



Michael A. Mauro  
Secretary of State  
State of Iowa

# 28E Agreement

FOR OFFICE USE ONLY:

FILED

M504033

11/23/2010 11:28:30 AM

**PLEASE READ INSTRUCTIONS ON BACK BEFORE COMPLETING THIS FORM**

**Item 1.** The full legal name, organization type and county of each participant to this agreement are:

|         | Full Legal Name                      | Organization Type    | *County  |
|---------|--------------------------------------|----------------------|----------|
| Party 1 | CITY OF MARSHALLTOWN                 | City                 | Marshall |
| Party 2 | IVCCD- IOWA VALLEY COMMUNITY COLLEGE | Regional or District | Marshall |
| Party 3 |                                      |                      |          |
| Party 4 |                                      |                      |          |
| Party 5 |                                      |                      |          |

\*Enter "Other" if not in Iowa

**Item 2.** The type of Public Service included in this agreement is: 910 Any Education  
(Enter only one Service Code and Description) Code Number Service Description

**Item 3.** The purpose of this agreement is: *(please be specific)*

OPERATION AND MAINTENANCE OF A GOVERNMENT AND CABLE TV AND OTHER PUBLIC ACCESS SERVICES, INCLUDING PUBLIC AND GOVERNMENTAL INFORMATION AND EDUCATIONAL PROGRAMMING; initial operations agreement signed 7/15/1998, could not find that it was recorded.

**Item 4.** The duration of this agreement is: *(check one)*  Agreement Expires 6/30/2015  Indefinite Duration  
[mm/dd/yyyy]

**Item 5.** Does this agreement amend or renew an existing agreement? *(check one)*

**NO**

**YES** Filing # of the agreement: \_\_\_\_\_

(Use the filing number of the most recent version filed for this agreement)

The filing number of the agreement may be found by searching the 28E database at: [www.sos.state.ia.us/28E](http://www.sos.state.ia.us/28E).

**Item 6.** Attach two copies of the agreement to this form if not filing online.

**Item 7.** The primary contact for further information regarding this agreement is: *(optional)*

LAST Name Coughenour FIRST Name Shari

Title City Clerk Department City Clerk

Email scoughenour@ci.marshalltown.ia.us Phone 641-754-5701

RESOLUTION APPROVING A CONTRACT SERVICES FOR OPERATION AND  
MAINTENANCE OF GOVERNMENT AND CABLE TV AND OTHER PUBLIC  
ACCESS SERVICES BETWEEN  
THE CITY OF MARSHALLTOWN, IOWA, AND  
IOWA VALLEY COMMUNITY COLLEGE (IVCCD)  
CREATED PURSUANT TO CHAPTER 28E.12 OF THE IOWA CODE

WHEREAS the City of Marshalltown, Iowa, has negotiated a Contract for Services, for Operation and Maintenance of Government and Cable TV and other Public Access Services, pursuant to Chapter 28E of the Iowa Code, with the Iowa Valley Community College (IVCCD); and

WHEREAS the City Council of Marshalltown finds that this Contract for Services is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MARSHALLTOWN, IOWA:

Section 1. That the attached Contract for Services with the Iowa Valley Community College (IVCCD) is hereby approved in all respects and particulars.

Section 2. The Contract for Services shall continue through June 30, 2015, and remain in effect until the Contract is terminated by either party by written notice at least 30 days prior to the date of cancellation.

Section 3. That the Mayor and City Clerk are hereby authorized and directed to execute said Contract for Services on behalf of the City of Marshalltown, and the City Clerk is authorized and directed to file this Contract for Services with the Secretary of State, as required by law.

Passed this 8<sup>th</sup> day of November, 2010, and signed this 22<sup>nd</sup> day of November, 2010.

CITY OF MARSHALLTOWN, IOWA

  
\_\_\_\_\_  
Gene L. Beach, Mayor  
ATTEST:

  
\_\_\_\_\_  
Shari L. Coughenour, CMC, City Clerk

This document prepared by Monica Schneider, Executive Assistant, Iowa Valley Community College District, Continuing Education, 3702 South Center Street, Marshalltown, Iowa, 50158. 641/752-4645. Returned to Barbara E. Jennings, Board Secretary, Iowa Valley Community College District, 3702 South Center Street, Marshalltown, Iowa 50158. Telephone number 641-752-4643 Ext. 322.

2010-11-23

**28E AGREEMENT BETWEEN  
THE CITY OF MARSHALLTOWN, IOWA AND  
IOWA VALLEY COMMUNITY COLLEGE DISTRICT  
FOR OPERATION AND MAINTENANCE OF  
GOVERNMENT/EDUCATION CABLE TV**

THIS AGREEMENT made and entered into as of the 23 day of November, 2010, by and between the CITY OF MARSHALLTOWN, IOWA, and IOWA VALLEY COMMUNITY COLLEGE DISTRICT, hereinafter referred to respectively as "the City" and "IVCCD", and referred to jointly as "the Participants",

WITNESSETH:

WHEREAS, the City has a franchise agreement with Mediacom pursuant to which Mediacom is to provide cable television programming, telecasting and other public access services to the community (hereinafter referred to as "Cable TV"); and

WHEREAS, representatives of the City and IVCCD have entered into a formal arrangement and structure to provide public and governmental information and educational programming to this area through Cable TV; and

WHEREAS, the Participants established the Cable TV Advisory Board (CAB) for the purpose of overseeing policy and procedure development, training, documentation and general compliance considerations for the operation of the Cable TV; and

WHEREAS, the City and IVCCD desire to jointly support the Cable TV operations and oversight; and

WHEREAS, the Participants are authorized under the contract and under Section 28E.12 of the Code of Iowa to enter into an agreement to jointly exercise their powers, privileges and authority and the Participants have elected to do so in accordance with the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Participants agree to the joint and mutual operation of the Cable TV in accordance with the following:

### GOVERNANCE

#### A. Personnel

1. Job descriptions for Cable TV Station Manager and for the Cable TV Assistant are attached hereto as Attachment A
2. IVCCD agrees to act as the employer of record and as such to assume full responsibility for the employees under worker's compensation, unemployment compensation and other mandatory employee benefit programs. The CAB will provide input to IVCCD on employment decisions. (
3. IVCCD personnel policies concerning travel, per diem, health and fringe benefits will be utilized.
4. The CAB will have the opportunity to participate in interviewing, hiring, performance evaluations, job assignments and changes and other personnel review and oversight activities.
5. The employees shall carry out the activities of Cable TV under the general direction of the CAB.
6. The Assistant is provided general supervision by CAB and receives day-to-day supervision from the Station Manager. The Station Manager and Assistant will work with the City Administrator to manage the Cable TV operations under the authority of IVCCD.

#### B. Meetings and Resolutions of Activities.

1. Under the Agreement between IVCCD and the City dated July 14, 1998, there was to be a committee created (CAB) for the purpose of overseeing the Cable TV operations.
2. The current name of such group is the Cable TV Advisory Board (CAB). CAB will be composed of three (3) members and a chairperson selected by the City Mayor and three (3) members selected by IVCCD. All members must be approved by the City Council of Marshalltown.
3. The Station Manager of the Cable TV and the City Administrator are designated as staff liaisons to the CAB for the purpose of assisting in setting up meetings, keeping minutes and performing other functions as requested.
4. The CAB will be responsible for making recommendations to the City and IVCCD in -

5. the matters of operations, budgeting and programming. The CAB will review and approve/disapprove special projects or requests from the public to be shown on Cable TV and will review and approve an annual budget that is to be submitted to the City for the operation of the system.
6. The CAB will meet on a regular basis. Meetings will be convened by the Station Manager and chaired by an elected chairperson. Meetings are open to the public and are so posted.

## FISCAL AND HOUSING

### A. Fiscal

1. IVCCD agrees to employ and pay staff.
2. The City, as fiscal agent, will budget Cable TV revenues as described in the Franchise Agreement and as recommended by the CAB.
3. The City will collect 5% franchise fees from Mediacom.
4. The City will establish an "Operations Fund" collected from franchise fees, and set aside from other revenues specifically for the purpose of operating the Cable TV. Funds will be budgeted to repair or replace equipment, for production personnel and coordination time, to develop programming, and for administrative fee for cable channel management with IVCCD.
5. Out of the franchise fees collected from Mediacom, the City will budget 20% of such fees for the operations of the Cable TV.
6. The City agrees to make payment to IVCCD upon receipt of billing statements from IVCCD for salaries, health and fringe benefits and other items approved by the CAB and provided for in the approved budget of the City.
7. Each Participant in this Agreement will maintain a list of equipment received by such Participant and provide insurance coverage for such equipment. It is recognized that each Participant may have regular employees who from time to time, may provide limited services and assistance to accomplish the objectives of the Cable TV operation. Such employees are not intended to be covered by this Agreement and each Participant shall be responsible for the pay, benefits and related costs applicable to their respective employees.

### B. Housing

1. IVCCD agrees to provide office space and work area for the Station Manager and Assistant and provide support services including technician time, phone, computer, clerical, pool car, etc.

## REPORTING

1. IVCCD agrees to provide quarterly financial reports to the City and CAB.

## TERM OF AGREEMENT

1. This Agreement shall be for a period of five (5) years and shall commence upon the \_\_\_ day of \_\_\_\_\_, 2010, and shall terminate upon the \_\_\_ day of \_\_\_\_\_, 2015.

## LITIGATION

1. In the event there is a determination of liability by a court of law or equity arising out of the operation of this Agreement, each Participant shall be solely responsible for the liability which is assessed as against that Participant, and no Participant shall seek any contribution and/or subrogation of such liability from any other Participant.

## TERMINATION

1. This Agreement may be canceled or superseded by mutual consent of the Participants, provided that all outstanding obligations of all Participants related to or arising out of this Agreement are paid or provided for.
2. Upon the partial or complete termination of this Agreement for any reason at any time, the Participants shall each be entitled to retain exclusive ownership and control of such items of equipment and other types of personal property as they, respectively, may physically possess at the time of such partial or complete termination and as contemplated by Section A-7 under the heading "Fiscal and Housing" above.
3. All Participants understand and agree that since IVCCD is a reimbursable employer under the unemployment compensation law, any unemployment benefits paid by IVCCD as a result of a successful unemployment compensation claim shall be reimbursed to IVCCD by the City.

## GOVERNING LAW

This contract shall be interpreted according to Iowa law, with venue to lie exclusively in Marshall County District Court

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

IN WITNESS WHEREOF, the City and IVCCD have executed this Agreement the day and year first written heretofore.

COLLEGE

Iowa Valley Community College District

CITY OF MARSHALLTOWN, IOWA

\_\_\_\_\_  
Conrad Dejardin, Board President  
ATTEST:

Gene L. Beach  
Gene L. Beach, Mayor  
ATTEST:

\_\_\_\_\_  
Barbara E. Jennings, Board Secretary

Shari L. Coughenour  
Shari L. Coughenour, CMC, City Clerk

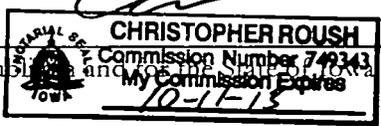
STATE OF IOWA            )  
  ) ss:  
MARSHALL COUNTY        )

This instrument was acknowledged before me on \_\_\_\_\_, 2010, by Conrad Dejardin, as Board President, and Barbara E. Jennings, as Board Secretary, of Iowa Valley Community College District.

\_\_\_\_\_  
Notary Public in and for the State of Iowa.

STATE OF IOWA            )  
  ) ss:  
MARSHALL COUNTY        )

This instrument was acknowledged before me on November 23, 2010, by Gene Beach, as Mayor, and Shari L. Coughenour, as City Clerk, of the City of Marshalltown, Iowa.

\_\_\_\_\_  
Notary Public in and for the State of Iowa  


## **Attachment A**

### **Cable TV Station Manager**

The Station Manager will be responsible for the daily operation of the Cable TV which includes supervising personnel, budgeting, purchasing and communicating with the Cable TV Advisory Board (CAB).

### **Cable TV Assistant**

The Cable TV Assistant will be responsible for the production of video and TV programs, work with volunteers, promote the channel, and develop a monthly schedule. The Assistant will communicate with the city, college, and Cable TV Advisory Board (CAB), and supervise cable TV programming.