Matt Schultz
Secretary of State
State of Iowa

28E Agreement

FOR OFFICE USE ONLY:

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3/12/2013 3:34:54 PM

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	Dallas	County	Dallas
Party 2	Carroll	County	Carroll
Party 3			
Party 4			
Party 5			

**Enter "Other" if not in Iowa*

Item 2. The type of Public Service included in this agreement is: 570 (Code Number) Other Neighborhood Services (Service Description)
(Enter only one Service Code and Description)

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

To place inot effect the provisions of Subchapter II of Chapter 466B of the Iowa Code in th HUC8 watershed to assess, monitor and educate within the boundaries of the Authority, in the development of the Community based watershed inprovement plans.

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

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 Harney **FIRST** Name Melinda

Title Administrative Assistant Department Administrative Assistant

Email _____ Phone 515-993-6847

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MTG
PCRF
BKRF

Chad Airhart, Recorder
Dallas County IOWA

ODD
D/C

Agreement

Prepared By: Wayne Reisetter
207 N. 9th Street
Adel, IA 50003
(515)993-5060

Return to: Melinda Harney
121 N. 9th Street
Adel, IA 50003
(515)993-6847

Middle-South Raccoon River

Watershed Management Authority Agreement

28E Agreement

This Joint and Cooperative Agreement (hereinafter referred to as the "Agreement") is entered into pursuant to the authority of the *Code of Iowa*, Chapter 28E and chapter 466B. effective as of the filing with the Secretary of State, by and between the Counties of Dallas County and counties signing onto Attachment A-1, Iowa (hereinafter referred to as Counties); the Cities of signing onto Attachment A-2, Iowa (hereinafter referred to as Cities); and the Soil and Water Conservation District signing onto Attachment A-3, (hereinafter referred to as Districts). Entity Agreements are attached. All entities shall be referred to hereinafter as the "Cooperators".

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

SECTION I. IDENTITY OF THE PARTIES

1.1 The Counties are each a public agency of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 331. Their respective addresses are included herein as Attachment A1- Counterparts.

1.2 The Cities are each a municipality of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 364. Their respective addresses are included herein as Attachment A2- Counterparts.

1.3 The Soil and Water Conservation Districts are each a government division of the State of Iowa, as defined in *Iowa Code* Section 161A.3(6) (2011) and a Soil and Water Conservation District established pursuant to *Iowa Code* Section 161A.5(1) (2011). Their respective addresses are included herein as Attachment A3-Counterparts.

SECTION 2. BOUNDARIES AND PURPOSE OF THE MIDDLE-SOUTH RACCOON RIVER WATERSHED AUTHORITY

2.1 The geographical area within this Agreement shall be known as the Middle-South Raccoon River Watershed boundary. This boundary is graphically displayed in Attachment B.

2.2 The purpose of this Agreement is to place into effect the provisions of Subchapter II of Chapter 466B of the Iowa Code in the HUC 8 watershed to assess, monitor and educate within the boundaries of the Authority, and therewith further the purposes of Chapter 466B of the Iowa Code in the development of Community-based watershed improvement plans. (see §§466B.6 – 8, and §466B.25, Code of Iowa)

SECTION 3. POWERS AND DUTIES OF THE WATERSHED AUTHORITY

3.1 Duties of the Watershed Authority may include the following activities per *Iowa Code* Section 466B.23 (2011):

3.1.1. Assess the flood risks in the Watershed.

3.1.2. Assess the water quality in the Watershed.

3.1.3. Assess options for reducing flood risk and improving water quality in the Watershed.

3.1.4. Monitor federal flood risk planning and activities.

3.1.5. Educate residents of the Watershed area regarding water quality and flood risks.

3.1.6 Allocate moneys made available to the Watershed Authority for purposes of water quality and flood mitigation limited to the activities set forth in sections 3.1.1 through 3.1.5 above.

3.1.7. Make and enter into contracts and agreements and execute all instruments necessary or incidental to the performance of the duties of the Authority limited to the activities set forth in sections 3.1.1 through 3.1.5 above.

3.2 Limitations of Powers. No action of the Watershed Authority formed by this agreement shall infringe on the property rights of landowners in the watershed. The Watershed Authority shall not acquire property by eminent domain.

3.3 The Watershed Authority may cooperate with entities such as: local drinking and wastewater utilities, the Iowa Department of Natural Resources, the department of agriculture and land stewardship, and councils of governments, as well as work with landowners and tenants to identify opportunities and assist with projects for voluntary water quality improvement. (see §466B.25, Code of Iowa.)

3.4 Projects. Should opportunities arise, the Watershed Authority may , on a project-by-project basis, within the scope of the law and with the agreement of the governing bodies of all of the cooperators pursuant to written agreements, undertake further agreements which would allow the watershed authority to participate in actions beyond assessment, monitoring, and education .

SECTION 4. NO SEPARATE ENTITY CREATED

4.1 No new or additional legal or administrative entity shall be created by this Agreement.

The inherent governmental powers of any Cooperator shall not in any way be affected by the terms of this Agreement. No act of the Authority shall supersede any powers or authorities vested in the parties to this Agreement.

4.2 A joint board of the Cooperators known as the Middle-South Raccoon River Watershed Management Authority Board (the Authority Board) shall be responsible for cooperating on watershed planning and improvements. The Authority Board shall be comprised of one appointee selected by each Cooperator's governing body from each County, City, and District participating in this Agreement.

4.3 The Authority Board will develop and submit governing bylaws for approval by each of the Cooperator's governing bodies.

4.3.1 Once established, the Authority Board may develop, approve, and submit governing bylaws changes to each Cooperator's governing bodies for ratification.

4.3.2 All Cooperators' governing bodies will be informed of changes to the bylaws thirty (30) days prior to becoming effective.

SECTION 5. DURATION

5.1 This Agreement shall be in effect in perpetuity unless sooner terminated pursuant to Section 13 of this agreement.

SECTION 6. EXPECTATIONS OF COOPERATING GOVERNING BODIES

6.1 Each of The Cooperators to this Agreement shall retain all powers and duties conferred by law upon each of them, and when appropriate should assist each other in the exercise of such powers and the performance of this Agreement.

Each Cooperator is encouraged to:

6.1.1. Identify opportunities for funding and in-kind support for the undertaking of watershed planning and improvements within the Middle-South Raccoon River Watershed.

6.1.2. Identify opportunities for infrastructure development and planning capable of assessing and mitigating flood risks in the Watershed.

6.1.3. Identify the most cost effective, science-based and desirable, voluntary best management practices for water quality and water quantity improvement in the Watershed.

6.1.4. Participate in any educational/outreach programs regarding water quality and flood risks.

6.1.5. Identify opportunities for infrastructure development and planning capable of assessing and mitigating water impairments in the Watershed.

6.1.6. Provide support for the administration of any projects, including technical, financial and clerical, as agreed to by the Cooperators.

6.1.7. Secure 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 this Agreement.

6.1.8. Cooperate with entities such as: local drinking and wastewater utilities, the Iowa Department of Natural Resources, the Department of Agriculture and Land Stewardship, and Councils of Governments.

6.1.9. Work with landowners and tenants to identify opportunities and assist with projects for voluntary water quality improvement.

6.1.10. Design and bidding of projects.

6.1.11. Administer contracts; and

6.1.12. Oversee construction as appropriate.

SECTION 7. MANNER OF FINANCING

7.1 The Authority Board may solicit, accept and receive donations, endowments, gifts, reimbursements and other such funds as necessary to support work pursuant to this Agreement. It is agreed and understood by the Cooperators hereto that no financial obligation upon any Cooperator is created.

7.2 Any contracts awarded the Watershed Authority must have all conditions explicitly approved by the governing body of each of the Cooperators in order to be accepted by the Watershed Authority.

7.3 Upon receipt of funds by the Watershed Authority, the Watershed Authority will designate a fiscal agent for the management of such funds.

7.4 No action to contribute funds by an Authority Board member is binding on the Cooperator that he or she represents without official approval of the governing body of that Cooperator. No Cooperator may be required to contribute funds to the Authority, except to fulfill any obligations previously made by official action by the governing body of the Cooperator.

7.5 Nothing in these provisions relinquishes the ability of the governing body of a Cooperator to individually solicit, accept and receive donations, endowments, gifts, reimbursements or other such funds.

SECTION 8. ENTIRE AGREEMENT

8.1 This Agreement represents the entire understanding between the Cooperators and no Cooperator is relying on any representation or understanding which may have been made by another Cooperator and which is not included in this Agreement.

SECTION 9. SEVERABILITY/INVALIDITY

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

SECTION 10. GOVERNING LAW

10.1 This Agreement shall be governed by and interpreted under the laws of the State of Iowa.

SECTION 11. AMENDMENTS

11.1 This Agreement may be amended at any time by an affirmative vote of the governing body of all Cooperators. Any Cooperator desiring an amendment to this Agreement shall notify the other Cooperators of its desire, and the reasons for the request.

11.2 Such request shall be in writing to the other Cooperators, and shall be considered without unreasonable delay and within no more than ninety (90) days of receipt.

11.3 If the request is agreed to by the other Cooperators, each Cooperator shall prepare and submit to the others a certified resolution confirming the affirmative vote of the Cooperator's governing body.

11.4 The Amendment shall take effect ten (10) days following receipt of the last such resolution by the other Cooperators. Amendments shall be filed and recorded as required by Section 16 hereof.

SECTION 12. ADDITIONAL COOPERATORS

12.1 A City, County, or Soil and Water Conservation District within the Middle-South Raccoon River Watershed who is not a Cooperator, may request, in writing to all Cooperators, to become a Cooperator.

12.2 Such a request shall be considered an Amendment request and shall follow the steps outlined in Section 11 hereof.

SECTION 13. TERMINATION OF AGREEMENT

13.1 It is the intent of this section to provide the sole and exclusive method for termination of the mutual rights and obligations of Cooperators pursuant to this Agreement.

13.2 The governing body of any Cooperator may terminate their participation in this Agreement at any time, and for any reason, by approving a resolution of notice of intent to terminate to the other Cooperators; such termination shall not be effective for thirty (30) days following the receipt by the other Cooperators. However, upon notice of termination delivered, no action of the Watershed Authority is in any way binding upon the entity terminating participation.

13.3 This Agreement becomes null and void with less than two (2) Cooperators participating. The remaining governing body shall by resolution terminate the Agreement and notify the Secretary of State of the dissolution.

SECTION 14. EFFECTIVE DATE

14. 1 This Agreement shall take effect upon execution by the Cooperators as required by law and filing with the Secretary of State in an electronic format in accordance with the requirements of *Iowa Code* Section 28E.8 (2011).

SECTION 15. NOTICES

15.1 Notices under this Agreement shall be in writing and delivered to the representative of the Cooperator to receive notice (Identified in Attachments A1, A2 and A3 – Counterparts) at the address of the Cooperator designated to receive notice for each Cooperator as set forth in this Agreement. The effective date of any notice under this Agreement shall be the date of actual delivery of such notice and not the date of dispatch. The preferred means of notice shall be either actual hand delivery, certified US mail, return receipt requested with postage prepaid thereon, or by recognized overnight delivery services, such as FedEx or UPS.

SECTION 16. RECORDATION

16.1 This Agreement shall be recorded pursuant to the requirements of *Iowa Code* Section 28E.8 (2011).

SECTION 17. ENTIRE AGREEMENT

17.1 This Agreement and attachments attached hereto constitute the entire Agreement, among the Cooperators and supersedes or replaces any prior Agreements among the Cooperators relating to its subject matter.

SECTION 18. NO WAIVER

18.1 The waiver or acceptance by any Cooperator of a breach or violation of this Agreement by another Cooperator shall not operate as, or be construed to be, a waiver of any subsequent breach.

SECTION 19. NO ASSIGMENT OR DELEGATION

19.1 Neither this Agreement, nor any right or obligation under it, may be assigned, transferred or delegated in whole or in part to any outside party without the prior written consent of the governing bodies of all Cooperators.

SECTION 20. MANNER OF ACQUIRING, HOLDING AND DISPOSING OF PROPERTY UNDER THIS AGREEMENT

20.1 It is not anticipated that real or personal property will be acquired or held as part of the joint or cooperative undertaking which is the subject of this Agreement.

20.2 In the event real or personal property is acquired as part of the joint or cooperative undertaking which is the subject of this Agreement, the property shall be held in the name of the party acquiring the property.

20.3 In the event real or personal property is acquired by the Authority as part of the joint or cooperative undertaking which is the subject of this Agreement, the property shall be held in the name of the Authority and, upon termination of this Agreement, distributed in equal shares to the Cooperators following payment of any and all debts then owing by the Authority.

SECTION 21. AUTHORITY AND AUTHORIZATION

21.1 Each Cooperator to this Agreement represents and warrants to the other that it has the right, power and authority to enter into and perform its obligation under this Agreement; that it has taken all requisite actions necessary to approve the execution, delivery and performance of this Agreement; and that this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with the terms of this Agreement.

SECTION 22. HEADING AND CAPTIONS

22.1 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.

SECTION 23. COUNTERPARTS

23.1 The Cooperators agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

Dated this 13th day of December, 2012

Dallas County, Iowa

BY: _____

Chair, Board of Supervisors

ATTEST: _____

County Auditor

ATTACHMENT A-1 COUNTERPARTS – Counties

Dallas County is a public agency of the State of Iowa, organized and operating pursuant to Iowa Chapter 331.

All notices to the Cooperator shall be delivered to the following person:

_____, Chairperson, Dallas County Board of Supervisors

121 W. 9th Street, Adel, IA 50003

Street Address City Zip Code

The Cooperator agrees that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

Dated this _____ day of _____, 2012

In _____ County, Iowa

BY: _____

Board of Supervisors, Chair

ATTEST: _____

County Auditor

ATTACHMENT A-3 COUNTERPARTS – Soil and Water Conservation District

The Carroll County (Region 5), Soil and Water Conservation District is a governmental division of the State of Iowa, as defined in *Iowa Code* Section 161A3(6) and a Soil and Water Conservation District established pursuant to Iowa Chapter 161A5(1).

All notices to the Cooperator shall be delivered to the following person:

Tom Simons, Chairman, Carroll County (Region 5)

Soil and Water Conservation District

1917 N Hwy 71 Ste 1, Carroll, IA 51401

Street Address City Zip Code

The Cooperator agrees that this Agreement has been or may be executed in several counterparts. each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

Dated this 6 day of March, ~~2012~~ 2013

In Carroll County (Region [redacted]), Iowa

BY: [signature]

Chairman

ATTEST: _____

Secretary

[signature]

CHARLOTTE J. HART
Commission Number 729400
MY COMMISSION EXPIRES
5-14-2013

ATTACHMENT A-1 COUNTERPARTS – Counties

Carroll County is a public agency of the State of Iowa, organized and operating pursuant to Iowa Chapter 331.

All notices to the Cooperator shall be delivered to the following person:

Mark Beardmore, Chairperson, Carroll County Board of Supervisors

114 E. 6th St., Carroll, IA 51401

Street Address City Zip Code

The Cooperator agrees that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

Dated this 28 day of January, 2013

In Carroll County, Iowa

BY: Mark Beardmore

Board of Supervisors, Chair

ATTEST: Joan Schettler

County Auditor

SECTION 23. COUNTERPARTS

23.1 The Cooperators agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

Dated this _____ day of _____, 2012

Dallas County, Iowa

BY: _____

Chair, Board of Supervisors

ATTEST: _____

County Auditor

ATTACHMENT A-1 COUNTERPARTS – Counties

Guthrie County is a public agency of the State of Iowa, organized and operating pursuant to Iowa Chapter 331.

All notices to the Cooperator shall be delivered to the following person:

[signature], Chairperson, Guthrie County Board of Supervisors

200 N. 5th St., Guthrie Center, IA 50115

Street Address City Zip Code

The Cooperator agrees that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

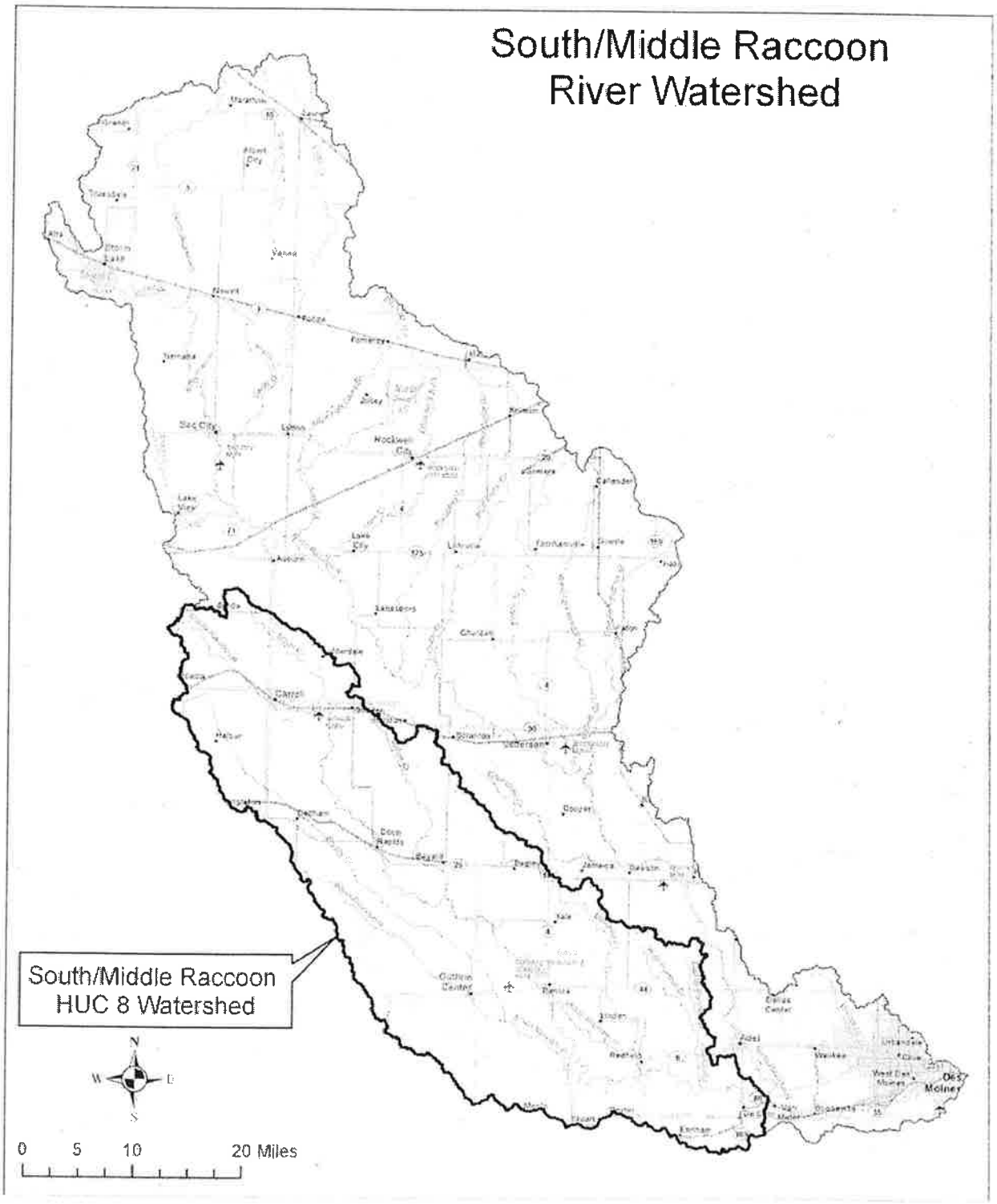
Dated this 15th day of January, 2012

In Guthrie County, Iowa

BY: [signature]

Board of Supervisors, Chair

ATTEST: [signature]

County Auditor

ATTACHMENT B – Middle-South Raccoon River Watershed Boundary