



Matt Schultz
Secretary of State
State of Iowa

28E Agreement

FOR OFFICE USE ONLY:

FILED

M507489

9/19/2014 11:32:04 AM

PLEASE READ INSTRUCTIONS ON BACK BEFORE COMPLETING THIS FORM

Item 1. The full legal name, organization type and county of each participant to this agreement are:

	Full Legal Name	Organization Type	*County
Party 1	Buchanan County	County	Buchanan
Party 2	Chickasaw County	County	Chickasaw
Party 3	Fayette County	County	Fayette
Party 4	Howard County	County	Howard
Party 5	City of Elma	City	Howard

**Enter "Other" if
 not in Iowa*

Item 2. The type of Public Service included in this agreement is: 810 Any Elected Officials, Boards, and Commis
(Enter only one Service Code and Description) Code Number Service Description

Item 3. The purpose of this agreement is: *(please be specific)*

Assess, reduce the flood risks; improve water quality; monitor federal flood risk planning; educate residents of watershed regarding flood risks & water quality; allocate available moneys for purposes of water quality & flood mitigation.

Item 4. The duration of this agreement is: *(check one)* Agreement Expires _____ Indefinite Duration
 [mm/dd/yyyy]

Item 5. Does this agreement amend or renew an existing agreement? *(check one)*

NO

YES Filing # of the agreement: _____

(Use the filing number of the most recent version filed for this agreement)

The filing number of the agreement may be found by searching the 28E database at: www.sos.state.ia.us/28E.

Item 6. Attach two copies of the agreement to this form if not filing online.

Item 7. The primary contact for further information regarding this agreement is: *(optional)*

LAST Name Gosse **FIRST** Name Cindy

Title Auditor Department Auditor

Email auditor@co.buchanan.ia.us Phone 319-334-4109

**Upper Wapsipinicon River Watershed Management Authority:
28E Agreement**

THIS AGREEMENT is voluntarily entered into by all parties/participants on signature pages and presented to the Iowa Secretary of State on this 17th day of September, 2014.

WHEREAS, the purpose of this Agreement is to allow the participants to make efficient use of their powers in securing funding for and cooperating to achieve the goals outlined in Paragraph 2 of this document. This 28E agreement shall be liberally construed to that end;

WHEREAS, this document is authorized by Iowa Code Chapter 28E (2011) and Iowa Code Chapter 466B (2011) to promote the most efficient use of material and human resources for the public good and for that purpose all cities, counties, soil and water conservation districts, and other governmental entities in the watershed are invited to become a participant in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants hereafter set forth, the participants agree as follows:

1. CREATION OF THE AUTHORITY.

Upon the effective date identified in Paragraph 3, there is hereby created a public agency to be known as the "Wapsipinicon River Watershed Management Authority" (The "Authority"). The agency shall be a political subdivision of the State of Iowa and a legal entity separate and distinct from the corporate existence of any participating parties and shall be subject to the control and supervision of any party or their officers and directors only to the extent provided herein.

2. PURPOSE AND FUNCTIONS.

The purpose of the Authority shall be to perform the following duties:

- a. Assess and reduce the flood risks in the watershed;
- b. Assess and improve water quality in the watershed;
- c. Monitor the federal flood risk planning and activities;
- d. Educate residents of the watershed regarding flood risks and water quality; and
- e. Allocate moneys made available for purposes of water quality and flood mitigation.

The Authority may make and enter into contracts and agreements and execute instruments necessary or incidental to the performance of the duties of the Authority but shall not under any circumstances acquire property by eminent domain.

3. EFFECTIVE DATE.

The effective date of this Agreement shall be the first day after the date on which all of the following conditions precedent have been satisfied:

- a. The governing bodies of all participants have adopted resolutions approving this Agreement and said resolutions become effective.
- b. This Agreement has been authorized and signed by the necessary representative or representatives from each participant and said signature page has been attached to this Agreement.
- c. This agreement has been filed with the Iowa Secretary of State.

4. DURATION.

The duration of this Agreement and of the Authority shall be perpetual unless this Agreement is amended or terminated per the provisions of this agreement.

5. GOVERNING BODY.

The Authority shall be governed by a board of directors. Members of the board of directors shall be divided among the political subdivisions which comprise the Authority and shall be appointed by the respective political subdivision's elected legislative body. The board of directors shall meet at least one time per calendar year but may draft bylaws which allow for meeting more frequently. The board shall be subject to the Iowa Open Meetings and Open Records Laws and shall make the necessary provisions to conform to the requirements of the law. Board members shall receive no compensation for serving in such a capacity but may be reimbursed for actual expenses incurred by their respective governing body or by the Authority subject to the existence and availability of funds.

Each participating political subdivision shall have one representative on the board of directors. The directors shall have staggered terms of four years with the initial terms being shortened and lengthened as necessary to achieve staggered terms. A person appointed to fill a vacancy shall be appointed in the same manner as the original appointment for the duration of the unexpired term. A director is eligible for reappointment.

A director may be removed after missing three consecutive regular meetings of the board. If a director is removed a successor shall be appointed for the duration of the unexpired term of the removed director in the same manner as the original appointment. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office or for any of the reasons outlined in Iowa Code Section 66.

The board of directors shall adopt bylaws and shall elect one director as chairperson and one director as vice chairperson, each for a term of two years, and shall appoint a secretary who need not be a director. The board may create any committees necessary to achieve the purposes and functions of this agreement. Further duties shall be set forth in the bylaws.

A majority of the membership of the board of directors shall constitute a quorum of the board for the purpose of holding a meeting of the board. The affirmative vote of a majority of the quorum shall be necessary for any action taken by the Authority unless the board adopts a bylaw requiring a greater number of affirmative votes. A vacancy in the membership of the board shall not impair the rights of a quorum to exercise all the rights and perform all the duties of the Authority.

6. MAP OF AREA AND BOUNDARIES OF THE AUTHORITY.

Pursuant to the requirements of Iowa law, this Agreement includes a map showing the area and boundaries of the Authority. The map is attached to this Agreement and marked as Exhibit A.

7. COORDINATION WITH OTHER ENTITIES.

The Authority may choose to coordinate all of its activities with the Department of Natural Resources, the Department of Agriculture and Land Stewardship, Councils of Governments, Public Drinking Water Utilities, Soil and Water Conservation Districts, and any other local, state, or federal entities.

8. CONTRIBUTIONS TO THE AUTHORITY AND BUDGET.

Members of the Authority may, if deemed necessary and appropriate, contribute through an equitable formula, make appropriations from their respective budgets for the operation and administration of the Authority. Such a formula shall be presented and passed by Resolution by all parties bound by this Agreement. These appropriations may be utilized for but not limited to the employment of staff, marketing, grant writing fees, and administrative fees to Fiscal Agents. Any such contributions from the governing bodies of this Agreement shall be binding to fulfill.

9. GRANTS AND FISCAL AGENTS.

The Authority shall have full authority to apply for and receive grants or endorse a participant to do the same for facilities construction and programming, but neither the Authority nor the participants in this Agreement shall be obligated to contribute or expend non-grant monies beyond amounts included in an approved budget. The Authority may enter into agreements with grant writers and Fiscal Agents to both write grants and administrate dollars, which may be received either by the Authority or a party to this Agreement for projects approved by the Authority.

10. FISCAL RESTRICTIONS.

The Authority shall have no power to impose any tax of any nature, nor pledge the credit of any of parties to this Agreement, nor incur any debt or other financial obligation the payment of which has not been provided for in the current or an approved future budget.

11. REPORTS AND AUDITS.

Between January 1 and January 15 of each year the Authority shall prepare and deliver to each participant an annual report which summarizes the programs and activities conducted or expected

to be conducted by the Authority during the previous, current, and ensuing fiscal year. In the event that the Authority establishes a financial budget, the Authority shall also comply with the audit provisions under Iowa Code Section 11.6 and shall furnish copies of the audit report to each participant.

12. CONFLICTS OF INTEREST.

The Agency and its Committee shall be subject to all laws of the State of Iowa relating to conflicts of interest and gifts which are applicable to municipalities and municipal officers generally.

13. VOLUNTARY TERMINATION.

Membership in this Agreement may be terminated voluntarily by any party to the Agreement. A party wishing to voluntarily terminate their membership shall provide written notice of intent to terminate membership to all other parties to the Agreement. The termination shall be effective twenty (20) days from the date that written notice is provided to other members. A party may withdraw written notice before the 20 day period expires and may reapply for membership to the board of directors after the 20 day period has expired. The board of directors may waive the 20 day period for good cause shown. Termination, whether voluntary or involuntary, in no way relieves a participant from any continuing obligations that may have been imposed on said participant by entry into the Authority. The board of directors shall determine whether a participant that has been terminated from the Authority has any continuing obligations and if so the amount or requirement of said continuing obligation.

The remaining parties may choose to amend this agreement by removing all references to a party that voluntarily terminates its membership in this agreement and continue this Agreement under all the terms and conditions as previously set.

14. INVOLUNTARY TERMINATION.

In the event that either a party to this Agreement fails to timely perform a duty imposed upon it under this Agreement, the Authority may cause notice to be served on the entity by certified mail which specifies the particulars of the alleged default and demands performance. If the party fails to cure its default within twenty (20) days after the date of mailing of the notice, the Authority may exercise all rights and remedies it may have at law or in equity including serving judgment for any damages incurred and/or a decree of specific performance of this agreement. A default shall not cause a termination of this Agreement. In the event the Authority fails to perform a duty or observe a requirement imposed by this Agreement, a party may pursue the same remedies against the Authority, if the Authority fails to cure such default within the time set forth above following notice of the default, the party shall be entitled to the same remedies as were given to the Authority. Termination, whether voluntary or involuntary, in no way relieves a participant from any continuing obligations that may have been imposed on said participant by entry into the Authority. The board of directors shall determine whether a participant that has been terminated from the Authority has any continuing obligations and if so the amount or requirement of said continuing obligation.

15. ADDITIONAL PARTIES

A city, County, or Soil and Water Conservation District within the Upper Wapsipinicon River Watershed who is not a party, may request, in writing to the Authority, to become a Party.

Such a request shall be considered and decided by a 2/3 vote of the board of directors, and shall become effective when the new party has signed the then-current Agreement pursuant to a resolution of its governing body and the requisite filing with the Iowa Secretary of State and/or County Auditor has been accomplished.

16. DISSOLUTION OF AGENCY.

The board of directors may choose to terminate the Authority under the rules and bylaws prescribed by the board. Upon termination, the Authority shall dissolve and the affairs of the Authority shall be wound up as herein provided. The winding up of the affairs of the Authority and the distribution of its assets shall be conducted by the board of directors as follows:

- a. General Funds. Any balance of a fund created by the mechanism described in this Agreement, shall be returned to the party per the same formula which created the fund.
- b. Unexpended Grants and Gifts. To the extent the Authority may possess funds received from contributions towards a specific project and such funds have not been expended, such funds shall be returned to the donors to the extent possible. If any grants create a legal obligation the board of directors shall determine the liability of each member and former member of the Authority.
- c. If the Authority should own any facility and this Authority is terminated, such facility may be donated and turned over to a non-profit or governmental entity or sold and proceeds divided equitably between the parties involved in this Agreement.

17. SEVERABILITY/INVALIDITY

If any term, provision, or condition of this Agreement shall be determined to be invalid by a court of competent jurisdiction, such invalidity shall in no way effect the validity of any other term, provision, or condition of this Agreement, and the remainder of the Agreement shall survive in full force and effect unless to do so would substantially impair the rights and obligations of the Parties to this Agreement or substantially frustrate the attainment of the purposes of this Agreement.

18. RECORDATION

This Agreement shall be recorded pursuant to the requirements of the *Code of Iowa*, Chapter 28E.

18. ENTIRE AGREEMENT

This Agreement and attachments hereto constitute the entire Agreement among the parties and supersedes or replaces any prior agreements among the parties relating to its subject matter.

19. AMENDMENTS.

This Agreement may be amended at any time by the parties. All amendments shall be in writing, signed by all of the Parties, and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code §28E.8(2011).

20. APPLICABLE LAWS.

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Iowa. This Agreement is made pursuant to statutory authority granted to the parties pursuant to Iowa Code Sections 28E, 466B, and other relevant federal or state law.

21. NO WAIVER

The waiver or acceptance by any party of a breach or violation of any provision(s) of this Agreement by another party shall not operate as, or be construed to be, a waiver of any other or subsequent breach.

22. NO ASSIGNMENT OR DELEGATION

Neither this Agreement, nor any right or obligation under it, may be assigned, transferred, or delegated in whole or in part to any outside entity without the prior approval of the board of directors.

23. AUTHORITY AND AUTHORIZATION

Each party to this Agreement shall supply to the Authority a copy of the resolution by the governing body of each party as evidence of the power and authority of each party to enter into this agreement.

24. HEADINGS AND CAPTIONS

The paragraph headings and captions set forth in this Agreement are for identification purposes only and do not limit or construe the contents of the paragraphs.

25. SIGNATURE PAGES

The parties agree that this Agreement has attached to it signature pages which shall be assembled and filed together with the Agreement and shall together constitute one and the same instrument. A completed copy of this Agreement with executed signature pages shall be sent to each party.

IN WITNESS WHEREOF, the County of Buchanan has caused this Agreement to be executed and signed by its respective officers this day and year:

COUNTY OF BUCHANAN, IOWA

Allen Jeffrey
Chairman, Board of Supervisors

ATTEST:

Cindy Gosse
County Auditor

Date: 9/15/2014



The County of Chickasaw hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

CHICKASAW COUNTY, IOWA

By: Rick Holthaus

Rick Holthaus, Chairperson, Chickasaw County Board of Supervisors

By: Joan E. Knoll
Joan Knoll, Chickasaw County Auditor

STATE OF IOWA, COUNTY OF CHICKASAW, SS:

On this 8 day of **September**, 2012, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Rick Holthaus** and **Joan Knoll**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and Auditor, respectively, of the County of Chickasaw, Iowa; that the instrument was signed and sealed on behalf of the County, by authority of its Board of Supervisors on the 8 day of **September**, 2014, and that Rick Holthaus and Joan Knoll acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the County, by it voluntarily executed.

Patti K. Rosauer

Notary Public



PATTI K. ROSAUER
Commission Number 727350
My Commission Expires
March 11, 2016

The County of Fayette hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

FAYETTE COUNTY, IOWA

By: Darrel J. Dolf

Darrel Dolf, Chairperson, Fayette County Board of Supervisors

By: Lori Moellers

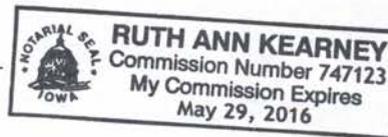
Lori Moellers, Fayette County Auditor

STATE OF IOWA, COUNTY OF FAYETTE, SS:

On this 8th day of **September** 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Darrel Dolf** and **Lori Moellers**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and Auditor, respectively, of the County of Fayette, Iowa; that the instrument was signed and sealed on behalf of the County, by authority of its Board of Supervisors on the 8th day of **September** 2014, and that Darrel J. Dolf and Lori Moellers acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the County, by it voluntarily executed.

Ruth Ann Kearney

Notary Public



The County of Howard hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

HOWARD COUNTY, IOWA

By: Jan M. Govern

Jan McGovern, Chairperson, Howard County Board of Supervisors

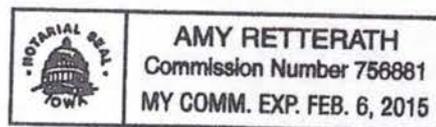
By: Julie Chapman

Julie Chapman, Howard County Auditor

STATE OF IOWA, COUNTY OF HOWARD, SS:

On this 8th day of **September**, 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Jan McGovern** and **Julie Chapman**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and Auditor, respectively, of the County of Howard, Iowa; that the instrument was signed and sealed on behalf of the County, by authority of its Board of Supervisors on the 8th day of **September** 2014, and that Jan McGovern and Julie Chapman acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the County, by it voluntarily executed.

Amy Retterath
Deputy



The City of Elma hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon Watershed Management Authority.

CITY OF ELMA, IOWA

By: Jerry Steven

Jerry Steven, Mayor

By: Shannon Gebel

Shannon Gebel, City Clerk

STATE OF IOWA, COUNTY OF HOWARD, SS:

On this 9 day of September 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Jerry Steven and Shannon Gebel, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Elma, Iowa; that the instrument was signed and sealed on behalf of the City, by authority of its City Council on the 9 day of September 2014, and that Jerry Steven and Shannon Gebel acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the City, by it voluntarily executed.

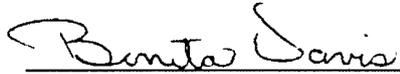
Mary Jo Friedrich

Notary Public



IN WITNESS WHEREOF, the City of Independence has caused this Agreement to be executed and signed by its respective officers this day and year:

CITY OF INDEPENDENCE



Bonita Davis, Mayor of the City of Independence

ATTEST:

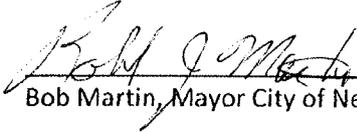


Barbara K. Rundle, MMC, ICMC, City Clerk/Treasurer

Date: August 25, 2014

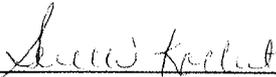
IN WITNESS WHEREOF, the City of New Hampton has caused this Agreement to be executed and signed by its respective officers this day and year:

CITY OF NEW HAMPTON, IOWA



Bob Martin, Mayor City of New Hampton

ATTEST:



Shelley Koltz, City Clerk

Date: 9-19-14

The Buchanan Soil and Water Conservation District hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon Watershed Management Authority.

BUCHANAN COUNTY SWCD, IOWA

By: George Aldrich

George Aldrich, Chairperson, Buchanan County SWCD

STATE OF IOWA, COUNTY OF BUCHANAN, SS:

On this 8th day of **September 2014**, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **George Aldrich**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Commissioners of the Buchanan Soil and Water Conservation District, Iowa; that the instrument was signed and sealed on behalf of the Soil and Water Conservation District, by authority of its Board of Commissioners on the 8th day of **September 2014**, and that Julie A. Althaus acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the Soil and Water Conservation District, by it voluntarily executed.

Julie A. Althaus
Notary Public



The Chickasaw Soil and Water Conservation District hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

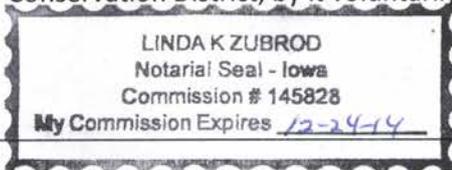
CHICKASAW SWCD, IOWA

By: Kim Leichtman

Kim Leichtman, Chairperson, Chickasaw SWCD

STATE OF IOWA, COUNTY OF CHICKASAW, SS:

On this 9th day of **September**, 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Kim Leichtman**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Commissioners of the Soil and Water Conservation District, of the County of Chickasaw, Iowa; that the instrument was signed and sealed on behalf of the Soil and Water Conservation District, by authority of its Board of Commissioners on the 9th day of **September**, 2014, and that Linda K Zubrod acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the Soil and Water Conservation District, by it voluntarily executed.



Notary Public Linda K Zubrod

Delaware Soil and Water Conservation District hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

DELAWARE SWCD, IOWA

By: Steve Lueken

Steve Lueken, Chairperson, Delaware SWCD

STATE OF IOWA, COUNTY OF DELAWARE, SS:

On this 10th day of **September**, 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Steve Lueken**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Commissioners of the Soil and Water Conservation District, of the County of Delaware, Iowa; that the instrument was signed and sealed on behalf of the Soil and Water Conservation District, by authority of its Board of Commissioners on the 10th day of **September**, 2014, and that Cathy Greif acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the Soil and Water Conservation District, by it voluntarily executed.

Cathy Greif

Notary Public



The Fayette Soil and Water Conservation District hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

FAYETTE ~~COUNTY~~ SWCD, IOWA

By: William E. Bennett

William E. Bennett, Chairperson, Fayette ~~County~~ SWCD

STATE OF IOWA, COUNTY OF FAYETTE, SS:

On this 9th day of **September**, 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Bill Bennett**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Commissioners of the Soil and Water Conservation District, of the County of Fayette, Iowa; that the instrument was signed and sealed on behalf of the Soil and Water Conservation District, by authority of its Board of Commissioners on the 9th day of **September**, 2014, and that William E. Bennett acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the Soil and Water Conservation District, by it voluntarily executed.

Kaylene Meo

Notary Public



The Howard Soil and Water Conservation District hereby resolves to enter into the 28E Agreement for the Creation of the Upper Wapsipinicon River Watershed Management Authority.

HOWARD SWCD, IOWA

By: Bart A. Wilson

Bart Wilson, Chairperson, Howard SWCD

STATE OF IOWA, COUNTY OF HOWARD, SS:

On this 10th day of **September**, 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Bart Wilson**, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Commissioners of the Soil and Water Conservation District, of the County of Howard, Iowa; that the instrument was signed and sealed on behalf of the Soil and Water Conservation District, by authority of its Board of Commissioners on the 10th day of **September**, 2014, and that Bart Wilson acknowledged the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of the Soil and Water Conservation District, by it voluntarily executed.

Shannon Hurd

Notary Public

