



Roll Call Number

Agenda Item Number

45

Date June 14, 2021

APPROVAL AND ACCEPTANCE OF INDIVIDUAL 28E AGREEMENTS RELATED TO THE COMPUTER AIDED DISPATCH (CAD) SYSTEM, RECORDS MANAGEMENT SYSTEM (RMS) AND THE JAIL MANAGEMENT SYSTEM (JMS) BETWEEN THE CITY OF DES MOINES AND POLK COUNTY FOR SHARED PUBLIC SAFETY INFRASTRUCTURE SERVICES.

WHEREAS, approval and acceptance of individual 28E agreements related to Computer Aided Dispatch (CAD), Records Management System (RMS) and Jail Management Systems (JMS) between the City of Des Moines and Polk County for shared Public Safety Infrastructure systems, and;

WHEREAS, there is no fiscal impact associated with these agreements, and:

WHEREAS, these agreements replace previous agreement with more defined responsibility and requirement for both parties, and;

NOW, THEREFORE, BE IT RESOLVED, by the Des Moines City Council that the three 28E agreements related to the Computer Aided Dispatch Center, Records Management and Jail Management, Public Safety Infrastructure systems between the City of Des Moines and Polk County is hereby approved and the Mayor is authorized to execute said agreement on behalf of the City with the City Clerk to attest to the Mayor's signature and the City Manager or his designee to execute the terms of the 28E agreements.

Moved by _____ to adopt

Approved as to form:

Douglas P. Philip, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, P. Kay Cmelik, 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.

City Clerk

**COMPUTER AIDED DISPATCH SYSTEM
28E AGREEMENT**

This Agreement is entered into by and between Polk County, Iowa, (“County”) and the City of Des Moines (“City”), both governmental subdivisions of the State of Iowa, to share in the use of a Computer Aided Dispatch System (“CAD”). The County and City are hereinafter collectively referred to as “Party” or “Parties.”

WHEREAS, on May 2, 2005 the parties previously entered into a User Agreement, pursuant to Chapter 28E of the Code of Iowa, to share both a CAD and Records Management System (RMS) under which the City of Des Moines hosted a Jail Management System (JMS) for Polk County.

WHEREAS, the prior 28E Agreement designated a Lead Agency and a User Agency and established terms and conditions for the ownership, administration, and use of CAD, RMS and Jail Management (JMS) Systems.

WHEREAS, the City of Des Moines and Polk County jointly procured an upgraded CAD in 2018 and implemented the upgraded CAD in 2019.

WHEREAS, this Agreement will serve as a joint termination and replacement of the CAD terms of the prior 28E Agreement dated May 2, 2005.

I. PURPOSE

1. This Agreement will establish terms, conditions, and responsibilities for the provision, administration, support, maintenance and use of the CAD.
2. Neither the CITY nor the COUNTY shall assign its interest or obligations under this Agreement without the prior written consent of the other PARTY.
3. The prior 28E Agreement entered on May 2, 2005 relating to the CAD is hereby terminated and replaced with this Agreement upon execution of this Agreement by both parties.

II. PARTICIPATING ENTITIES

1. Participants in performance of this Agreement are:
 - a. City of Des Moines
 - b. Polk County

III. RECIPIENT DEPARTMENTS (“USERS”)

The Parties shall jointly provide CAD service and use to the following:

1. City of Des Moines:
 - a. Des Moines Fire Department
 - b. Des Moines Police Department

2. Polk County:
 - a) Polk County Attorney’s Office
 - b) Polk County Conservation
 - c) Polk County Emergency Management Agency
 - d) Polk County Medical Examiner’s Office
 - e) Polk County Sheriff’s Office

3. Polk County Sheriff’s Office Communication Center Users under service agreement with Polk County:
 - a) Altoona Fire Department
 - b) Altoona Police Department
 - c) Ankeny Fire Department
 - d) Ankeny Police Department
 - e) Bondurant Fire Department
 - f) Camp Dodge Fire Department
 - g) Camp Dodge Security
 - h) Camp Township/Runnells Fire Department
 - i) Delaware Township Fire Department
 - j) Elkhart Fire Department
 - k) Granger Fire Department
 - l) Johnston/Grimes Municipal Fire Department
 - m) Johnston Police Department
 - n) Mitchellville Fire Department
 - o) Mitchellville Police Department
 - p) Pleasant Hill Fire Department
 - q) Pleasant Hill Police Department
 - r) Polk City Fire Department
 - s) Polk City Police Department
 - t) State of Iowa 5th Judicial District – Probation and Parole
 - u) Saylor Township Fire Department
 - v) U.S. Army Corps of Engineers
 - w) U.S. Marshal’s Office
 - x) Windsor Heights Fire Department
 - y) Windsor Heights Police Department

If an agency listed in this section no longer has a service agreement with Polk County, that agency will no longer be an authorized user under this agreement. If an agency not listed above enters into a service agreement with Polk County or the City of Des Moines, that agency will become an authorized user under this agreement. Polk County and the City of Des Moines will notify the other party of any terminated or new service agreements as soon as reasonably practical.

IV. TERM

1. Commencement. This Agreement shall be effective upon its execution by the governing bodies of both the CITY and the COUNTY and filed with the Secretary of State and shall continue for an initial period of five (5) years.
2. Renewal. The term shall be automatically extended at the end of the initial five (5) years for a one (1) year period and in a like manner in succeeding years unless either party notifies the other in writing at least one (1) year prior to the expiration date of the Agreement that the party intends not to extend the Agreement.

V. TERMINATION

Either party may terminate this Agreement without cause upon providing written notice to the other party at least one (1) year prior to the effective date of termination. Termination may also be by mutual written agreement.

VI. CONSIDERATION

1. The CITY and the COUNTY shall share ongoing management, maintenance, and support costs to operate and maintain the CAD.
2. Cost sharing shall be based upon estimated and agreed upon expenses.
 - a. The CITY shall provide the COUNTY with an invoice annually for reimbursement of allowable related expenses as described in Section VI Considerations, items 4a-4f.
3. The cost sharing percentages for the CITY and the COUNTY shall be based upon the population served by the CAD. The population shall be determined using the most recent regular or County-wide special census conducted by the U.S. Census Bureau.
 - a. The population of the City of Des Moines and all areas serviced primarily by the CITY fire and police departments shall be attributed entirely to the CITY and not to the COUNTY for purposes of this calculation.
 - b. The population of the COUNTY shall include the population of all municipalities and townships that are active USERS of the CAD, excluding the CITY.
4. Allowable costs for sharing:
 - a. CAD Vendor Annual System Maintenance
 - b. CAD Vendor Annual System Service
 - c. CAD Vendor Annual System License
 - d. Costs for CAD System level upgrades, including CAD system interfaces
 - e. Salary and benefits of CITY personnel providing upgrade, maintenance and support of the CAD System for estimated and agreed upon costs.
 - f. Administrative fees for CITY personnel providing generation, maintenance, and support of Geographic Information System (GIS) maps and location data in the CAD system that are not otherwise reimbursed by the Polk County Joint 911 Service Board or applicable grant funds.
5. Costs not allowable for sharing:
 - a. Costs for end user software upgrades and/or replacements that may be required by a server-side upgrade.

- b. Costs for end user equipment upgrades and/or replacements that may be required by a server-side upgrade.
- c. Costs of enhancements to the CAD system that provide exclusive benefit to a single Party. These costs shall be apportioned entirely to the Party deriving that benefit.

VII. OWNERSHIP OF RECORDS

1. Each USER as described in Section III Recipient Departments shall be the owner of record for all information entered into and stored by the CAD by the USER's personnel. Neither the CITY nor the COUNTY shall release to any party data or information for which it is not the owner of record.
2. Each USER shall respond to requests made by individuals or organizations made pursuant to the Iowa Open Records Act for the information for which the USER receiving the request is the Owner of record. If a request is received for information contained in the records of another USER, the requester will be advised and referred to that USER.

VIII. OWNERSHIP OF EQUIPMENT & SOFTWARE

1. No real or personal property will be purchased or disposed of in the performance of this Agreement.
2. Both the CITY and the COUNTY shall at all times own their respective equipment, hardware, software, licenses, and other related components of the CAD. In the event that the parties make any purchases which are agreed to be jointly owned and shared, such joint ownership agreement shall be in writing to include the division of the purchased items in the event of termination of this Agreement.

IX. JOINT RESPONSIBILITIES

1. The CITY and the COUNTY shall execute and keep current such maintenance agreements that are required for shared use of the CAD.
2. The CITY and the COUNTY shall execute individual maintenance agreements for the DMPD and PCSO communication centers as needed.
3. Neither PARTY shall take any action that impedes use of the CAD by the other PARTY without providing advance notice of 48 hours prior to the disruptive action.
4. Either PARTY may take EMERGENCY action with notice shorter than 48 hours if the system integrity is at risk as determined by system administrators or the software vendor. This can include but not limited to data loss, data integrity, and system reliability including system or information security. Either PARTY shall notify the other PARTY as soon as possible prior to the disruptive action.
5. The CITY and the COUNTY will jointly plan service and/or maintenance outages with consideration given to impacts on all USERS.
6. The CITY and the COUNTY agree to be separately responsible for the accuracy, timeliness, and completeness of information entered into or through the CAD by their respective CAD end users and for providing appropriate CAD training to their respective end users.

7. The CITY and the COUNTY agree to comply with all federal and state laws and regulations regarding the collection, storage, retrieval, and dissemination of criminal justice information.
8. Neither the CITY nor the COUNTY shall disseminate or disclose to unauthorized personnel under applicable federal and state law any information entered into, stored, and managed in the CAD by another USER without the express consent of a representative of that USER who is authorized by that USER to provide such consent.
9. Operations committee:

The CITY and the COUNTY shall establish, coordinate, and participate in the activities of an operations committee for the governance of the CAD services and use. The operations committee shall consist of an equal number of representatives from each participating entity. The CITY shall be responsible for scheduling regular meetings of the operation committee on a mutually agreed upon frequency.

The operations committee shall consider and evaluate all technical and operational change requests, suggestions, and recommendations submitted by any USER. The operations committee shall respond to such change requests, suggestions, and recommendations within a reasonable and timely manner.

If CITY and the COUNTY staff assigned to the operations committee cannot reach consensus, the Chief of Police of Des Moines and the Polk County Sheriff shall jointly make the decision regarding a change request, suggestion, or recommendation made by any USER.

10. Emergency and planned relocation:

The CITY and COUNTY shall each act as the physical backup Public Safety Answering Point (PSAP) location for the other PARTY, during emergency or planned evacuation of their primary facility.

Each PARTY shall provide a minimum of two dispatch workstations while acting as the backup location. Each workstation must provide login and use of the 911 phone system, shared Computer Aided Dispatch (CAD) client, NCIC/CJIS access and a console connection to each PARTY's subscribed Land Mobile Radio (LMR) system. At all times each PARTY shall provide sufficient equipment rack space at their location to ensure functionality of these mission critical systems.

Both PARTIES agree to receive and dispatch in-coming Calls For Service (CFS) for each other during the staff migration to the back-up facility during an emergency relocate. Any planned facility relocation must be agreed upon by the PSAP Directors in advance. Emergency relocation needs shall be communicated with the other PSAP by the PSAP Directors or their designees at the time of need. It shall be recognized that not all backup needs require a physical location change and will be determined on a case by case basis.

11. Emergency and planned system outages:

During backup situations that do not require a physical location change, including emergency and planned system outages, the CITY and COUNTY shall act as the primary backup PSAP for each other. Each shall serve as the alternate 911 routing recipient for the other.

During emergency or planned phone outages, all 911 calls will be routed to the backup PSAP for answering and processing. NCIC/CJIS equipment failures may require alternate routing of

NCIC messages and queries to the backup PSAP. When these routing changes are made with State of Iowa Department of Public Safety (DPS), the backup PSAP is to be notified immediately that they will be receiving NCIC messages intended for the other PSAP. During NCIC/CJIS alternate routing, each PSAP agrees to make all NCIC queries, entries and cancelations on behalf of each other.

Emergency or planned CAD outages may require a partial relocation of dispatch personnel to process and dispatch incidents utilizing the serviceable CAD system. During this partial relocation, both the CITY and COUNTY will supply a minimum of two dispatch workstations with a functioning CAD and 911 phone system as prescribed in section IX.10. The PSAP requiring relocation shall provide staffing as deemed necessary by the PSAP Directors or their designees.

X. CITY RESPONSIBILITIES

1. The CITY shall take all reasonable and necessary care to maintain a fully functioning and secure CAD.
2. The CITY shall be responsible for the following:
 - a. Staffing, including technical, functional and administrative personnel that may be required to maintain a fully functioning and secure CAD.
 - b. Generating, updating, and supporting the GIS map and location data necessary to maintain a fully functioning CAD for the USERS' combined service area All CAD infrastructure, including:
 - 1) Servers
 - 2) Server software
 - 3) Essential database interfaces required by either PARTY
 - c. All CAD hosting services, including:
 - 1) System level administration
 - 2) Maintaining a technologically current CAD, with software and infrastructure at version levels that are supported by the CAD vendor.
 - 3) Backups of the CAD system and data
 - d. All CAD maintenance, including:
 - 1) Maintenance of interfaces supplied by the CAD vendor:
 - a) Between and among modules of the CAD software
 - b) Mug shot systems
 - c) Fingerprint identification systems
 - 2) Interfaces that are used jointly by the CITY and the COUNTY.
 - 3) Interfaces used exclusively by the CITY.
 - 4) Service agreements and support and maintenance agreements with third parties or CITY internal service providers when such agreements are required to maintain the full functionality and proper operation of the CAD.
 - e. CAD technical support, including:
 - 1) Assisting the COUNTY in the maintenance and support of interfaces used jointly by the CITY and COUNTY or solely by the COUNTY.
 - 2) Assisting the COUNTY in the maintenance and support of interfaces used solely by COUNTY Communication Center Users.
 - 3) Assisting the COUNTY in the administration and technical support of workstations and software which the COUNTY provides dispatch services, as needed.
 - f. Providing the COUNTY and all USERS with access to the CAD through mutually agreed upon network connections.

- g. Providing all equipment, workstations, and software that are required by CITY personnel for the CITY's use of the CAD.
- h. Administration and technical support of CITY workstations and software as needed by the CITY and USERS for which the CITY provides dispatch services.
- i. Assuring that the USERS for which it provides dispatching services conform to established end user access and security procedures.

XI. COUNTY RESPONSIBILITIES

1. The COUNTY shall be responsible for the following:
 - a. Providing staffing, including technical, functional, and administrative personnel that are required to fulfill the duties of the COUNTY under this Agreement.
 - b. Accessing the CAD through mutually agreed upon network connections.
 - c. Conforming to standards established for network connection and use.
 - d. Assuring that the USERS for which the COUNTY provides dispatching services conform to established user access and security procedures.
 - e. Providing all equipment, work stations, and software that are required for the COUNTY use of the CAD.
 - f. Providing all software licenses that are required by COUNTY Communication Center Users for the use of the CAD.
 - g. Administration and technical support of workstations and software as needed by the COUNTY.
 - h. Administration and technical support of workstations and software as needed by USERS for which the COUNTY provides dispatch services.
 - i. Maintenance and support of interfaces used solely by the COUNTY.
 - j. Maintenance and support of interfaces used solely by COUNTY Communication Center Users.
 - k. Administration of agreements between the COUNTY and Communication Center Users regarding the provision of communication center services.

XII. INDEMNIFICATION

1. Only to the extent permitted by the Constitution and laws of the State of Iowa, the Parties shall indemnify, defend and hold harmless each other from any and all claims, disputes, demands, damages, actions, judgments, liability, loss, cost and expenses, including reasonable attorney fees, arising out of or alleged to arise from personal injury, including death, or damage to property arising out of a Party's own negligent act, error or omission in the performance of a Party's responsibility imposed by the terms of this Agreement or by law.
2. Both Parties shall maintain the defenses available to it pursuant to Chapter 670 of the Code of Iowa, as it now exists or may be amended from time to time.

XIII. IOWA CODE CHAPTER 28E REQUIREMENTS

1. This Agreement shall be governed by, construed, and enforced in accordance with Chapter 28E of the Code of Iowa and the laws of the State of Iowa.
2. The City of Des Moines is a municipal corporation organized and existing under the laws of the State of Iowa and is a public agency as defined by Iowa Code Chapter 28E.
3. The County of Polk is a political subdivision of the state organized and existing under the laws of the State of Iowa and is a public agency as defined by Iowa Code Chapter 28E.

4. No separate legal or administrative entity is created by this Agreement.
5. The Chief of the Des Moines Police Department shall administer the performance of this Agreement for the City of Des Moines.
6. The Polk County Sheriff shall administer the performance of this Agreement on behalf of Polk County.
7. This Agreement shall be in full force and effect upon the following:
 - a. Execution by both parties hereto.
 - b. Recorded in the Office of the Polk County Recorder and filed with the Secretary of the State of Iowa.
8. All notices shall be deemed given on the day of receipt.

XIV. MISCELLANEOUS

1. Entire Agreement
This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and the Parties acknowledge that they are entering into the Agreement solely on the basis of the terms and conditions herein contained and not in reliance upon any representation, statement, inducement or promise, whether oral or written, not contained herein. This Agreement supersedes all prior agreements between the parties for the services provided in connection with this Agreement.
2. Severability
If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.
3. Waiver
Except as specifically provided for in a waiver signed by duly authorized representatives of the Parties, failure by either party at any time to require performance by the other Party or to claim a breach of any provision of the Agreement shall not be construed as affecting any subsequent right to require performance or to claim a breach.
4. Amendments
Any requested substantive change to the Agreement that significantly alters the purpose, governance structure, scope, service level, or cost sharing, must be approved by Addendum to this Agreement by the governing body of each Party.

All other changes to the Agreement may be mutually approved by Addendum to this Agreement signed by the Chief of the Des Moines Police Department and the Polk County Sheriff.
5. Assignment and Delegation
This Agreement shall not be assigned, transferred or conveyed, in whole or in part, without the prior written consent of the other Party.
6. Notice
 - a. Notices as provided for in this Agreement to the CITY shall be deemed sufficient if sent by certified mail with return receipt requested to the City of Des Moines, Attention: Chief of Police, City of Des Moines, 25 East 1st Street, Des Moines, Iowa 50309.

- b. Notices as provided for in this Agreement to the COUNTY shall be deemed sufficient if sent by certified mail with return receipt requested to Polk County, Attention: Polk County Sheriff, 111 Court Avenue, Des Moines, Iowa, 50309.

IN WITNESS WHEREOF, the CITY and the COUNTY hereto have caused this Agreement to be executed by their proper officers, duly authorized thereto.

City of Des Moines, Iowa

Polk County, Iowa

T.M. Franklin Cownie
Mayor

Angela Connolly
Chairperson – Board of Supervisors

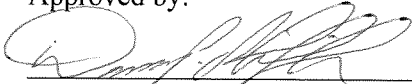
Date

Date

Attest:

P. Kay Cmelik, City Clerk

Approved by:



Douglas P. Philiph,
Assistant City Attorney

Approved by:

Assistant County Attorney

STATE OF IOWA, COUNTY OF POLK, ss:

On this __ day of _____, 2021, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Angela Connolly, to me personally known, who being by me duly sworn, did say that she is the Chair of the Polk County Board of Supervisors executing the foregoing instrument, that said instrument was signed on behalf Polk County by authority of its Board; and that Angela Connolly as Board Chair acknowledges the execution of the foregoing instrument to be the voluntary act and deed of the Board of Supervisors, by it and by her voluntarily executed.

Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF POLK, ss:

On this ___ day of _____, 2021, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared T. M. Franklin Cownie and P. Kay Cmelik, to me personally known, who being by me duly sworn, did say 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 corporate seal of said municipality, 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 _____, 2021, and that T. M. Franklin Cownie and P. Kay Cmelik acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the municipal corporation, by it voluntarily executed.

Notary Public in and for the State of Iowa