Agreement and the delivery of this Agreement by Aurora have been duly authorized by the corporate authorities of Aurora;

Representations and Warranties of Sugar Grove. Sugar Grove represents and warrants to Aurora that:

it is an Illinois municipal corporation duly organized, validly existing under the laws of the State of Illinois;

it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; and

the execution of this Agreement by each of the individuals whose signature is set forth at the end of this Agreement and the delivery of this Agreement by Sugar Grove have been duly authorized by the corporate authorities of Sugar Grove;

it has obtained and will maintain all licenses, authorizations, approvals, consents, or permits required by applicable laws, including the rules and regulations of all authorities having jurisdiction over the operation, maintenance and activation of the Siren.

upon transfer of ownership of the Siren to Sugar Grove pursuant to Section 2 above, it shall be solely responsible for complying with all federal, state, and local laws, ordinances, regulations, and orders that are applicable to the operation, maintenance and activation of the Siren.

NO OTHER REPRESENTATIONS OR WARRANTIES; NON-RELIANCE.
THE SIREN IS DONATED "AS IS" WITH ALL FAULTS. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 3, AURORA MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE SIREN, INCLUDING ANY WARRANTY OF CONDITION, QUALITY, OR SUITABILITY, WARRANTY OF MERCHANTABILITY OR WARRANTY OF

FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED
BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF
TRADE OR OTHERWISE.

FURTHER, EXCEPT FOR THE
EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS
SECTION 3, (A) NEITHER PARTY TO THIS AGREEMENT, NOR ANY OTHER
PERSON ON SUCH PARTY'S BEHALF, HAS MADE OR MAKES ANY EXPRESS
OR IMPLIED REPRESENTATION OR WARRANTY, EITHER ORAL OR
WRITTEN, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF
PERFORMANCE, USAGE, TRADE, OR OTHERWISE, ALL OF WHICH ARE
EXPRESSLY DISCLAIMED, AND (B) EACH PARTY ACKNOWLEDGES THAT IT
HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY
THE OTHER PARTY, OR ANY OTHER PERSON ON SUCH PARTY'S BEHALF,
EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 3 OF THIS
AGREEMENT.

No-Assignment. Neither Party shall assign any of its rights or delegate any of its obligations
hereunder without the prior written consent of the other Party, which consent may be withheld in
the absolute discretion of the other Party.

Waiver and Release. Each Party, for itself and its respective present and former departments,
agencies, officials, employees, officers, representatives, successors, and assigns hereby expressly
releases, waives, and forever discharges the other Party and its respective present and former
departments, agencies, officials, employees, officers, representatives, successors, and permitted
assigns of and from any and all claims, actions, causes of action, suits, losses, expenses, liabilities,
obligations, damages, and demands, of every kind and nature whatsoever, whether now known or
unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, or
equity arising out of or in connection with this Agreement or the Siren whether arising out of the
negligence or otherwise, except for any claims relating to rights and obligations preserved by,
created by, or otherwise arising out of this Agreement and any liabilities that cannot be released
or waived under federal, state, or local law.

Indemnification. Each Party shall indemnify and defend the other Party and its departments,
agencies, officials, employees, officers, representatives, successors, and permitted assigns
(collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies,
claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of
whatever kind, including [reasonable] attorneys' fees, that are incurred by Indemnified Party,
arising out of or related to any third-party claim alleging:

(a) breach or non-fulfillment of any provision of this Agreement by a Party or
that Party's employees or agents;

(b) any negligent or more culpable act or omission of a Party or its personnel
(including any recklessness or willful misconduct) in connection with the operation, maintenance
or activation of the Siren;

(c) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of a Party or its personnel (including any reckless or willful misconduct); or

(d) any failure by a Party or its personnel to comply with any applicable federal, state, or local laws, regulations, or codes as it relates to the operation, maintenance or activation of the Siren.

Each Party's indemnification obligation under this Section 6 shall: (a) survive termination of this Agreement and (b) extend to claims occurring after termination of this Agreement or transfer of ownership of the Siren.

Further Assurances. Each of the Parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transaction contemplated hereby.

Waiver. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective permitted successors and permitted assigns.

No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

Non-Waiver of Tort Immunities. The Parties expressly retain all rights and benefits of governmental immunity in accordance with Illinois law, including the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, *et seq.* Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against either Party with respect to which the Party would otherwise be immune based on the Party's status as a municipality in State of Illinois.

Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order

that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Amendment and Modification. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto.

Governing Law. All matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois without giving effect to any choice or conflict of law provision or rule whether of the State of Illinois or any other jurisdiction.

Interpretation. For purposes of this Agreement, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to sections and exhibits mean the sections of and exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The schedules exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Entire Agreement. This Agreement, together with Exhibits A, B and C, contains the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written or oral understandings, agreements, representations, and warranties with respect to such subject matter.

Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given and received: (1) when personally delivered, or delivered by same-day courier; (b) on the third business day after mailing by certified or registered mail, return receipt requested; or (c) upon delivery when sent by a prepaid overnight delivery service. Notices shall be provided as follows:

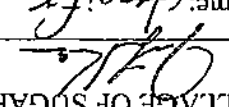
If to Sugar Grove:

With a copy to: Village Clerk- 160 S. Municipal Dr., Sugar Grove, IL 60554

If to City of Aurora:
With a copy to:

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth above.

VILLAGE OF SUGAR GROVE
By 
Name: Jennifer Kenney
Title: President

CITY OF AURORA
By _____
Name:
Title:

EXHIBIT A
Siren Agreements
(attached)

EXHIBIT B
Donated Siren

EXHIBIT C
Bill of Sale
(Attached)