

**AMENDED AND RESTATED  
IOWA GOVERNMENTAL  
HEALTH AND RELATED BENEFITS PROGRAM**

**28E AGREEMENT**

WHEREAS, The Governmental Entities referred to in Addendum A (participating agencies) are public agencies as defined in Iowa Code Chapter 28E and desire to join together for the operation of a health benefits program for their respective employees; and,

WHEREAS, Chapter 28E of The Code of Iowa authorizes the joint exercise of governmental powers that would include a cooperative agreement to create and maintain a health benefits program; and

WHEREAS, the participating agencies are presently parties to a 28E Agreement for Iowa Governmental Health and Related Benefits Program, which was filed with the Iowa Secretary of State on July 21, 2014 (Filing No. M507297) (the "Prior Agreement"); and

WHEREAS, the participating agencies wish to amend, restate, and replace the Prior Agreement with this Agreement.

IT IS NOW, THEREFORE, AGREED, that the participating agencies, join together to form the "Iowa Governmental Health Care Plan", (IGHCP) and further agree to amend and restate the Prior Agreement to read in the entirety as follows:

The following Articles of Agreement shall establish and govern the creation and operation of the IGHCP.

**ARTICLE I**

SECTION 1. Name. The official name shall be Iowa Governmental Health Care Plan, (hereinafter referred to as "Group").

**ARTICLE II**

SECTION 1. Legal Status. This group shall be a voluntary joint undertaking of units of government in joint and cooperative action with each other and private agencies, as authorized by Chapter 28E of the Code of Iowa.

SECTION 2. No Separate Legal Entity. This Agreement shall not establish a separate legal entity to carry out the purposes of this agreement, but creates the Group which shall be an insurance program funded by a common pool of funds deposited by the participating agencies, managed by a Board of common governing representatives from each participatory agency.

### **ARTICLE III**

SECTION 1. Participating Agencies. The members of this group shall be identified in Addendum A.

### **ARTICLE IV**

SECTION 1. Purpose. The purpose of this Agreement is to provide for the establishment, continued planning, support and operation of a fully insured health and welfare and related benefits program by deposits or assessment to a common pool of funds for said program to provide benefits for the eligible and participating employees of the participatory agencies to this Agreement on an exclusive basis, said exclusivity of the program becoming effective as of the date of approval of this Agreement as hereinafter provided.

SECTION 2. Scope. This Agreement shall apply only to the administration and operation of the health and related benefits program as specified herein.

SECTION 3. Definitions.

A. "Fiscal Year" The Fiscal Year for this group shall be the annual period commencing each July 1st and ending the next June 30th.

### **ARTICLE V**

SECTION 1. Commencement of operations. The operation of the benefits program shall commence at such time as each agency, by its respective governing body, has approved this Agreement and this Agreement is filed with the Iowa Secretary of State as required by law. Operations shall continue under any amendments to this Agreement.

### **ARTICLE VI**

SECTION 1. Extent of Power. The participatory agencies shall have and exercise all powers granted in these Articles and the By-laws not inconsistent with Chapter 28E, Code of Iowa.

SECTION 2. Source of Power. Each participatory agency delegates to the Group only those powers, which are necessary to the functioning of the Group as, described in those Articles, reserving all other powers not specifically necessary for such functioning. The participating agencies expressly agree that they shall be liable for the payment of all insurance premiums contracted for on behalf of their agency.

SECTION 3. Exercise of Power. In effectuating those purposes outlined in Article IV, this Group shall have the power to act on its own behalf and initiate actions for the Group through the governing board, except in those matters which these Articles specify are for the approval, rejection and /or modification by specific vote of individual participatory agencies.

## ARTICLE VII

SECTION 1. Membership. By approval of this Agreement, by the governing body of each participatory agency, said agency shall become a member of the IGHCP. The Board of Directors, Board of Supervisors or Council of each agency shall adopt a resolution appointing its official representative to the governing board. Each agency shall have one (1) representative, who shall be an employee of the agency. A participatory agency's initial membership in the IGHCP shall be subject to the approval of the governing board of the IGHCP, upon the recommendation of the administrator designated by IGHCP (hereinafter referred to as "Administrator") and the consultant designated by IGHCP (hereinafter referred to as "Consultant") following review of the agency's application and assessment by the Administrator and the Consultant. At the time of the initial membership of each participatory agency, each participatory agency will, subject to the particular insurance carrier's underwriting and participation requirements, be underwritten by the insurance carrier. Each participatory agency will be assigned rates based upon the offer and the underwriting and participation requirements of the insurance carrier. Each participatory agency must adopt a plan subject to the fiscal year as established by the IGHCP, and enter into a consulting agreement with the Consultant and a third party administrator agreement with the Administrator. These provisions are mandatory and not subject to any review or appeal. By signing this Agreement, each participating agency agrees to allocate each year or otherwise provide for, through its power under applicable enabling law or otherwise, a sum of money sufficient to pay all amounts due to the IGHCP for the Group. Each participatory agency shall also contribute its share of funds for the payment of operating and other expenses for the Group that is created by this Agreement, including, but not limited to, legal fees.

SECTION 2. Replacement of Representatives. Representatives of participatory agencies shall be subject to recall and replacement by their respective agency at any time, in any manner and for whatever causes such agency deems appropriate.

SECTION 3. Duration of Membership. A participatory agency of this Group shall continue its membership herein until such time as:

- (a) The agency terminates its membership herein, as hereafter provided; or
- (b) The agency is expelled, as hereafter provided.

SECTION 4. Termination of Membership. A participatory agency may voluntarily withdraw from membership in this Group in the following manner:

- (a) A participatory agency may voluntarily withdraw from membership in the Group at the end of a Group fiscal year, following notice of withdrawal being given as described herein.
- (b) In order to withdraw from membership, the governing authority of a participatory agency shall adopt a resolution to withdraw and provide written notice to the Group not later than April 1 of its intent to withdraw and terminate membership effective at the end of that fiscal year.
- (c) In the absence of written notice to withdraw being given by April 1, a participatory agency shall not withdraw until the end of the fiscal year following the fiscal year in which notice is given.

- (d) Notice of intent to withdraw and a certified copy of the resolution to withdraw shall be sent to the Chairperson of the Group Board, unless the Chairperson is the representative from the withdrawing agency, in which case notice will be sent to the Vice-Chairperson.
- (e) Termination of membership shall not relieve the withdrawing agency of the obligation to pay its share of the operating expenses of the Group up to the effective date of termination of such member.
- (f) Termination of membership shall not relieve the withdrawing agency of the obligation to pay any reserve funds owed and its full share of any current expenditures of the Group which have been approved by the Group consistent with these Articles and By-laws, before the effective date of termination of such member.

SECTION 5. Expulsion of Members. A participatory agency may be expelled from membership in the Group in the following manner:

- (a) The advisory committee of the Group may make recommendations to the Group Board with cause and review for expulsion. The Group Board may initiate expulsion of a participatory agency from membership in the Group, by providing the governing authority of the participatory agency with written notice of possible expulsion. The governing authority of the participatory agency shall submit to the Group a written response to the notice of possible expulsion within thirty (30) days of the agency's receipt of said notice.
- (b) A participatory agency may be expelled from membership in the Group by two-thirds (2/3) vote, based on voting allocation as provided in **ARTICLE VIII - SECTION 7**, of all representatives to the Group Board voting in favor of expulsion. Expulsion of any participatory agency from the Group is from IGHCP (not from coverage provided by the insurance carrier). Such expulsion shall be effective at the end of the fiscal year following the vote to expel for purposes of the expelled agency's financial obligations, but shall be effective immediately for purposes of the expelled agency's authority to deliberate/vote and take other action with respect to the Group.
- (c) Expulsion from membership shall not relieve the expelled agency of the obligation to pay its share of the operating expenses of the Group up to the effective date of expulsion of such member.
- (d) Expulsion from membership shall not relieve the expelled agency of the obligation to pay its full share of any current expenditures of the Group which have been approved by the Group consistent with these Articles and By-laws, before the effective date of expulsion of such member.
- (e) No expelled agency shall have an interest in or receive any portion of any common pool of funds established by this Agreement.

### **ARTICLE VIII**

SECTION 1. Chairperson. The Group board shall elect from its representatives, consistent with the Articles and By-laws, a Chairperson, who shall serve for a one (1) year term.

SECTION 2. Vice Chairperson. The board shall elect from its representatives, consistent with the Articles and By-laws, a Vice Chairperson, who shall serve for a one (1) year term.

SECTION 3. Secretary/Treasurer. The Board shall elect from its representatives, consistent with these Articles and the By-laws, a Secretary/Treasurer, who shall serve for a one (1) year term.

SECTION 4. Eligibility. Each voting representative to the Board shall be eligible for office on the Board. When the voting representatives to the Board total less than three (3) in number the Chairperson and/or the Vice-Chairperson can serve also as the elected Secretary/Treasurer.

SECTION 5. Meetings. The Board shall meet at least annually. Notice of all meetings shall be mailed to each designated representative at least one (1) week prior to any meetings.

SECTION 6. Quorum. A quorum shall consist of a majority of the votes allocated being present by designated representatives. A majority of those votes present shall be sufficient to conduct ordinary business, except where these Articles or the By-laws or applicable law otherwise provide.

SECTION 7. Voting. Every designated representative to the Board shall be entitled to vote based on the following allocation of votes:

- (a) One (1) full vote for each Agency with employees eligible for the benefits under the Health Care Plan.

Designated representatives of the agencies shall also be entitled to vote by written proxy. Such written proxy shall identify the designee, who shall also be an employee of the agency. The designee will exercise the representative's vote and must be delivered to the Chairperson of the meeting by the start of the meeting where said proxy is to be utilized.

## **ARTICLE IX**

SECTION 1. By-laws and Standing Rules. The Board shall adopt such By-laws and standing rules as are necessary for the operation of the Group and the regulation of the Health Care Plans on an ongoing basis.

SECTION 2. Adoption and Amendments to By-laws and Rules. Any By-laws or standing rules shall be adopted, repealed or amended as follows:

- (a) Any By-laws or standing rules shall be adopted, repealed, changed, amended or modified only by a two-thirds (2/3) vote, based on voting allocation as provided in **ARTICLE VIII - SECTION 7**, of all representatives entitled to attend meetings and vote.
- (b) No changes to By-laws or standing rules shall be valid unless considered at two (2) successive meetings of the governing board; provided, however, this requirement may be waived by a two-thirds (2/3) vote, based on voting allocation

as provided in ARTICLE VIII – SECTION 7, of all representatives entitled to attend meetings and vote.

SECTION 3. Ordinary Business. Ordinary business of an administrative nature with an insurance carrier providing coverage to the Plan may be conducted by an officer so designated by the Group’s governing board pursuant to action taken under the Bylaws. To the extent authorized by the governing board, such officer shall have the authority to bind coverage on behalf of the Plan with an insurance carrier and to make decisions with regard to the Plan, including but not limited to selecting benefits with an insurance carrier. Ordinary business necessary to the continued operation of the Group may be conducted by a simple quorum of the representatives and shall be approved by simple majority vote, based on voting allocation as provided in ARTICLE VIII – SECTION 7, of those representatives who are present and voting.

SECTION 4. Records. The governing board shall keep a record of its transactions, findings, determinations and business, which record shall be a public record to the extent required by law.

## ARTICLE X

SECTION 1. Amendments. These Articles of Agreement may be amended in writing by a two-thirds (2/3) vote of all member agencies passing a resolution supporting such action. Such amendment shall be filed with the Iowa Secretary State as required by law. Amendments may include the addition of other participating agencies to this Agreement.

SECTION 2. Nonaction. If a participatory agency fails to take action to formally approve or disapprove a proposed amendment to this Agreement within forty-five (45) days after its receipt by such agency for action by its individual board, it shall be deemed that such agency has given its approval to such amendment. An agency shall be deemed to have received notice of a proposed amendment when the same is deposited in the United States Mail by Certified Mail, Postage Prepaid.

## ARTICLE XI

SECTION 1A. Administration. Premiums and other costs associated with administering the day-to-day operations shall be paid by each individual entity to the Administrator on a monthly basis. The Administrator will remit these funds to the appropriate vendor on behalf of the participating agencies.

SECTION 2. Legal Responsibility. Section 1 above or any other provision of this Agreement notwithstanding, it is jointly agreed that each individual agency will remain fully liable and responsible to its own employees with respect to any claims, demand, right or cause of action now in existence or hereafter accruing with respect to any such employee and will remain the legal entity against whom any action at law or in equity may be filed by an individual employee.

SECTION 3. Administrative Fund. The Group Board may establish and maintain a separate administrative fund for the purpose of payment of legal expenses and other approved costs and expenses associated with the administration of the IGHCP Group not referenced in Section 1

above. The participating agencies shall contribute amounts to this fund on a pro-rata basis according to the respective numbers of employees covered by the health and related benefit plan, so as to provide payment of costs and expenses in a timely fashion. Operation of this fund shall be determined by the By-laws.

SECTION 4. Property Ownership. No property, real or personal, shall be acquired or held under this Agreement. The common pool of administrative funds as described herein shall be established and held in accordance with this Agreement and applicable law.

SECTION 5. Investments. The Board shall establish requirements and procedures for the investment of the common pool of funds in accordance with applicable law.

SECTION 6. Contracts. Contracts entered into by the officers with the approval of the governing board shall be binding upon the respective participatory agencies through their representatives as agents for said agencies.

SECTION 7. Renewals. There will be annually determined fully-insured renewal alteration and rates based upon the overall claim utilization of all participatory agencies who have adopted this Agreement. That composite percent change may increase, decrease or have no change, based upon their claim utilization history for all groups and will be implemented at the beginning of the plan Fiscal Year.

## **ARTICLE XII**

SECTION 1. Dissolution. This Agreement and the Group shall be dissolved at any time by two-thirds (2/3) vote of all member agencies passing a resolution supporting such action. After all outstanding claims and obligations are paid and terminated from the Group common pool of funds, the remaining funds in the Group common pool of funds (whether in trust account, checking account or otherwise) shall be divided among the participating agencies on a pro-rata basis according to the respective numbers, based on an average of the current Plan Years enrollment, of employees covered by the health and related benefits program each participating agency has in the Plan; provided, however, an agency, excluding original participating agencies as of April 1, 2015, shall only receive a share of such final distribution if the agency has been a member of the Plan for three (3) preceding years.

## **ARTICLE XIII**

SECTION 1. Severability. If any provisions of these Articles of Agreement or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these Articles which can be given effect without the invalid provisions or applications, and to this end the provisions of these Articles are declared to be severable.

**ARTICLE XIV**

SECTION 1. Status of the Parties. It is expressly understood and agreed by the parties that they are independent parties to a cooperative contractual relationship. In no event shall a party be liable for the debts or obligations of another party.

SECTION 2. Notices. Except as otherwise specified in this Agreement, all notices or other communications to be given under this Agreement shall be in writing and be deemed given when either personally delivered to the party, mailed by certified mail with postage prepaid to the central administrative office address of the party, or sent by electronic mail with confirmation of receipt to the address of the secretary of the governing board of the party.

SECTION 3. Governing Law and Forum. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Iowa. Any litigation arising between the parties relating to this Agreement shall be subject to the exclusive jurisdiction of the appropriate federal or state court for Des Moines County, Iowa.

SECTION 4. Waiver/Consent. The parties to this Agreement have agreed to request Ahlers & Cooney, P.C., legal counsel, to act as the scrivener for this Agreement, and each such party has agreed to waive any potential conflict of interest and has consented to Ahlers & Cooney, P.C. acting as the scrivener for all parties, which the governing bodies of the parties, by approving and executing this Agreement, expressly ratify and confirm.

SECTION 5. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

**ARTICLE XV**

SECTION 1. Prior Agreement Replaced. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and replaces the Prior Agreement in its entirety. The Prior Agreement shall no longer be in effect once this Agreement is duly approved by all parties and filed with the Iowa Secretary of State as required by law.

WHEREAS, the parties hereto have duly approved and executed this Agreement on the dates stated next to their signatures set forth below.

(Signatures of Participating Agencies on record)



**<sup>1</sup>IOWA GOVERNMENTAL HEALTH AND RELATED BENEFIT PROGRAM  
28E AGREEMENT  
ADDENDUM A**

**ENTITIES PARTICIPATING IN THE 28E AGREEMENT**

EACH PARTY REPRESENTS THAT HE/SHE HAS BEEN AUTHORIZED IN ACCORDANCE WITH STATE LAW TO SIGN THIS AGREEMENT AND BIND THE UNIT OF LOCAL GOVERNMENT REPRESENTED. THIS AGREEMENT MAY BE EXECUTED IN SEVERAL COUNTERPARTS, AND ANY EXECUTED COPY THEREOF SHALL HAVE THE SAME FORCE AND EFFECT AS IF AN ORIGINAL.

City of Fairfield, Iowa  
Jefferson County, Iowa  
Humboldt County, Iowa  
Clay County, Iowa  
Henry County, Iowa  
City of Council Bluffs, Iowa  
Seymour Comm. School District, Iowa  
City of Keokuk, Iowa  
Grundy County, Iowa  
Clayton County, Iowa  
City of Clive, Iowa  
Pottawattamie County, Iowa  
City of Spencer, Iowa  
Council Bluffs Water Works, Iowa  
Emmet County, Iowa  
City of Waukee, Iowa  
Monona County, Iowa  
City of Harlan & Harlan Municipal Utilities, Iowa  
Guthrie County, Iowa  
City of Perry, Iowa  
City of Webster City, Iowa  
Chickasaw County, Iowa  
Ringgold County, Iowa  
City of Algona, Iowa  
City of Huxley, Iowa  
Floyd County, Iowa  
City of Hampton, Iowa  
Region XII Council of Governments, Iowa  
Tri-County Child and Family Development Council, Iowa  
City of Bondurant, Iowa

City of Centerville, Iowa  
City of West Burlington, Iowa  
City of Fort Dodge, Iowa  
Hardin County, Iowa  
Des Moines Water Works, Iowa  
City of Grimes, Iowa  
City of Le Mars, Iowa