



Public Safety Building, 312 E. Fifth St.
Muscatine, IA 52761
(563) 263-5534
Fax (563) 263-9340

FIRE DEPARTMENT

MEMORANDUM

TO: Gregg Mandsager, City Administrator

FROM: Jerry Ewers, Fire Chief

DATE: August 12, 2011

SUBJECT: Provide Hazmat Services for Keokuk County

INTRODUCTION:

Muscatine Fire Department was contacted by Keokuk County to provide Hazardous Material Emergency Response when an incident in their county was above the level of training or experience level for their local fire departments.

BACKGROUND:

Currently the Muscatine Fire Department provides Hazardous Material Emergency Response through 28E agreements to Muscatine County, Henry County, Louisa County, and Washington County. Each county pays the City of Muscatine \$ 1,800 annually for this service as an equipment maintenance fee. Additionally, when we respond to an emergency in these counties our actual expenses for personnel costs and equipment used to control and mitigate the incident is actually billed to the business/owner (responsible party) that caused the spill or release of hazardous materials.

RECOMMENDATION/RATIONALE:

We are requesting that City Council authorize the Muscatine Fire Department to enter into a Hazmat 28E agreement with Keokuk County. This agreement will become effective October 1, 2011. This will create an additional \$ 1,800 in revenue under Fire Protection Contracts and Hazmat Agreements.

ATTACHMENTS:

1. Keokuk County/City of Muscatine Hazmat 28E Agreement

KEOKUK COUNTY ATTORNEY
JOHN E. SCHRÖEDER

THERE IS JUSTICE, BUT WE DO NOT
ALWAYS SEE IT, DISCREET, SMILING, IT IS
THERE, AT ONE SIDE, A LITTLE BEHIND
INJUSTICE, WHICH MAKES A BIG NOISE.
JULES RENARD

KEOKUK COUNTY COURT HOUSE
101 SOUTH MAIN
P.O. BOX 231
SIGOURNEY, IOWA 52591
TELEPHONE: (641) 622-3500

August 8th, 2011

Chief Gerald Ewers
Muscatine Fire Department
312 East 5th Street
Muscatine, Iowa 52761

RE: Enclosed 28E Agreement

Dear Jerry:

Pursuant to our telephone conversation on the subject earlier this morning, I am enclosing herewith the HazMat 28E Agreement which has been approved and executed by the Keokuk County Board of Supervisors in duplicate for the consideration and approval of the Muscatine City Council. I have also enclosed a stamped and self-addressed envelope for your return of one of the executed duplicates for our recording with the Keokuk County Recorder and filing with the Iowa Secretary of State thereafter. I understand that you will arrange for the recording of the document with the Muscatine County Recorder. Thank you for your assistance in accomplishing these various matters in completing the agreement process.

Sincerely,


John E. Schröeder
Keokuk County Attorney

JES/sw

Cc: Self-address stamped envelope
Two copies of HazMat 28E Agreements

**KEOKUK COUNTY/CITY OF MUSCATINE
HAZMAT 28E AGREEMENT**

WHEREAS, occasions may arise where hazardous material emergencies occur within Keokuk County, Iowa; and

WHEREAS, in such a situation the availability of trained personnel and equipment from the City of Muscatine might well avert disastrous results and personal tragedies; and

WHEREAS, Chapter 28E, Code of Iowa, provides that powers, privileges or authority exercised by a public agency of this state may be exercised jointly with any other agency of the United States having such powers, privilege, and authority; and

WHEREAS, the parties hereto are desirous of entering into an agreement which allows the Muscatine Fire Department to render hazardous material emergency assistance within Keokuk County, Iowa;

THEREFORE, THE PARTIES HERETO consisting of the City of Muscatine, a political subdivision of the State of Iowa, hereinafter identified as City, and Keokuk County, also a political subdivision of the State of Iowa, hereinafter identified as County, mutually agree to give emergency assistance when needed under the following terms and conditions:

Section 1. Purpose

The purpose of this agreement is to provide for assistance by City to County. The scope of the assistance includes Muscatine Fire Department response to hazardous materials emergencies located within Keokuk County, Iowa. No separate legal or administrative entity is created by this agreement. This agreement is not intended to supersede or otherwise invalidate any other mutual aid agreements in which the parties to this agreement may be participating with other organizations.

Section 2. Liability.

Employees of either organization acting pursuant to this agreement shall be considered as acting under the lawful orders and instructions of their employer. Under no circumstances are they to be considered employees of any other jurisdiction or organization, but rather shall be considered to be employees of their respective jurisdiction or organizations.

Each party hereto shall bear the liability and/or cost of damage to its own equipment and the death of or injury to its member organization's personnel, without regard to where the death, injury or damage occurs. Each party shall provide appropriate and reasonable insurance for its personnel who may suffer injury, disability, or death and/or are involved in loss or damage to private property, and/or death of or injury to private individuals in the performance of official duties while functioning under the terms of this agreement.

Each party hereto shall be responsible for defending against claims made against it or its personnel and arising from its participation in this agreement. The parties hereto shall not be obligated by this agreement to defend against claims made against the other party hereto, or against the personnel of said party.

For the purpose of this agreement, "Employee" and "Employer" shall include membership in or association with any organization without regard to level of financial compensation paid, if any.

Section 3. Expenses.

Expenses related to the City's response to emergencies will be borne by the County. The costs associated with this provision will be as determined by the City and shall include costs for manpower, damaged or destroyed equipment, and any special equipment and supplies used. The City will attempt to recover costs from responsible parties before billing the County for unrecovered expenses. Nothing in this agreement shall limit the ability of either party to bill responsible parties for expenses.

Section 4. Authority to Request Assistance.

The power to make a request for assistance or to provide aid under this agreement shall reside in the Keokuk County Emergency Management Coordinator, the Keokuk County Sheriff, a local fire chief or official designees only. When the County determines that its own resources are insufficient to meet the demands generated by a hazardous materials emergency, a request for such assistance as it believes is necessary in order to respond adequately to those demands may be made. The request shall include a location and description of the emergency, including any other pertinent information available at the time of the call.

Section 5. Response to Request for Assistance

Upon receiving a request for mutual aid assistance, the City may provide any such assistance as it deems appropriate, consistent with its existing obligations. The City will be given a recommended route to take to reach the location of the emergency. Whenever possible the County shall provide an escort from that point of entry to the emergency scene.

No provision of this agreement shall be construed as to place liability upon the City of Muscatine, its fire department, or its employees to respond to any request for assistance,

continue a response to a request for assistance, or maintain a presence at the scene of an emergency for any reason. The amount of manpower and equipment sent in response to the request for assistance is solely at the discretion of the City.

Section 6. Operations at Emergency Scene

The responding City personnel and equipment shall report to the incident command (IC) officer of the County who is in charge at the emergency scene. The County incident command officer shall retain incident command responsibilities. The operation of any fire fighting vehicles and specialized equipment shall lie solely with the members of the entity that owns said equipment. It is the intent of this agreement that the role of the City is to provide services related to hazardous material emergency response. Command and support functions, such as fire suppression, emergency medical services, and law enforcement, are the responsibility of the County.

The Chief of the Muscatine Fire Department shall have direct control and supervision of its personnel and use of all apparatus and equipment provided by the City in mutual cooperation consistent with the spirit of this agreement. It is the responsibility of the County to establish and maintain an incident command system throughout the duration of the emergency while the personnel and/or equipment of the City of Muscatine is present at the scene of the emergency.

It is understood that there are limitations in the scope of the ability of the City to deal with some types of emergencies.

Section 7. Termination of Response

The City personnel and equipment shall be released by the County when the services of the City are no longer required. As soon as the County shall determine that the assistance it has received is no longer needed, it shall communicate such information to the officer in charge of City personnel.

The City retains the right to terminate its response at any time it determines such action is necessary. City personnel and equipment may withdraw from the emergency scene upon giving notice to the command officer at the emergency scene of their intent to do so.

Section 8. Term of Agreement

This agreement shall be in full force and effect upon execution by the parties hereto and the filing and recording thereof as provided in Section 13, as of October 1, 2011. The agreement shall continue in effect until terminated by either party. The agreement may be amended by agreement of both parties. Either party may terminate the agreement by giving written notice to the other party hereto by certified mail indicating a date of termination, in which case this agreement shall cease.

Section 9. Administration of Agreement

This agreement shall be administered by the Chief of the Muscatine Fire Department and the Keokuk County Emergency Management Services Coordinator.

All decisions pertaining to the acquisition, the maintenance, and the disposal of any real or personal property jointly obtained as a consequence of this agreement shall be made jointly. All such decisions shall be made prior to termination of the agreement.

Section 10. Notices

Any written notice as required in this agreement shall be sent to the address of the respective parties as shown on the execution portion of this agreement.

Section 11. Prior Mutual Aid Agreements

This agreement is not intended to supersede or otherwise invalidate any other mutual aid agreements in which the parties to this agreement may be participating.

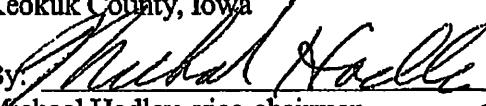
Section 12. Compensation

The County shall pay the City \$1,800.00 per year as an equipment maintenance fee, payable upon the execution of this agreement. In the event the agreement is terminated prior to the end of each successive year, a prorated amount will be refunded to the County.

Section 13. Filing and Recording

Upon execution by all parties hereto, this agreement shall be filed with the Secretary of State and recorded with the Keokuk County and Muscatine County Recorders.

Keokuk County, Iowa

By: 
Michael Hadley, vice-chairman
Keokuk County Board of Supervisors
Keokuk County Courthouse
101 S. Main
Sigourney, Iowa 52591

Attest: Christy Bates
Christy Bates, Keokuk County Auditor

Date: August 8, 2011

City of Muscatine, Iowa

By: _____
Richard O'Brien, Mayor
City of Muscatine, Iowa
City Hall
215 Sycamore St.
Muscatine, Iowa 52761

Fran Doneldson, Muscatine City Clerk

Date: _____