

## RESOLUTION 23-24-26

### TO APPROVE A 28E AGREEMENT WITH THE WINNEBAGO RIVER WATERSHED MANAGEMENT COALITION

WHEREAS, a Watershed Management Authority (WMA) for the Winnebago River Watershed is being created, and

WHEREAS, pursuant to Code of Iowa Section 466B.22, a WMA may perform all the following duties, and

- Assess and reduce flood risk,
- Assess and improve water quality,
- Monitor federal flood risk planning and activities,
- Educate residents of the watershed regarding flood risks and water quality,
- Seek and allocate moneys made available to the Coalition for purposes of water quality and flood mitigation.

WHEREAS, the 28E Agreement attached to this resolution seeks to form the Winnebago River Watershed Management Coalition, and

WHEREAS, the City of Forest City has a vested interest in the Winnebago River Watershed,

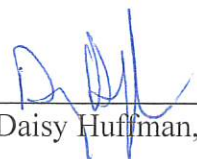
NOW, THEREFORE, Be It Resolved by the City Council of the City of Forest City, Iowa that:

1. The City of Forest City will participate in the Winnebago River Watershed Management Coalition, and
2. That the attached 28E Agreement is approved, and
3. The Mayor and City Clerk are authorized to sign on behalf of the City of Forest City.

PASSED AND APPROVED this 20<sup>th</sup> day of February 2024.

  
\_\_\_\_\_  
Ronald Holland, Mayor

Attest:

  
\_\_\_\_\_  
Daisy Huffman, City Clerk/Administrator

**Winnebago River Watershed Management Coalition  
Articles of Agreement**

THIS AGREEMENT is entered into pursuant to Iowa Code chapter 28E by and between the following jurisdictions: Cerro Gordo County, Floyd County, Hancock County, Winnebago County, Worth County, Cerro Gordo SWCD, Floyd SWCD, Hancock SWCD, Winnebago SWCD, Worth SWCD, City of Clear Lake, City of Fertile, City of Forest City, City of Hanlontown, City of Joice, City of Lake Mills, City of Leland, City of Manly, City of Mason City, City of Rockford, City of Scarville, City of Thompson, and City of Ventura, to wit:

WHEREAS, Iowa Code section 466B.22 authorizes two (2) or more political subdivisions, defined as including cities, counties, and soil and water conservation districts, all of which must be located within the same United States Geological Survey Hydrologic Unit Code 8 Watershed, to enter into agreement under Iowa Code Chapter 28E to establish a watershed management authority to enable cooperation in supporting watershed planning and improvements for the mutual advantage of the political subdivisions involved; and

WHEREAS, pursuant to Iowa Code Section 466B.23, a watershed management authority may perform all of the following duties:

1. Assess the flood risks in the watershed.
2. Assess the water quality in the watershed.
3. Assess options for reducing flood risk and improving water quality in the watershed.
4. Monitor federal flood risk planning and activities.
5. Educate residents of the watershed area regarding water quality and flood risks.
6. Allocate moneys made available to the authority for purposes of water quality and flood mitigation.
7. Make and enter into contracts and agreements and execute all instruments necessary or incidental to the performance of the duties of the authority. A watershed management authority shall not acquire property by eminent domain; and

WHEREAS, the Counties of Cerro Gordo, Floyd, Hancock, Winnebago, and Worth; and the Cities of Clear Lake, Fertile, Forest City, Hanlontown, Joice, Lake Mills, Leland, Manly, Mason City, Rockford, Scarville, Thompson, and Ventura; and the Soil and Water Conservation Districts of Cerro Gordo County, Floyd County, Hancock County, Winnebago County, and Worth County deem establishment of the Winnebago River Watershed Management Coalition, a watershed management authority encompassing the Winnebago

River Watershed, a Hydrologic Unit Code 8 Watershed (HUC 8 ID #07080203) (hereinafter the "Watershed"), to be of mutual advantage; and

WHEREAS, it is mutually desired to enter into this Agreement pursuant to Iowa Code Chapter 28E for the purpose of establishing the Winnebago River Watershed Management Coalition to carry out watershed planning and improvements in the Watershed; and

NOW, THEREFORE, it is agreed by and between the parties as follows:

#### SECTION 1. IDENTITY OF THE PARTIES.

1.1 The Counties of Cerro Gordo, Floyd, Hancock, Winnebago, and Worth are each a political subdivision of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 331. Their respective addresses are:

Cerro Gordo County: 220 North Washington Avenue, Mason City, IA 50401  
Floyd County: 101 S Main St, Charles City, IA 50616  
Hancock County: 855 State Street, Garner, IA 50438  
Winnebago County: 126 S. Clark St., Forest City, IA 50436  
Worth County: 1000 Central Avenue, Northwood, IA 50459

1.2 The Cities of Clear Lake, Fertile, Forest City, Hanlontown, Joice, Lake Mills, Leland, Manly, Mason City, Rockford, Scarville, Thompson, and Ventura are each a municipality of the State of Iowa, organized and operating pursuant to Iowa Code chapter 364. Their respective addresses are:

City of Clear Lake: 15 N 6th St. P.O. Box 185, Clear Lake, IA 50428  
City of Fertile: 3494 Eagle Ave. P.O. Box 161, Fertile, IA 50434  
City of Forest City: 305 North Clark St. P.O. Box 346, Forest City, IA 50436  
City of Hanlontown: 214 Main St. P.O. Box 5, Hanlontown, IA 50444  
City of Joice: P.O. Box 195, Joice, IA 50446  
City of Lake Mills: 200 N 1st Ave. W, Lake Mills, IA 50450  
City of Leland: 316 Walnut St. P.O. Box 127, Leland, IA 50453  
City of Manly: 106 S Broadway St., Manly, IA 50456  
City of Mason City: 10 First Street NW, Mason City, IA 50401  
City of Rockford: 205 W Main Ave. P.O. Box 403, Rockford, IA 50468  
City of Scarville: P.O. Box 15, Scarville, IA 50473  
City of Thompson: 167 2nd Ave. W, Thompson, IA 50478  
City of Ventura: 101 Sena St. P.O. Box 230, Ventura, IA 50482

1.3 The Soil and Water Conservation Districts of Cerro Gordo County, Floyd County, Hancock County, Winnebago County, and Worth County governmental subdivisions of the State of Iowa as defined in Iowa Code Section 161A3(6) and a soil and water conservation district established pursuant to Iowa Code Section 161A5(1). Their respective addresses are:

Cerro Gordo SWCD: 1415 S. Monroe Ave. Ste. B, Mason City, IA 50401  
Floyd SWCD: 623 Beck Street, Charles City, IA 50616  
Hancock SWCD: 255 US HWY 69 S, Suite 1, Garner, IA 50438-1120  
Winnebago SWCD: 163 First Ave., Thompson, IA 50478  
Worth SWCD: 1004 10th St. S Ste. B, Northwood, IA 50459

## SECTION 2. PURPOSE.

2.1 The purpose of this Agreement is to provide for the manner in which the parties shall cooperate with one another to successfully plan for and implement watershed improvements within the Watershed, including but not limited to the following activities authorized pursuant to Iowa Code section 466B.22:

1. Assess the flood risks in the watershed.
2. Assess the water quality in the watershed.
3. Assess options for reducing flood risk and improving water quality in the watershed.
4. Monitor federal flood risk planning and activities.
5. Educate residents of the watershed area regarding water quality and flood risks.
6. Seek and allocate moneys made available to the authority for purposes of water quality and flood mitigation.
7. Make and enter into contracts and agreements and execute all instruments necessary or incidental to the performance of the duties of the authority. A watershed management authority shall not acquire property by eminent domain.

## SECTION 3. CREATION OF THE AUTHORITY.

3.1 Upon the effective date stated in this Agreement, there is hereby created a public agency to be known as the "WINNEBAGO RIVER WATERSHED MANAGEMENT COALITION" (the "Authority"). The Authority 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 to this Agreement and shall be subject to the control and supervision of any party to this Agreement or their officers and directors, only to the extent provided for herein.

3.2 A joint board of the participating political subdivisions known as the Winnebago River Watershed Management Authority Board (the "Board") shall be responsible for fulfilling the purpose of the Authority. The Board shall be comprised of one appointee from each county, city, and soil and water conservation district participating in this Agreement. The Board shall adopt Bylaws governing the administration, development, operation, and management of the Authority.

3.3 Each participating political subdivision shall be known as a Member (the "Member"). Each Member shall appoint a Director to the Board of the Authority.

SECTION 4. DURATION. This Agreement shall be in effect perpetually until terminated pursuant to Section 10.

SECTION 5. POWERS AND DUTIES.

5.1 The Members shall retain all powers and duties conferred by law and shall assist each other in the exercise of such powers and the performance of such duties as are provided for in this Agreement. Each Member shall be jointly responsible for focusing attention on:

- a. Assessing the flood risks in the watershed.
- b. Assessing the water quality in the watershed.
- c. Assessing options for reducing flood risk and improving water quality in the watershed.
- d. Monitoring federal flood risk planning and activities.
- e. Educating residents of the watershed area regarding water quality and flood risks.
- f. Allocating moneys made available to the authority for purposes of water quality and flood mitigation.
- g. Making and entering into contracts and agreements and executing all instruments necessary or incidental to the performance of the duties of the authority. A watershed management authority shall not acquire property by eminent domain.

5.2 A Member may, but will not be required to, accept a specific responsibility to assist in achieving the goals of the Authority. Acceptance of such responsibilities shall only be by official action of the governing body of the Member. These responsibilities include but are not limited to:

- a. identifying opportunities for funding and in-kind support for the undertaking of watershed planning and improvements within the Watershed;
- b. serving as fiscal agent for the Authority when funds are received from any source;
- c. identifying opportunities for infrastructure development and planning capable of assessing and mitigating flood risks in the Watershed;
- d. identifying the most effective best management practices for improvements of water quantity and water quality improvements in the Watershed;
- e. participating in any educational/outreach programs regarding water quality and flood

risks;

- f. identifying opportunities for infrastructure development and planning capable of assessing and improving water quality in the Watershed;
- g. providing support for the administration of any projects, including technical, financial, and clerical, as agreed to by the parties;
- h. securing such financing, including grants, loans and the issuance of bonds or loan agreements, as determined to be necessary or desirable to achieve the objectives of the agreement;
- i. coordinating with local wastewater utilities;
- j. designing and bidding of projects;
- k. administering contracts; and
- l. observing construction.

SECTION 6. MANNER OF FINANCING. The Board may solicit, accept, and receive donations, endowments, gifts, grants, reimbursements, and other such funds as necessary to support work pursuant to this Agreement.

No action to contribute funds by a Director of the Authority is binding on the Member that he or she represents without official approval by the governing board of that Member. No Member may be required to contribute funds to the Authority, except to fulfill any obligation previously made by official action by the governing body of the Member.

All funds received for use by the Authority shall be held as a special fund by the fiscal agent designated by the Board of the Authority. When funds are provided as a grant or loan directed to a Member of the Authority for a project administered by that Member, the funds shall be retained and administered by that Member.

#### SECTION 7. ENTIRE AGREEMENT.

7.1 This Agreement contains the entire agreement of and integrates all of the terms and conditions contained in and incidental to such Agreement. No modifications or waiver of any provision in this Agreement shall be valid unless in writing and signed by all of the parties. If, for any reason, any provisions of this Agreement shall be inoperative, the validity and effect of the other provisions shall not be affected thereby.

7.2 If any provision of this Agreement is found to be invalid by any court, administrative agency or tribunal, or competent jurisdiction, the invalidity of any such provision shall not affect the validity of the remaining provisions hereof.

SECTION 8. GOVERNING LAW. This Agreement shall be governed by and interpreted under the laws of the State of Iowa and shall meet all the necessary legal requirements and publications as outlined in Iowa Code Chapter 28E and other applicable Iowa laws.

SECTION 9. AMENDMENTS. This Agreement may be amended at any time by approval from all of the governing boards of the Members of the Authority. All amendments shall be in writing, executed by the authorized representative of each governing board of the Members, and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code Section 28E.8. Each party specifically agrees and consents that an amendment to this agreement for the purpose of admitting any eligible city, county, and soil and water conservation district to this agreement is permitted on approval of the Board of Directors and filing of an Amendment indicating the joinder, without the necessity of every party signing the amendment.

SECTION 10. TERMINATION. This Agreement shall terminate upon the majority vote or mutual agreement of the governing bodies of all Members of the Authority. Upon termination, all property and money then owned by the Authority shall be distributed according to the Member's contribution levels among the Members after payment of all debts. Any funds donated under a stipulation limiting their use shall be disbursed consistent with the donor's direction.

SECTION 11. EFFECTIVE DATE. This Agreement shall take effect upon execution by the parties as required by law and upon filing with the Secretary of State in an electronic format as required by Iowa Code Section 28E.8.

SECTION 12. WITHDRAWAL FROM MEMBERSHIP. Any Member may withdraw from the Authority by the action of its governing board, unless the Authority then has unpaid debts or legal obligations, in which case the consent of the governing boards of the remaining Members to the withdrawal is required. Such withdrawal will forfeit any right to a distribution in conjunction with a subsequent termination of this Agreement.

SECTION 13. WATERSHED BOUNDARY. The geographical area to which this agreement applies shall be known as the Winnebago Watershed. The Winnebago River is a United States Geological Survey Hydrologic Unit Code (HUC 8 ID #07080203) Watershed. The boundary of the Watershed is graphically displayed in Attachment A, which is hereby incorporated into this Agreement.

SECTION 14. INDEMNIFICATION. The Authority shall indemnify, defend, keep, save, and hold harmless the Members and their officers and employees from and against any and all losses, claims, damages, liability, costs, expenses, or deficiencies (including without limitation reasonable attorneys' fees and other costs and expenses reasonably incident to proceedings or investigations or the defense or settlement of any claim or claims) arising out of the Authority's activities, including without limitation challenges to the organization, creation or status of the Authority, whether based on tort, antitrust, non-competition, wage and hour violations, or any other claim of illegality, and whether based upon state, federal, local, or common law.