

RESOLUTION NO. 1970

RESOLUTION APPROVING A 28E AGREEMENT WITH THE WEST BRANCH COMMUNITY SCHOOL DISTRICT REGARDING THE SHARING OF COSTS ON IMPROVEMENTS ON ~~W~~ MAIN STREET.

WHEREAS, the West Branch Community School District (“School”) is currently making renovations and reconstructing the West Branch High School which will also house the middle school in the future (the “School Project”); and

WHEREAS, as part of the approved site plan for the School Project, the School was required to make certain improvements on E. Main Street (the “Street Project”); and

WHEREAS, the City has agreed to pay \$100,000 towards the Street Project to be paid over five (5) years; and

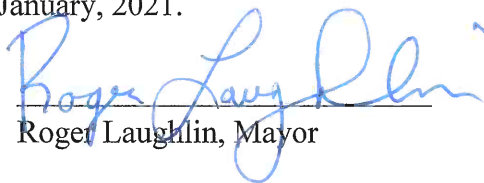
WHEREAS, to that end, the City Attorney has drafted a 28E Agreement that requires the approval of both the City Council and the Board of Directors of the West Branch Community School District; and

WHEREAS, it is in the best interests of the City to approve said 28E Agreement.

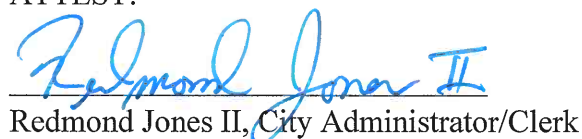
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned 28E Agreement be and the same is hereby approved. Further, the Mayor and City Clerk are directed to execute said Agreement on behalf of the City.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a copy of the fully executed agreement with the Iowa Secretary of State as required by law.

Passed and approved this 4th day of January, 2021.


Roger Laughlin, Mayor

ATTEST:


Redmond Jones II, City Administrator/Clerk

28E AGREEMENT

THIS AGREEMENT entered into by and between the City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52358 (hereafter referred to as the “City”); and the West Branch Community School District, 148 N. Oliphant Street, West Branch, Iowa 52358 (hereafter referred to as “School”).

WHEREAS, the City and School have agreed there is a need for turn lanes to be installed along Main Street; and

WHEREAS, the City and the School have agreed to share in the costs of the turn lanes project, as further described below; and

WHEREAS, it is now necessary for the City and School to enter into a 28E Agreement to outline the obligations and responsibilities of each party regarding the construction of the turn lanes.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. PURPOSE. The purpose of this 28E Agreement is to set forth the duties and obligations of the City and School in connection with the construction of westbound left-turn lanes on Main Street at both access points (the current existing access, and the new access being constructed to the east of the current access) into West Branch High School, located at 900 W Main St, West Branch (“Project”). The parties agree that the Project will be constructed in compliance with the plans generated by Shive-Hattery, which are dated not later than January 31, 2021 (final date to be acknowledged at a later date), subject to any necessary amendments to the plans as determined by Shive-Hattery, these plans being incorporated into this Agreement by this reference.

2. CONSIDERATION. It is hereby expressly acknowledged by both the City and School that the construction of the Project pursuant to this Agreement constitutes mutual and sufficient consideration to enter into this Agreement.

3. SEPARATE ENTITY. Further, it is hereby noted that no separate legal entity shall be created by this Agreement. However, the City Administrator and the School Superintendent shall be responsible for administering this agreement.

4. DUTIES AND RESPONSIBILITIES OF THE PARTIES.

A. School agrees to enter into contracts for the design and construction of the Project.

School shall pay the costs associated with the Project, including but not limited to engineering and construction fees. City shall reimburse School \$100,000 for the costs of the Project, and the City shall pay the School as follows:

1. \$50,000 due October 1, 2021
2. \$12,500 due July 1, 2022
3. \$12,500 due July 15, 2023
4. \$12,500 due July 15, 2024
5. \$12,500 due July 15, 2025

B. The City shall cooperate with the School and its agents and contractors as necessary to ensure the Project may be completed. This includes, but is not limited to, providing access to Main Street and the right of way, providing necessary information, and approving any necessary detours.

C. The School shall have no responsibility or obligation to maintain or repair Main Street or any right of way. Both parties agree Main Street and any associated right of way is a City street and shall at all times be maintained by the City.

5. **DURATION.** This Agreement shall remain in full force and effect until the final payment due to the School is paid by the City.

6. **DECLARATION OF DEFAULT AND NOTICE**

In the event that the City or the School determines that the other has defaulted in the performance of its obligations under this Agreement, either party may declare that default has occurred and give notice thereof to the defaulting party. Notice of default shall be given in writing, shall specify the nature of the default and the provision of this Agreement involved, and shall specify what action is required of the defaulting party to correct the default. The defaulting party shall have thirty (30) days from the date of its receipt of the notice of default to correct the default. If at the end of said thirty-day period the default has not, in the opinion of the aggrieved party, been corrected, that party may thereupon pursue all lawful remedies, including but not limited to, termination of this Agreement, an action for specific performance thereof, and action for damages for breach thereof.

7. **NOTICES.** All notices or tender required or permitted herein shall be in writing and shall be sent to the address set forth below (or such other address as a party may hereafter designate for itself by written notice to the other parties as required hereby) of the party for whom such notice or communication is intended.

Any such notice or communication shall be sufficient if sent (i) by registered or certified mail, return receipt requested, postage prepaid; (ii) by hand delivery; or, (iii) by overnight courier service. Any such notice or communication shall be effective only when actually delivered to the recipient or upon refusal of such delivery.

For the School:

West Branch Community Schools
148 N. Oliphant Street
West Branch, Iowa 52358
ATTN: Superintendent

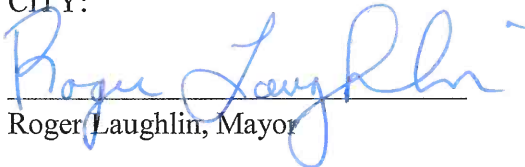
For the City:

City of West Branch
110 N. Poplar Street
West Branch, Iowa 52358
ATTN: City Administrator

8. FILING. The City Clerk of West Branch shall file this Agreement with the Iowa Secretary of State's office as required by Section 28E.8 of the Code of Iowa.

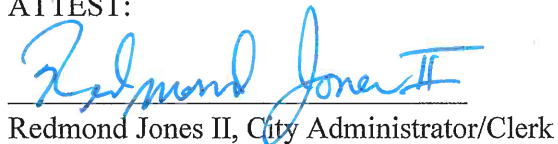
Executed and approved this 4th day of January, 2021.

CITY:



Roger Laughlin, Mayor

ATTEST:



Redmond Jones II, City Administrator/Clerk

Executed and approved this _____ day of _____, 2021.

SCHOOL:

Julie Sexton, Board President

ATTEST:

Angie Klinkhammer, Board Secretary