

## 28E AGREEMENT FOR MUTUAL ASSISTANCE

for Dallas County Area Fire/Rescue Services

Suggested Parties: Adel - Dallas Center - Dallas County - Dexter - Linden - Redfield - Waukee - Bouton -

Dawson - Granger - Minburn - Urbandale - West Des Moines - Clive - Desoto - Grimes - Perry - Van

Meter – Woodward – Benefitted Fire Districts of Dallas County – Panora – Earlham – Madrid – Dallas

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County Emergency Management Agency

Prepared by Dallas County Emergency Management Agency on October 23, 2019.

25747 N Ave, Suite F, Adel, Iowa, 50003

Return to:

Dallas County Emergency Management Agency

[ema@dallascountyiowa.gov](mailto:ema@dallascountyiowa.gov)

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

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

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

**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 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 (“Providing Entity”) and requested by the other Party (“Requesting Entity”) to this Agreement.

B. Incident Commander. The person who, by virtue of his/her position with the Requesting Entity, 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, stabilize the incident, and/or protect property within its jurisdiction.

D. Primary party. A party which is not part of an existing countywide mutual aid agreement. May be a requesting or providing entity.

E. Secondary party. A party which is part of an existing fire/rescue services mutual aid agreement. May be a requesting or providing entity.

### **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 an Emergency Services director or designee of the Requesting Entity. 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 Providing Entity to the Requesting Entity shall be at the sole discretion of the Providing Entity. Further, the Providing Entity shall be held harmless by the Requesting Entity from liability in connection with its final decision on type and amount of equipment and number of personnel to be provided to the Requesting Entity.

### **V. Authority over Joint Operations**

The Incident Commander of the Requesting Entity shall retain overall control of all Emergency response activities. The ranking supervisor of the Providing Entity 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. Nothing in this agreement is intended nor does it waive any right to seek federal or other assistance provided for disaster relief.

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 Requesting Entity shall indemnify, defend and hold harmless the Providing Entity 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**

A. **Emergency Services.** For Emergency Services, no Party shall be required to reimburse any other Party for the cost of providing the services set forth in this Agreement, unless the incident lasts twelve hours or longer. If an incident lasts twelve hours or longer, the Providing Entity may seek compensation from the Requesting Entity for the cost of providing the services set forth in this Agreement. All services are billable if the incident lasts a minimum of twelve consecutive hours. Services include, but are not limited to:

- a. Personnel (including backfill personnel)
- b. Equipment (at rates defined by FEMA)

c. Supplies (actual cost incurred, including shipping of replacement supplies.)

Documentation is required in the form of an incident report which clearly lists personnel, equipment and supplies used. Supply usage also requires an actual invoice copy.

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

e. Hazardous Materials Services. The Providing Entity 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, made in writing to the Dallas County Emergency Management Agency. 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 on January 7th, 2021 at 12:01 a.m. (central time) by and between the Parties who have obtained approval hereof by their respective governing bodies. The Dallas County Emergency Management Agency shall have filed this Agreement with the Iowa Secretary of State as required by Iowa Code section 28E.9 between January 1<sup>st</sup>, 2021 and January 6<sup>th</sup>, 2021. 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**

Incidents involving a secondary party directly with another secondary party shall follow the existing fire/rescue services mutual aid agreement in its most current form. Any secondary party in direct cooperation with another secondary party, which is not covered by an existing fire/rescue services agreement, shall follow the provisions of this agreement. A secondary party however, in any direct cooperation with a primary party shall follow the provisions set forth in this agreement. Any cooperation between a primary party and another primary party shall also follow the provisions set forth in this agreement.

For secondary parties, should the existing fire/rescue services mutual aid agreement (or agreements) existing at the time of adoption or amendment of this agreement be considered terminated and not replaced or amended, any secondary party of this agreement shall then be considered a primary party to this agreement.

**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 Dallas County Emergency Management Agency.

**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 Dallas County Emergency Management Agency 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 Dallas County Area  
Fire/Rescue Services

By authorized signature of this Agreement, Parties agree to the 28E Agreement for  
Mutual Assistance for Dallas County Area Fire/Rescue Services.

Effective Date: January 7th, 2021 at 12:01 a.m.

Legal Name of Jurisdiction: \_\_\_\_\_

Entering the agreement as a \_\_\_\_\_ party.  
(primary or secondary)

Jurisdiction Official: \_\_\_\_\_ Date \_\_\_\_\_

Attest: \_\_\_\_\_ Date \_\_\_\_\_

Fire Chief/Agency Director \_\_\_\_\_ Date \_\_\_\_\_

**Modification Notes**  
**28E AGREEMENT FOR MUTUAL ASSISTANCE**  
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Revision 19 10 23 Notes:

The following revisions were made to the agreement since the last revision (R19 07 02) that is being presented to adoption.

Comments from partner agencies:

None.

Modifications:

General Format:

1. Page formatting, removed "DRAFT" watermark.
2. Reformatted footer page numbers.
3. Corrected lettering under Section VII. Compensation.

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Dates:

1. Added effective date of January 7th, 2021 at 12:01 a.m. (central time) under IX. Effective Date.
2. Added filing period of January 1st, 2021 and January 6th, 2021 under IX. Effective Date.
3. Added effective date of January 7th, 2021 at 12:01 a.m. under signature page.

Definitions:

1. Modified II Definitions item E from "Secondary party. A party which is part of an existing countywide mutual aid agreement. May be a requesting or providing entity." to "Secondary party. A party which is part of an existing fire/rescue services mutual aid agreement. May be a requesting or providing entity." This change was made to clarify secondary parties as it relates to prior agreements and their application to the Dallas County Agreement. The revision mimics language previously found in X, Prior Mutual Assistance Agreements.





*The mission of the Dallas County Emergency Management Agency is to promote whole community preparedness through a collaborative, comprehensive effort to prepare, mitigate, respond and recover from all hazards.*

**Dallas County Emergency Management Agency**

October 23<sup>th</sup>, 2019

**RE: Dallas Countywide Fire & Rescue Mutual Aid Agreement**

To whom it may concern,

The Dallas County Emergency Management Agency recently identified the need for a countywide mutual aid agreement. Historically, several Dallas County public safety agencies have been operating under the incorrect assumption that the Iowa Statewide Mutual Aid Compact (IMAC) is a valid and active agreement for day-to-day response to incidents. Other agencies others have simply operated without an agreement.

Unfortunately, "everyday," routine incidents can create legal challenges concerning the responsibilities of parties at incidents. We are fortunate that this is generally not the case, however operating without an agreement and understanding of responsibilities creates the possibility of liability for involved parties.

In response to this concern, the Dallas County Emergency Management Agency has created the "28E Agreement for Mutual Assistance for Dallas County Area Fire/Rescue Services" (agreement). Enclosed you will find the agreement that has been prepared for adoption by the Emergency Management Commission. Parties that should consider this agreement include; EMS agencies operating within Dallas County, fire agencies serving within Dallas County, and benefitted fire districts.

I would encourage you to review this agreement and consider its adoption. As a countywide agreement, it is only as effective as those that elect to adopt it.

The agreement deadlines as set by the Dallas County Emergency Management Commission require adoption and return to the Dallas County Emergency Management Agency by January 1<sup>st</sup>, 2021 with an effective date of January 7<sup>th</sup>, 2021 at 12:01 a.m. CDT.

Enclosed you will find the agreement as well as background information on the Iowa Mutual Aid Compact. Please do not hesitate to contact my office if you have questions or require assistance regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Austen Seely". The signature is written in a cursive, slightly slanted style.

Austen "AJ" Seely

Emergency Management Coordinator

Dallas County Emergency Management Agency

Enclosures:

1. Iowa Mutual Aid Compact Fact Sheet
2. Modification Notes Sheet
3. 28E Agreement for Mutual Assistance for Dallas County Area Fire/Rescue Services
4. Party Definition Decision Support Flow Chart



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## Dallas County Emergency Management Agency

# Iowa Mutual Aid Compact Fact Sheet

The Iowa Mutual Aid Compact (IMAC), signed into law in 2002, is an intrastate mutual aid agreement that provides the mechanism for political subdivisions and emergency management commissions to share resources with one another during a disaster that has been declared either by the local jurisdiction or the governor. The Compact increases each member's level of emergency preparedness, allowing them to work as a team when disasters are beyond local capabilities. Legislation passed during the spring 2009 legislative session provides for some important changes: emergency management commissions are now included as IMAC signatories, membership in the compact is automatic for all political subdivisions and Authorized Representatives are designated.

IMAC has two applications; each application has its own requirements. According to Iowa Code Chapter 29C.22(1)b, the purposes of IMAC are, "To provide for mutual assistance between the participating governments entering into this compact in managing and emergency or disaster that is declared in accordance with a comprehensive emergency plan or by the governor whether arising from natural disaster, technological hazard, man-made disaster, community disorder, insurgency, terrorism, or enemy attack. Similarly in application, 29C.22(1)c states This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating governments during emergencies, such actions occurring outside actual declared emergency periods."

The first application is for IMAC to be used in response to an actual incident, for the provisions of IMAC to active an emergency or disaster declaration is required. For the purposes of training testing or other matters outlined in 29C.22(1)c, a declaration is not required.

You can find more information at;

[https://www.homelandsecurity.iowa.gov/programs/emac\\_imac.html](https://www.homelandsecurity.iowa.gov/programs/emac_imac.html)

# Party Definition Decision Support Flow Chart

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Below you will find a flow chart that is intended to support your decision in which party to apply as within the proposed agreement.

