

Resolution No. 15-0642

**A RESOLUTION APPROVING AN UPDATED 28E AGREEMENT FOR
MUTUAL ASSISTANCE FOR POLK COUNTY FIRE / RESCUE
SERVICES**

WHEREAS, the City Council of the City of Windsor Heights finds a significant public benefit provided by the Mutual Assistance for Polk County Fire / Rescue Services 28E Agreement; and

WHEREAS, the City desires to continue to be a party to the agreement

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Windsor Heights State of Iowa, that the attached Exhibit #1 - 28E Agreement is hereby approved and the Mayor and Chief of Police and Fire Services are hereby authorized to sign the 28E Agreement.

Passed and Approved this 1st day of June, 2015

Diana Willits, Mayor

Attest: _____
Brett Klein, City Administrator



Administration
Phone 515-223-6220
1900 NW 114th Street
Clive, IA 50325-7077
Fax 515-457-3091

Community Development
Phone 515-223-6221
1900 NW 114th Street
Clive, IA 50325-7077
Fax 515-457-3091

Parks & Recreation
Phone 515-223-5246
1900 NW 114th Street
Clive, IA 50325-7077
Fax 515-457-3092

Aquatic Center
Phone 515-440-0599

Public Library
Phone 515-453-2221
1900 NW 114th Street
Clive, IA 50325-7077
Fax 515-453-2246

Fire Administration
Phone 515-223-1595
8505 Harbach Boulevard
Clive, IA 50325-1029
Fax 515-223-6457

Police Administration
Phone 515-278-1312
8505 Harbach Boulevard
Clive, IA 50325-1029
Fax 515-278-6066

Public Works
Phone 515-223-6231
2123 NW 111th Street
Clive, IA 50325-6917
Fax 515-223-6013

www.cityofclive.com

May 14, 2015

Polk County Fire Chief's Association

RE Updated 28E for Mutual Assistance for Polk County Fire/Rescue Services

Dear PCFCA Members and Partners

Attached for your consideration is an updated 28E for Mutual Assistance for Polk County Fire/Rescue Services.

The 28E replaces the current agreement, signed by participating parties in 2002. The primary purpose of this update is to incorporate current provisions and requirements of Iowa Code Section 28E. There are no other material modifications to this document.

This document has included numerous opportunities for review and input by PCFCA member jurisdictions.

This document is in final form. Jurisdictions that desire to participate are requested to sign and return the signature page no later than June 15, 2015. The signature page should be returned to: PCFCA, c/o Clive Fire Department, Attn: Chief Roe, 8505 Harbach Blvd, Clive, IA 50325.

Sincerely

Rick D. Roe, President
Polk County Fire Chief's Association

28E AGREEMENT FOR MUTUAL ASSISTANCE

for Polk County Fire/Rescue Services

WHEREAS, the undersigned entities (“Party” or collectively “Parties”) provide fire/rescue services and/or emergency medical services (“Emergency Services”) in Polk County and/or the adjoining counties of Boone County, Dallas County, Story County and Warren County (“adjoining counties”); and

WHEREAS, there has been a long standing Mutual Aid Agreement among Polk County fire/rescue and emergency medical services and/or other entities to provide mutual aid in Polk County and adjoining counties in a time of need;

WHEREAS, the current Mutual Aid Agreement is entitled 28E Agreement for Mutual Assistance for Polk County Fire/Rescue Services and is filed with the Iowa Secretary of State at 10:00 a.m. on December 26, 2003, numbered M025293, and recorded with a number of County Recorders, including Boone, Polk, Story and Warren County (“2002 Agreement”); and

WHEREAS, the 2002 Agreement has been in force for thirteen years and should be updated; and

WHEREAS, the Parties have a desire to assist each other in time of need; and

WHEREAS, the Parties each maintain adequate Emergency Services equipment and personnel to respond to the normal emergencies occurring within their respective jurisdictions; and

WHEREAS, situations may arise in regard to medical and fire/rescue emergencies or circumstances which exhaust available personnel and equipment, or require additional or specialty personnel or additional and/or special equipment that the responsible jurisdiction may not have available at any given time; and

WHEREAS, to combat such emergency situations, it is desirable for the Parties to render needed Emergency Services upon a reciprocal basis; and

WHEREAS, the governing bodies of each party are desirous of entering into this 28E Agreement (“Agreement”), the purpose of which is to provide for the Emergency Services of one entity to the other in such emergency or needed situations requiring additional, special personnel, and/or equipment.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

I. Incorporation of Recitals

The foregoing Recitals are incorporated herein as if fully set forth in this paragraph.

II. Definitions

- A. Mutual Aid. The assistance of Emergency Services personnel and equipment provided by one Party (“Assisting Party”) and requested by the other Party (“Assisted Party”) to this Agreement.
- B. Incident Commander. The person who, by virtue of his/her position with the Assisted Party, is responsible for the overall command and direction of the Emergency response activities.
- C. Emergency. Any situation where a Party, due to lack of personnel or training, special equipment needs or magnitude of event, and based upon actual circumstances, concludes that assistance is needed to protect life and/or property within its jurisdiction. The Parties contemplate an Emergency to involve short duration, defined in hours rather than days.

III. Purpose

This Agreement is made pursuant to Chapter 28E, Code of Iowa. The purpose of this Agreement is to provide for Mutual Aid in case of an Emergency arising within the jurisdiction of the Parties to this Agreement.

IV. Request for Assistance

All requests for Mutual Aid in an Emergency shall be made by the Emergency Medical Services Director, Fire Chief or designee of the Assisted Party. Such requests shall state the exact nature of the Emergency and shall include the amount and type of equipment and the number and skills of personnel required, and shall specify the location where the personnel and equipment are needed. The final decision of type and amount of equipment and number of personnel to be provided by the Assisting Party to the Assisted Party shall be at the sole discretion of the Assisting Party. Further, the Assisting Party shall be held harmless by the Assisted Party from liability in connection with its final decision on type and amount of equipment and number of personnel to be provided to the Assisted Party.

V. Authority Over Joint Operations

The Incident Commander of the Assisted Party shall retain overall control of all Emergency response activities. The ranking supervisor of the Assisting Party shall remain in command of his/her personnel and equipment subject, however, to the direction and control of the Incident Commander.

VI. Liability

Employees or volunteers of either Party acting pursuant to this Agreement shall be considered as acting under the lawful orders and instructions pertaining to their employment or volunteer status with such Party. Under no circumstances are employees or volunteers of one Party to be considered employees or volunteers of the other Party.

Each Party waives all claims against the other for compensation for any property loss or damage and/or personal injury or death to its personnel as consequence of the performance of this Agreement. Each Party shall bear the liability and/or costs of damage to its equipment and facilities, and the compensation of its employees or volunteers, including injury or death of its personnel, occurring as a consequence of the performance of this Agreement, whether the damages, costs injury or death occurs at an Emergency in the Party's own jurisdiction or in the jurisdiction of the other Party.

Except as provided herein, each Party shall be responsible for the acts or omissions of its own employees, and shall indemnify, defend and hold harmless the Other Party, its officers, agents and employees from and against any and all suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney's fees arising from loss of or damage to private property, and/or the death of or injury to private persons, arising from services of response rendered pursuant to this Agreement. Provided, however, the Assisted Party shall indemnify, defend and hold harmless the Assisting Party where any suits, actions, debts, damages, costs, charges or expenses arise from execution of a specific command or order pursuant to paragraph V of this Agreement.

Nothing in this Agreement shall prevent or limit either Party to this Agreement from recovering or attempting to recover costs of services rendered to a third party where such recovery of costs is provided for by law.

The Parties to this Agreement do not waive any defenses, immunities or other limitations applicable to a respective party and nothing herein shall be so construed. Each Party to this Agreement reserves the right to fully defend all claims arising from loss of or damage to private property and/or death of or injury to private persons who are not parties to this Agreement including, but not limited to asserting defenses of immunities available under applicable law.

This article shall survive the termination of this Agreement where necessary to protect each Party to this Agreement.

VII. Compensation

For fire/rescue services, no Party shall be required to reimburse any other Party for the cost of providing the fire department services set forth in this Agreement. Each Party shall pay its own costs for responding to calls.

The Party transporting a patient from an emergency location to a medical facility will be responsible for billing the patient for services rendered.

If the Assisting Party provides supplemental services or a higher level of medical services than the Assisted Party, such as paramedic services, the Assisted Party may bill the patient for the supplemental services pursuant to accepted billing standards. In the event the Assisted Party does not charge for ambulance services, the Assisting Party will bill the patient for services rendered and retain one hundred percent (100%) of fees collected.

The Assisting Party may bill the responsible person (as defined by Iowa Administrative Code Sections 133.2 and 133.3) at a hazardous substance or condition incident (as defined in Iowa Administrative Code Section 133.1(2)) to reclaim costs associated with responding to the incident.

VIII. Termination

This Agreement may be terminated with respect to that Party for any reason by any Party by giving written notice, by certified mail to the President of the Polk County Fire Chief's Association. This Agreement shall thereafter terminate, with respect to that Party only, sixty (60) days from the date of receipt of termination notice. Upon termination, said terminating Party shall have no further responsibility or obligation or benefits from the other Parties to the Agreement, under this Agreement, except as provided herein.

IX. Effective Date

This Agreement shall be in full force and effect at 12:01 a.m., July 1, 2015, by and between the Parties who have obtained approval hereof by their respective governing bodies. Prior to July 1, 2015, the President of the Polk County Fire Chief's Association shall have filed this Agreement with the Iowa Secretary of State as required by Iowa Code section 28E.9. This Agreement shall remain in full force and effect for an indefinite period of time from the effective date hereof until terminated as provided in paragraph VII.

X. Prior Mutual Assistance Agreements

This Agreement supersedes the 2002 Agreement in full.

XI. Amendments

This Agreement represents the entire Agreement of the Parties. Any amendments must be in writing, approved by the governing body of all Parties, and executed by the authorized representatives of all Parties. Any and all amendments must comply with the provisions of Iowa Code section 28E.8. Any and all such requirements shall be done by the then presiding President of the Polk County Fire Chief's Association or President's designee.

XII. Validity

In the event any part or paragraph of this Agreement is declared void as being contrary to Iowa law, the remaining portions of this Agreement that are valid shall continue in full force and effect.

XIII. No Separate Entity Created -- Administration

It is the Intent of the Parties not to create a separate legal entity or administrative agency under this Agreement. The then presiding President of the Polk County Fire Chief's Association shall serve as Administrator of this undertaking.

XIV. No Real or Personal Property

No real or personal property will be acquired, held or disposed of during this undertaking as no separate entity has been created.

XV. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa (excluding conflicts of laws rules), and applicable federal law.

XVI. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

Participating Jurisdictions

<u>Jurisdiction:</u>	<u>Date Signed:</u>
City of Altoona	_____
City of Ankeny	_____
City of Bondurant	_____
Camp Dodge	_____
Camp Township	_____
City of Carlisle	_____
City of Clive	_____
Delaware Township	_____
City of Des Moines	_____
Des Moines Airport Authority	_____
City of Elkhart	_____
City of Granger	_____
City of Grimes	_____
City of Huxley	_____
City of Indianola	_____
City of Johnston	_____
City of Madrid	_____
City of Maxwell	_____
City of Mitchellville	_____
North Warren County Fire Department	_____
City of Norwalk	_____
City of Pleasant Hill	_____
City of Polk City	_____
Saylor Township	_____
City of Slater	_____
City of Urbandale	_____
City of Waukee	_____
City of West Des Moines	_____
City of Windsor Heights	_____

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Altoona

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Ankeny

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Bondurant

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

Camp Dodge

Authorized Representative Title Dated

Attest Dated

Fire Chief Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

Camp Township

Trustee

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

City of Carlisle

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

City of Clive

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

Delaware Township

Trustee

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Des Moines

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

Des Moines Airport Authority

Chairperson, Des Moines Airport Authority Board

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Elkhart

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Granger

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Grimes

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Huxley

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Indianola

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

City of Johnston

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Madrid

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Maxwell

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Mitchellville

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

North Warren County Fire Department

Chair, Board of Directors

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Norwalk

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Pleasant Hill

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

City of Polk City

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

Saylor Township

Trustee

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Slater

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Urbandale

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Waukee

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: July 1, 2015

City of West Des Moines

Mayor

Dated

Attest

Dated

Fire Chief

Dated

**28E AGREEMENT FOR MUTUAL ASSISTANCE
for Polk County Fire/Rescue Services**

By authorized signature of this Agreement, Parties agree to the 28E Agreement for Mutual Aid Assistance for fire/rescue and medical services.

Effective Date: **July 1, 2015**

City of Windsor Heights

Mayor

Dated

Attest

Dated

Fire Chief

Dated