



**BUSINESS OF THE CITY COUNCIL
AGENDA STATEMENT**

Item No.06
For Meeting of 03/31/16

ITEM TITLE: Consideration of Resolution Authorizing the Mayor to execute 28E agreement with the City of Des Moines concerning a Homeland Defense agreement

CONTACT PERSON: Greg Staples, Chief of Police

SUMMARY:

The City has participated for a number of years in a homeland defense agreement with the City of Des Moines. The agreement allows Norwalk the ability to leverage homeland defense resources from the City of Des Moines police department for instances involving terrorist attack, bomb threats, or nuclear, biological or chemical weapons attacks. The agreement requires Norwalk to pay a fee for use of the resources of 11,510 per year.

The City of Des Moines is asking Norwalk and all other participating agencies to re-commit to the agreement.

<input checked="" type="checkbox"/> Resolution _____ <input type="checkbox"/> Ordinance _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Other (Specify) _____
Funding Source _____
APPROVED FOR SUBMITTAL _____
_____ City Manager

STAFF/COMMITTEE RECOMMENDATION: Pass resolution on a roll call vote.

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A 28E AGREEMENT WITH THE CITY OF DES MOINES FOR HOMELAND DEFENSE RESOURCES

WHEREAS, the City wishes to provide the best possible Police Protective services for its citizens; and,

WHEREAS, the city does not have the complete resources to successfully mitigate various types of incidents involving bombs or nuclear, biological or chemical weapons; and

WHEREAS, the City wishes to enter into a 28E agreement with the City of Des Moines for assistance Homeland Defense services;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Norwalk, Iowa, that the City Council authorizes the Mayor to execute a 28E agreement with the City of Des Moines for Homeland Defense services.

PASSED AND APPROVED THIS 31st DAY OF March, 2016.

Tom Phillips, Mayor

ATTEST:

Jodi Eddleman, City Clerk

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>
Riva	___	___
Isley	___	___
Lester	___	___
Livingston	___	___
Kuhl	___	___

CHAPTER 28E AGREEMENT
BY AND BETWEEN THE CITIES OF
DES MOINES, ALTOONA, BONDURANT, CARLISLE, GRIMES, MITCHELLVILLE,
NORWALK, PLEASANT HILL, POLK CITY, AND
WINDSOR HEIGHTS AND THE COUNTY OF POLK
FOR THE FUNDING AND IMPLEMENTATION OF
HOMELAND SECURITY SERVICES WITHIN THE METROPOLITAN AREA

WHEREAS, this Agreement is made and entered into by and between the cities of Des Moines, Altoona, Bondurant, Carlisle, Grimes, Mitchellville, Norwalk, Pleasant Hill, Polk City, and Windsor Heights and the County of Polk (hereinafter jointly referred to as the "Parties").

WITNESSETH:

WHEREAS, the metropolitan area consisting of the Parties hereto represented on the Metropolitan Advisory Council will be best served in a joint cooperative effort of implementation of the Iowa Homeland Security Strategy and other major incident response capabilities; and

WHEREAS, the City of Des Moines and Polk County, to support the mission of the Iowa Homeland Security and Emergency Management have devoted significant resources and assets toward the provision of homeland security services and programs; and

WHEREAS, upon recommendation of the Metropolitan Advisory Council Homeland Security Subcommittee to provide for the safety and security of residents throughout the metropolitan area from the threats of weapons of mass destruction, potential terrorist activity and natural disasters, all the Parties hereto desire to maintain the resources and assets available to the City of Des Moines to enable the City of Des Moines to provide homeland security services including major incident response throughout the metropolitan area that will serve the respective jurisdictions of each Party hereto; and

WHEREAS, the City of Des Moines in conjunction with Polk County has implemented the following homeland security services:

- Metro Star Tactical Unit which provides a Type II Weapons of Mass Destruction (WMD) and Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Tactical Response Team¹; and
- Des Moines Bomb Squad providing Type I bomb mitigation response²; and
- Des Moines Police Identification Section providing full-time personnel trained in the collection and preservation of evidence located in hazardous environments for contaminated crime scene processing; and

¹ Typed Resource Definitions: Law Enforcement and Security Resources; SWAT/Tactical Teams. FEMA 508-6 (July 2007). U.S. Department of Homeland Security.

² Typed Resource Definitions: Law Enforcement and Security Resources; Bomb Squad/Explosives Team. FEMA 508-6 (July 2007). U.S. Department of Homeland Security.

WHEREAS; the Parties desire to provide the necessary funding to maintain the capabilities of the Des Moines WMD/CBRNE Tactical Response Team and the Des Moines Bomb Squad supported by the Des Moines Police Identification Section to serve all the respective jurisdictions within the metropolitan area that are a Party hereto; and

NOW, THEREFORE, the Parties do hereby agree as follows:

- I. **Purpose.** Pursuant to Chapter 28E of the 2005 Code of Iowa, the Parties do hereby agree that the purpose of this Agreement is to jointly exercise their respective powers to fund and implement enhanced Homeland Security Services to serve all the respective jurisdictions within the metropolitan area that are a Party hereto.

- II. **Homeland Security Services.** All Parties may, in accordance with the procedures set forth in Article III, utilize on an as needed basis the following Homeland Security Services:
 - A. **WMD/CBRNE Tactical Response Team (Metro STAR Unit):** This team is comprised of a commander and full time Des Moines Police Officers and a full time Polk County Sheriff's Deputy. Team members are all technician-level HazMat trained tactical operators. This allows the team to successfully work in Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) environments. Along with the normal operations of a tactical unit, team members are trained to neutralize active threats, and to provide assistance in support of HazMat Units and Bomb Squads operating in and around "hot zones" of potential CBRNE exposures. Team members provide a safe scene for those that will ultimately mitigate and control the exposure to CBRNE environments. This team also has the capabilities of conducting proactive investigation into CBRNE threats providing preliminary CBRNE monitoring levels to determine the presence of a potential CBRNE substance.

 - B. **Des Moines Bomb Squad:** This team is comprised of a commander and Des Moines Police Officers trained as Bomb Technicians and Des Moines Explosive Detection K9 teams. Bomb Technicians are all technician-level HazMat trained. The team will mitigate explosives hazards and are trained in the mitigation of Weapons of Mass Destruction (WMD) dispersal devices. The team is also trained in the collection of hazardous evidence and post-blast investigations.

 - D. **Des Moines Identification Section:** Full-time Des Moines Police personnel trained in the collection and preservation of evidence found in hazardous environments.

- III. **Service/Command Procedures.** The protocol for utilization of the Homeland Security Services identified in this Agreement will be as follows:

- A. Upon occurrence of an incident requiring use of any of the Homeland Security Services, a Party's Incident Commander as defined below may request such Homeland Security Services by calling the Polk County Communications Center 286-3333, the Des Moines Dispatch Center at 283-4811 or such other phone numbers as the City of Des Moines or Polk County may designate in writing and forward to the Parties. The request shall relay the information necessary for the appropriate personnel to determine what Homeland Security Services in terms of personnel and equipment are needed to respond, which may include multiple or all Homeland Security Services available. The determinations on the appropriate Homeland Security Services personnel and equipment to be sent to a requesting Party shall be made at the discretion of the City of Des Moines using its established protocols. The City of Des Moines shall be held harmless by the requesting Party from liability in connection with its final decision on type and amount of equipment and number of personnel to be provided to the requesting Party.
- B. The responding Homeland Security Services personnel will have a team leader(s) who will report to the Incident Commander and coordinate activities between the requesting Party's personnel and the personnel providing the Homeland Security Services. The team leader(s) will assist the Incident Commander in reaching the objectives required by the circumstances at the scene. The Incident Commander, or his/her designee, shall have the power to issue reasonable orders and directives consistent with meeting the objectives. The team leader(s) will then act on those orders and directives as long as they are safe and within the capabilities of the responding Homeland Security Services team. The team leader(s) will provide technical advice when appropriate, but will not be expected to assume command of the scene.³
- C. When the Incident Commander and the team leader(s) agree that the objectives requiring Homeland Security Services response have been met the Homeland Security Services response teams will be released from the scene.
- D. The Homeland Security Services response teams will participate and share information in all post-incident debriefings held by the requesting Party.
- E. The term "Incident Commander" as used in this Agreement means the manager of an incident, no matter the size or complexity, or the number of agencies involved in the response. The "Incident Commander" is usually the first or senior, public safety or first-responder to arrive on scene. As additional responders arrive, command may transfer on the basis of who has primary authority for overall control of the incident. The "Incident Commander" is responsible for ensuring a coordinated effort and to ensure an effective response and the efficient, safe use of resources including:

³ All responding and supporting agencies are expected to operate under the guiding principles of the National Incident Management System (NIMS) and the Incident Command System (ICS).

- Establishing command and the Incident Command Post.
- Protecting life and property.
- Controlling personnel and equipment resources.
- Maintaining accountability for responders and public safety, as well as for task accomplishments.
- Assessing Incident Priorities.
- Determining Operational Objectives.
- Developing and Implementing the Incident Action Plan.
- Coordinating overall emergency activities.
- Coordinating the activities of outside agencies.
- Authorizing the release of information to the media.

IV. **Funding Contributions.** The City of Des Moines and Polk County have committed annual funding in fiscal years 2016 through 2018 to maintain the enhanced capabilities of Homeland Security Services for the metropolitan area. Funding is needed from the other Parties in each fiscal year to maintain the enhanced capabilities of the Homeland Security Services response to a minimally acceptable level for the Parties herein.

- A. In order to maintain the enhanced capabilities of the Homeland Security Services, each Party to this Agreement will annually pay the respective amount for such Party as set forth in Exhibit "A" in fiscal years 2016 through 2018. The amounts listed in Exhibit A shall remain fixed for the duration of this agreement and are not subject to adjustment without majority approval of the parties of this agreement.
- B. Each Party shall pay its respective annual amount set forth in Exhibit "A" to the City of Des Moines on or before July 31 of each fiscal year and such monies shall be used exclusively for necessary personnel, overtime, training, equipment, equipment maintenance and vehicle operating costs of providing the enhanced Homeland Security Services. The budget for enhanced capabilities of Homeland Security Services will be provided at the beginning of each fiscal year as outlined in Section V of this agreement.

V. **Reporting.**

- A. Quarterly Briefings - The City of Des Moines will provide briefings on Homeland Security Services to interested parties in the months of March, June, September, and December. This briefing will provide information to keep the Parties to this Agreement informed of the status and activities of the Homeland Security response teams and will include:
 - 1. Individual and team training and exercises from the past quarter
 - 2. Individual and team training and exercises for the upcoming quarter
 - 3. Status of equipment acquisitions and/or retirement of equipment in the past quarter
 - 4. Summary of response activities in the past quarter

5. Situational awareness of regional and national incidents

- B. The City of Des Moines will provide an annual report on Homeland Security Services to each Party to coincide with the September quarterly briefing of each year. This report will provide information to keep the Parties to this Agreement informed of the status and activities of the Homeland Security response teams and will include:
1. Accomplishments achieved during the calendar year and goals and objectives for the next calendar year,
 2. Individual and team training over the calendar year (courses, location, number of personnel trained, hours of training),
 3. Training exercises performed during the calendar year,
 4. Response dates and a synopsis of the event responded to,
 5. Equipment received or retired during the calendar year, and
 6. Budget showing expenditures made during the calendar year and proposed expenditures for the next calendar year.

The City of Des Moines will also provide this report to the Polk County Emergency Management Commission, the Polk County Chiefs' and Sheriff's Association, and the Fire Chiefs' Association.

- C. Each Party may appoint one of its public safety employees and one of its administrative officials to an advisory committee. This advisory committee will meet once per year to review the annual report and provide comments to the Des Moines Police Department. Any comments or suggestions are not binding on the Des Moines Police Department, but will serve to give input on any aspect of the purposes and fulfillment of this Agreement.

VI. Employee relationship.

- A. Employees of any Party acting pursuant to this Agreement shall be considered as acting under the lawful orders and instructions pertaining to their employment status with such Party. Under no circumstances are employees of one Party to be considered employees of any other Party. This Agreement does not create an employment relationship nor shall it be construed to create any employment relationship between Homeland Security Services personnel and the Party requesting such services.
- B. If a Party desires to have an employee assigned as part of the Homeland Security Services, a separate Memorandum Of Understanding (MOU) would need to be executed, to define the responsibilities of the involved Parties.

VII. Liability. Each Party waives all claims against the other Parties for compensation for any property loss or damage and/or personal injury or death to its personnel as a 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, including injury or death to its personnel, occurring as a consequence of the performance of this Agreement.

Each Party to this Agreement shall be liable for the actions of its own employees to the extent allowed under Iowa Code Chapter 670.

Nothing in this Agreement shall prevent or limit any 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 or immunities available under applicable law.

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

VIII. Iowa Code Chapter 28E Requirements.

- A. The cities of Des Moines, Altoona, Ankeny, Bondurant, Carlisle, Grimes, Johnston, Mitchellville, Norwalk, Pleasant Hill, Polk City, and Windsor Heights are municipal corporations and political subdivisions of the State of Iowa and are public agencies as defined by Iowa Code Chapter 28E.
- B. Polk County is a political subdivision of the State of Iowa and is a public agencies as defined by Iowa Code Chapter 28E.
- C. No separate legal or administrative entity is established by this Agreement.
- D. No real or personal property will be jointly acquired, held or disposed of in the performance of this Agreement. All equipment purchased in conjunction with the provision of Homeland Security Services shall be owned by the City of Des Moines or Polk County. Upon termination of this Agreement all such equipment and other personal property owned by the City of Des Moines or Polk County shall remain with such entities.
- E. The Des Moines Chief of Police and Polk County Sheriff shall administer the performance of this Agreement.

- F. This Agreement shall be in full force and effect upon the following:
1. Its approval and execution by the respective City Councils and Boards of Supervisors of the Parties hereto; and
 2. Filing of this Agreement with the Office of the Secretary of State as required under Section 28E.8, Code of Iowa.
- G. The duration of this Agreement shall extend for a term beginning July 1, 2015 and ending on June 30, 2018. This Agreement may not be terminated prior to such termination date, in whole or in part, except upon mutual agreement of all the Parties.

IX. General Provisions.

A. If any section, provision or part of this Agreement shall be found invalid or unconstitutional, such finding shall not affect the validity of the Agreement as a whole or any section, provision or part thereof not found to be invalid or unconstitutional.

B. The Agreement represents the entire agreement between the Parties. If upon annual review of this Agreement by the Parties a determination is made that this Agreement should be revised, any subsequent change or modification to this Agreement shall be mutually agreed to by the Parties in the form of a duly approved and executed addendum to this Agreement.

C. Each Party approving this Agreement shall execute the separate signature page provided for it, and the Parties hereto authorize the City Clerk of the City of Des Moines to assemble the signature pages and append same to copies of this Agreement, to file this Agreement with the Secretary of State and to record it with the Offices of the Recorder of Polk and Warren Counties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed.

I. CITY OF DES MOINES, IOWA

T.M. Franklin Cownie
T.M. Franklin Cownie, Mayor

ATTEST:

Diane Rauh
Diane Rauh, City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 7th day of March, 2016, before me, the undersigned, a Notary Public, personally appeared T.M. Franklin Cownie and Diane Rauh, to me personally known, who, being by me duly sworn, did state that they are the Mayor and City Clerk, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution and Roll Call No. 16-0415 adopted by the City Council on the 7th day of March, 2016, and that T.M. Franklin Cownie and Diane Rauh acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.



Karen Marie Herzberg
Notary Public in the State of Iowa

★ Roll Call Number
16-0415

Agenda Item Number
49

Date 3/7/2016

**APPROVAL OF INTERGOVERNMENTAL 28E AGREEMENT WITH
GOVERNMENT ENTITIES REPRESENTED ON THE METROPOLITAN
ADVISORY COUNCIL (MAC) FOR THE FUNDING OF HOMELAND
SECURITY SERVICES WITHIN THE METROPOLITAN AREA**

WHEREAS, on June 14, 2010 by Roll Call number 10-988 the Des Moines City Council approved the a 28E agreement with governmental agencies represented on the Metropolitan Advisory Council (MAC) to supply funding in support of Homeland Security services to be provided by the City of Des Moines in conjunction with Polk County as defined in the 28E agreement; and

WHEREAS, the Homeland Security services provide public safety assistance with natural and manmade disasters, potential terrorist activity, evidence collection, crime scene analysis, as well as threats from weapons of mass destruction; and

WHEREAS, the represented governmental agencies desire to continue the agreement through June 30, 2018 with annual funding of a designated amount per entity as agreed upon through the use of a formula previously accepted by the City of Des Moines as well as the members of the MAC; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the Intergovernmental 28E Agreement on file in the Office of the City Clerk between the cities of Des Moines, Altoona, Bondurant, Carlisle, Grimes, Norwalk, Pleasant Hill, Polk City and Windsor Heights along with the county of Polk for funding in support of the Homeland Security services provided within the metropolitan area, is here by approved and the Mayor is hereby authorized and directed to execute the 28E agreement on behalf of the City of Des Moines with the City Clerk directed to attest to his signature.

BE IT FURTHER RESOLVED that the City Clerk is directed to assemble the signature pages of the 28E agreement and append same to copies of the 28E agreement and to file this agreement with the Iowa Secretary of State in an electronic format in accordance with the provisions of Iowa Code Section 28E.8.

BE IT FURTHER RESOLVED that the Chief of Police shall administer the performance of the 28E agreement in conjunction with the Polk County Sheriff.

★ Roll Call Number
16-0415

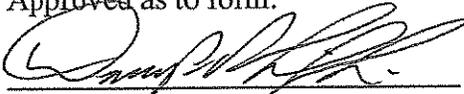
Agenda Item Number
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Date 3/7/2016

(Council Communication No. 16-102)

Moved by Hensley to adopt

Approved as to form:

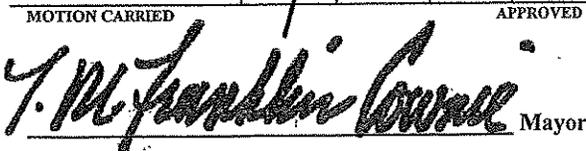

 Douglas P. Philip
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED 7 APPROVED

 T. M. Franklin Council Mayor


 Diane Rauh City Clerk

CITY OF NORWALK, IOWA

Tom Phillips, Mayor

ATTEST:

Jodi Eddleman, City Clerk

STATE OF IOWA)
) ss:
COUNTY OF WARREN)

On this ____ day of _____, 2016, before me, the undersigned, a Notary Public, personally appeared Tom Phillips and Jodi Eddleman, to me personally known, who, being by me duly sworn, did state that they are the Mayor and City Clerk, respectively, of the City of Norwalk, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution and Roll Call No. _____ adopted by the City Council on the ____ day of _____, 2016, and that Tom Phillips and Jodi Eddleman acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.

Notary Public in the State of Iowa