

28E AGREEMENT
FOR FOOD PROCUREMENT ACTIVITIES

This 28E Agreement (hereinafter “Agreement”) is made pursuant to Iowa Code Chapter 28E by and between the Anamosa Community School District, the Benton Community School District, the Clear Creek Amana Community School District, the English Valleys Community School District, the Iowa Valley Community School District, the Lone Tree Community School District, St. Joseph Catholic School, and the Iowa City Community School District (hereinafter “ICCSD”).

WITNESSETH:

WHEREAS, the school districts that are parties to this Agreement desire to make efficient use of their powers and to work together jointly and cooperatively to fulfill their food procurement responsibilities for their respective school meal programs in accordance with applicable state and federal law governing such programs;

WHEREAS, Iowa Code Chapter 28E authorizes public school corporations to enter into an agreement for joint or cooperative action; and

WHEREAS, the parties have determined that entering into this Agreement will reduce the costs related to the procurement of food and supplies and will result in greater efficiency and increased resources available for the programs of each party.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

Section 1. Purpose. The purpose of this Agreement is to provide a means by which the parties hereto may jointly and cooperatively engage in food and supply procurement activities and fulfill their related responsibilities for their respective school meal programs in accordance with applicable state and federal law governing such programs.

Section 2. Duration. This Agreement shall become effective upon the proper approval and execution of the Agreement by each party hereto and the filing of the Agreement with the Iowa Secretary State, and shall remain in effect until expiration of its term as provided in Section 9 or until termination as provided in Section 10.

Section 3. Administration. The Director of Food Service for ICCSD shall be designated as the administrator of this Agreement for purposes of Iowa Code Chapter 28E. In the event of a disagreement between the parties over the administration of this Agreement, the Superintendents or other designated representatives of each of the parties shall meet to discuss the subject of the disagreement and attempt to resolve the dispute.

No separate legal or administrative entity or joint board shall be established to carry out the purposes of this Agreement. The parties may refer to themselves collectively as the “Iowa City Rural Food Service Purchasing Group” for convenience of reference only. No joint budget will be established or maintained for purposes of carrying out the terms of this Agreement.

Section 4. Cooperation. It is agreed that designated representatives of the parties will meet as needed to discuss matters related to food and supply procurement and this Agreement, including but not limited to items specifications, procurement processes, documents, and evaluations, recommendations for acceptance,

product issues, and contracts management. The parties agree to cooperate as needed to ensure that their procurement activities are in compliance with applicable state and federal law, including but not limited federal regulations located at 7 C.F.R. Parts 210.21 and 3016.36, and that all required responsibilities (including any local procurement requirements) are met.

Section 5. Costs. All costs associated with the food and supply procurement process and activities under this Agreement (including the development of this Agreement) will be shared equally among all parties based upon objective criteria to be mutually established and agreed upon by the parties.

The parties acknowledge and agree that each party shall enter into its own, separate contract for food products and supplies with the selected vendor.

Section 6. Insurance. The parties each agree to carry Liability insurance for protection from claims arising out of the party's acts or omissions under this Agreement as follows:

General Liability	\$1,000,000 Each Occurrence \$2,000,000 Aggregate
Auto Liability	\$1,000,000 Each Accident
Public Officials Liability	\$1,000,000 Each Loss \$1,000,000 Aggregate
Excess Liability	\$5,000,000 Each Occurrence \$5,000,000 Aggregate

and will be effective throughout the party's participation in this Agreement. Each party shall provide a certificate indicating that such insurance coverage has been obtained.

Each of the parties hereby releases the other from any claim for recovery for any loss or damage to any of its property or for any liability which is insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance. It is further agreed that this waiver applies only when permitted by the applicable policy of insurance.

Each of the parties hereby releases the other from any claim for recovery for any loss or damage to any of its property or for any liability which is insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance. It is further agreed that this waiver applies only when permitted by the applicable policy of insurance.

Section 7. Indemnity/Hold Harmless. To the extent permitted by law, each party shall defend, indemnify, and hold harmless the other parties, and their respective directors, officers, employees, and agents, from and against any and all claims, liabilities, damages, and expenses (including reasonable attorney fees and investigative costs, suit fees, and other such costs) arising out of any act or omission of the indemnifying party in performing its responsibilities under this Agreement.

Section 8. Property. All food, supplies, and other items purchased by a party shall be and remain the property of that party. Upon the complete or partial termination of this Agreement, each party shall have sole custody and use of its respective property. It is not contemplated that any real property will be acquired or held for the purpose of carrying out the terms of this Agreement.

Section 9. Term. This Agreement shall commence on the date the Agreement is filed with the Iowa Secretary of State after proper approval and execution of the Agreement by each party hereto and shall end on June 30, 2013, and shall thereafter automatically renew for one-year terms each July 1 unless written notice is given by one of the parties to the other parties, no later than the May 1 prior to renewal, stating that it wishes

to terminate the Agreement as to that party effective June 30.

Section 10. Termination. A party desiring to terminate this Agreement as to that party before completion of a term period as described in Section 9 shall provide a thirty (30) day written notice of termination to the other parties, and the Agreement shall terminate as to that party only if the other parties agree to such termination.

However, a party may terminate this Agreement as to that party upon written notice to the other parties if the other parties fail to comply with any of the provisions of this Agreement, provided written notice of the breach shall be given to the other parties and the other parties have at least thirty (30) days to cure the breach.

This Agreement may also be terminated at any time upon mutual agreement of the parties.

The termination of this Agreement shall not relieve any party of any obligations or liabilities incurred prior to the effective date of such termination.

Section 11. Assignment and Subcontracting; Binding. No party may assign this Agreement or subcontract any of the duties in whole or in part, without the written agreement of the other parties. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

Section 12. Status of the Parties. It is expressly understood and agreed by the parties that nothing contained in this Agreement shall be construed to create a partnership, association, agency, or other affiliation or like relationship between the parties, it being specifically agreed that their relation is and shall remain that of independent parties to a cooperative contractual relationship. In no event shall either party be liable for the debts or obligations of the other party.

Section 13. Headings. The headings of this Agreement are inserted for convenience of reference only and in no way describe or limit the scope or intent of this Agreement or any of the provisions hereof.

Section 14. Notices. All notices or other communications to be given under this Agreement shall be deemed given when either personally delivered or mailed by first class mail, postage prepaid, with proper address to the central administrative office of each party, attention to the Superintendent or other designated representative, until otherwise notified.

Section 15. Waiver. The failure of a party to enforce any right or provision under this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. No waiver shall be implied from a failure of a party to exercise a right or remedy. In addition, no waiver of a party's right or remedy will affect the other provisions of this Agreement.

Section 16. Force Majeure. Notwithstanding anything contained in this Agreement to the contrary, no party shall be liable to the other parties for failure to comply with any obligation under this Agreement if prevented from doing so by reason of contingencies beyond the reasonable control of the party, and all requirements as to notice and other performance required hereunder within a specified period shall be automatically extended to accommodate the period of pendency of any such contingency which shall interfere with such performance.

Section 17. Entire Agreement. This document constitutes the entire Agreement between the parties. No prior written or oral statements not specifically incorporated herein have any effect.

Section 18. Governing Law and Forum. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Iowa. The parties consent to the jurisdiction of the appropriate federal or state court for Johnson County, Iowa, for all matters relating to this Agreement.

Section 19. Severability. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

Section 20. Amendment. This Agreement may be amended upon mutual written agreement of all parties, properly approved and executed by each party hereto and filed with the Iowa Secretary State. Amendments may include the addition of other school districts to this Agreement.

Section 21. 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.

Section 22. Filing. After this Agreement has been duly approved and executed by the parties hereto, it shall be filed with the Iowa Secretary of State in accordance with the provisions of Iowa Code Section 28E.8.

Section 23. Waiver/Consent. The parties to this Agreement have agreed to request Ahlers & Cooney, P.C., legal counsel, to prepare this Agreement and each such party has agreed to waive confidentiality and any potential conflict of interest and has consented to Ahlers & Cooney, P.C. preparing this Agreement for all parties, which the governing bodies of the parties, by approving and executing this Agreement, expressly ratify and confirm.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective officers, pursuant to full authority granted and given as of the dates set forth next to their signatures below.

(Signatures on following pages)

ANAMOSA COMMUNITY SCHOOL DISTRICT

By Anamosa Community School District

Name: Lowell Trest

Title: President, Board of Directors

Date: 4/24/2012

ATTEST:

Don L. Falkner
Secretary, Board of Directors

BENTON COMMUNITY SCHOOL DISTRICT

By Daniel Voss

Name: Daniel Voss

Title: President, Board of Directors

Date: May 9, 2012

ATTEST:

[Signature]
Secretary, Board of Directors

CLEAR CREEK AMANA COMMUNITY SCHOOL DISTRICT

By Eileen Schmidt

Name: Eileen Schmidt

Title: President, Board of Directors

Date: 4-18-2012

ATTEST:

Shi Robertson
Secretary, Board of Directors

ENGLISH VALLEYS COMMUNITY SCHOOL DISTRICT

By *Terri Riegel*
Name: Terri Riegel

Title: President, Board of Directors

Date: 5/9/12

ATTEST:
Judy L. Myers
Secretary, Board of Directors

IOWA CITY COMMUNITY SCHOOL DISTRICT

By Marla Swesey
Name: Marla Swesey

Title: President, Board of Directors

Date: 5.1.12

ATTEST:

Kingdon
Secretary, Board of Directors

IOWA VALLEY COMMUNITY SCHOOL DISTRICT

By _____
Name: John M. King
Title: President, Board of Directors
Date: 5/7/12

ATTEST:
Janet Bryant
Secretary, Board of Directors

LONE TREE COMMUNITY SCHOOL DISTRICT

By James Loar

Name: James Loar

Title: President, Board of Directors

Date: 4-3-12

ATTEST:

Kelli O Forbes
Secretary, Board of Directors

ST. JOSEPH CATHOLIC SCHOOL

By Cathy Walz

Name: Cathy Walz

Title: ~~President, Board of Directors~~ Principal

Date: 4-24-12

ATTEST:

Secretary, Board of Directors