

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF NAPERVILLE AND
THE NAPERVILLE FIRE PROTECTION DISTRICT FOR
PARTICIPATION IN WILL COUNTY'S
LOCAL GOVERNMENT COVID-19 REIMBURSEMENT PROGRAM**

THIS INTERGOVERNMENTAL AGREEMENT (“**Agreement**”) is made and entered into on this ____ day of November, 2023, by and between the Naperville Fire Protection District (“**District**”), a Fire Protection District created pursuant to the Illinois Fire Protection District Act (70 ILCS 705) (“**Act**”), and the City of Naperville (“**City**”), an Illinois municipal corporation and home rule unit of local government, and collectively referred to as the “**Parties**”.

RECITALS

- A. **WHEREAS**, the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/1 et. seq.) authorize units of local government, including fire protection districts and municipalities, to contract or otherwise associate among themselves in any manner not prohibited by law and to jointly exercise any power, privilege or authority conferred upon them by law; and
- B. **WHEREAS**, Article 7, Section 10 of the Illinois Constitution of 1971 and the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) allow units of public entities to enter into intergovernmental agreements in the furtherance of their governmental purposes; and
- C. **WHEREAS**, 70 ILCS 705/11(a) of the Act authorizes fire protection districts to contract for fire protection; and
- D. **WHEREAS**, the City and District have heretofore entered into a long-term contract for twenty years with three ten-year options to extend, providing for the City to serve all territory within the District with fire protection and ambulance services (“**Naperville Service Agreement**”); and
- E. **WHEREAS**, the Naperville Service Agreement between the City and the District provides for the use of the District’s funds to be utilized to enhance the level of service to the City and the District; and
- F. **WHEREAS**, the County of Will received over one hundred million dollars from the United States Government pursuant to the American Recovery Plan Act (“**ARPA**”); and

- G. **WHEREAS**, ARPA provides for payments to local governments recovering from the impact of the COVID-19 outbreak via the Coronavirus State and Local Fiscal Recovery Funds; and
- H. **WHEREAS**, ARPA provides that payments from the Coronavirus State and Local Fiscal Recovery Funds may be used to cover expenses which: (1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; (2) replace lost revenue for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency; (3) provide premium pay for essential workers; (4) invest in water, sewer, and broadband infrastructure; and
- I. **WHEREAS**, the United States Department of Treasury has issued guidelines and responses to frequently asked questions with regards to the authorized use of funds allocated to local governments under ARPA; and
- J. **WHEREAS**, much uncertainty remains regarding future costs local municipalities will be forced to bear related to the COVID-19 emergency; and
- K. **WHEREAS**, much uncertainty exists as to the potential for future allocations of federal or state monies to defray those future costs; and
- L. **WHEREAS**, this agreement is intended to promote the most efficient distribution of resources which have been made available to the State of Illinois, the County of Will, the City, and the District to benefit the citizens of Will County, the City, and the District; and
- M. **WHEREAS**, the disbursement of funds under ARPA to the District and from the District to the City is in the best interests of the District, the City, and their residents.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, it is hereby agreed by and between the Parties as follows:

1. **Incorporation of Recitals**. The Recitals set forth above are expressly incorporated into this Agreement by this reference thereto as if fully set forth in this Section 1.

2. **Purpose**. The purpose of this Agreement is to establish a contractual relationship between the District and the City with regards to the transfer from the District to the City of District funds related to reimbursement of municipal expenses associated with the COVID-19 emergency from federal ARPA funds which the United States Federal Government has disbursed to the District through Will County (“**County**”).

3. **Contribution Toward Qualified ARPA Expenses.** Upon execution of this Agreement, the District shall transfer to the City any and all funds that the District received or receives in the future related to reimbursement of municipal expenses associated with the COVID-19 emergency from federal ARPA funds which the United States Federal Government has disbursed to the District through the County, including, but not limited to, the sum of thirty thousand four hundred and twenty-seven dollars (\$30,427) that Will County recently allocated to the District. Said funds shall be used for the sole purpose of City reimbursement for qualified ARPA expenses incurred relative to providing fire protection services to the District.

4. **Indemnification.** The Parties agree that where the District receives reimbursement from ARPA funds from the County and transfers said funds to the City, if the Office of the Inspector General, or any other person, official, or department which is charged with the auditing and review of expenditures of ARPA funds determines that such reimbursement was not permitted under ARPA, the City agrees to indemnify, defend, reimburse and make whole the District for any funds which the United States Government or its agencies seeks to recoup or collect, either by litigation or by withholding other federal funds owed to the District. The City further agrees to indemnify, defend, reimburse, or make whole the District for any penalties associated with the federal government seeking to recoup the expended ARPA funds which the District disbursed to the City.

5. **General Provisions.**

(a) **Venue.** This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court for the Twelfth Judicial Circuit, Will County, Illinois.

(b) **Ambiguity.** This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

(c) **No Waiver.** Neither party shall be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by waiving party, and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

(d) Severability. If any of the provisions of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this agreement which can be given effect without the invalid provisions, and to this end the provisions of this Agreement are to be severable.

(e) Authority. The undersigned warrant and represent that they have read and understand this Agreement and that they are authorized to execute this Agreement.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement this ____ day of November, 2023.

CITY OF NAPERVILLE

NAPERVILLE FIRE PROTECTION DISTRICT

By: _____
Douglas A. Krieger
City Manager

By: Ken Hagenbaumer
Ken Hagenbaumer
President

By: _____
Pam Gallahue, Ph.D.
City Clerk

By: Stephanie Kaiser
Stephanie Kaiser
Secretary