



*Matt Schultz*  
**Secretary of State**  
*State of Iowa*

# 28E Agreement

FOR OFFICE USE ONLY:

FILED

M505431

8/16/2012 11:25:00 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	County of Linn	County	Linn
Party 2	City of Cedar Rapids	City	Linn
Party 3	City of Hiawatha	City	Linn
Party 4	City of Marion	City	Linn
Party 5	City of Robins	City	Linn

*\*Enter "Other" if not in Iowa*

**Item 2.** The type of Public Service included in this agreement is: 560 Planning  
 (Enter only one Service Code and Description) Code Number Service Description

**Item 3.** The purpose of this agreement is: *(please be specific)*  
 Establish the Indian Creek Watershed Management Authority to enable cooperation in watershed planning and improvements for the mutual advantage of the political subdivisions involved.

**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](http://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 Fencl **FIRST** Name Jennifer

Title Environmental Services Director Department Environmental Services Director

Email jennifer.fencl@ecicoq.org Phone 319-365-9941



INDIAN CREEK WATERSHED MANAGEMENT AUTHORITY  
ARTICLES OF AGREEMENT

THIS AGREEMENT is made and entered into, pursuant to Iowa Code Chapter 28E, as of July 1, 2012, by and between the eligible political subdivisions that adopt these Articles of Agreement, defined as the cities of Alburnett, Cedar Rapids, Hiawatha, Marion, Robins; and the County of Linn; and the Linn Soil & Water Conservation District (hereinafter "Members").

WHEREAS, Iowa Code Chapter 28E authorizes local governmental units to jointly or cooperatively exercise any power common to the contracting parties; and

WHEREAS, Iowa Code Chapter 466B authorizes two or more political subdivisions, defined as cities, counties and/or 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 Chapter 28E of the Code of Iowa to establish a Watershed Management Authority to enable cooperation in watershed planning and improvements for the mutual advantage of the political subdivisions involved; and

WHEREAS, pursuant to Iowa Code Chapter 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 Indian Creek Watershed is a Hydrologic Unit Code 10 watershed defined by the watershed boundary of Indian Creek, Dry Creek, Squaw Creek and their tributaries, located within the County of Linn in Iowa. The Indian Creek Watershed includes all or parts of the County of Linn, the City of Marion, the City of Cedar Rapids, the City of Hiawatha, the City of Robins, the City of Alburnett, and the Linn Soil & Water Conservation District. A map defining the boundary of the Indian Creek Watershed is attached hereto and made apart hereof.

NOW, THEREFORE, the Members to this Agreement do mutually agree as follows:

#### ARTICLE I – IDENTITY OF THE MEMBERS

1.1 The County of Linn is a political subdivision of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 331. Its address is: 935 Second Street SW, Cedar Rapids, IA 52404

1.2 The Cities of Alburnett, Cedar Rapids, Hiawatha, Marion, and Robins are each a political subdivision of the State of Iowa, organized and operating pursuant to Iowa Code Chapter 364. Their addresses are:

City of Alburnett, 103 N Main Avenue, PO Box 326, Alburnett, IA 52202

City of Cedar Rapids, 101 First Street, Cedar Rapids, IA 52401

City of Hiawatha, 101 Emmons Street, Hiawatha, IA 52233

City of Marion, 1225 Sixth Avenue, Marion, IA 52302

City of Robins, 265 S Second, Robins, IA 52328

1.3 The Soil and Water Conservation District of Linn County is a political subdivision 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). Its address is: 3025 7th Ave., Marion, IA 52302

#### ARTICLE II – NAME

2.1 The official name of this organization shall be the Indian Creek Watershed Management Authority (hereinafter “Authority”).

#### ARTICLE III – LEGAL STATUS

3.1 This Authority shall be a voluntary joint undertaking of the political subdivisions within the Indian Creek Watershed pursuant to the provisions of Chapter 466B and 28E of the Code of Iowa.

3.2 No separate legal or administrative entity shall be created by this Agreement.

#### ARTICLE IV – GOVERNING BODY

4.1 A joint board of the Members known as the Indian Creek Watershed Management Authority Board of Directors (hereinafter “Board”) shall be responsible for fulfilling the purpose of the Authority.

4.2 Each Member shall be entitled to appoint one representative to serve on the Board or their designees.

#### ARTICLE V – DURATION

5.1 This Agreement shall be in effect perpetually until terminated pursuant to Article X.

## ARTICLE VI – PURPOSE

6.1 The purpose of this Agreement is to provide for the manner in which the Members shall cooperate with one another within the Indian Creek Watershed to engage in the activities authorized pursuant to Iowa Code Section 466B.23 in pursuit of, but not limited to, the following:

- (a) utilize watershed level assessments and planning,
- (b) increased communication and coordination in addressing flooding and water quality,
- (c) support management of storm water runoff to prevent erosion, increase infiltration, promote groundwater recharge, and mitigate flooding,
- (d) promote efforts to protect and enhance beneficial uses of waterways within the Indian Creek Watershed such as fish and wildlife habitat and water recreation,
- (e) promote uniform local policies for surface and groundwater management,
- (f) increased public education about water quality issues and flood mitigation opportunities,
- (g) seek funding opportunities, and
- (h) provide a forum for exchanging information among the Members.

## ARTICLE VII – POWERS AND DUTIES

7.1 The Members to this Agreement shall retain all powers and duties conferred by law and shall assist each other in the exercise of such powers and the performance of this Agreement. Any Member may accept a specific responsibility to assist in achieving the goals of the Authority, including but not limited to:

- A) identifying opportunities for funding and in-kind support for the undertaking of watershed planning, assessments, and improvements within the Indian Creek 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 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 enhancing water quality in the watershed;

- G) providing support for the administration of any projects, including technical, financial and clerical, as agreed to by the Members;
- 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;
- D) coordinating with local utilities;
- J) designing and bidding of projects;
- K) administering contracts; and
- L) observing construction.

7.2 The specific powers and duties of the Board shall be defined in the Authority's by-laws to address Board officers, terms, meetings, and administrative functions.

#### ARTICLE VIII – FINANCIAL MATTERS

8.1 With a Member(s) acting as the fiscal agent, 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.

8.2 The Authority shall not have the power of eminent domain and shall not own any interest in real property. All interests in lands shall be held in the name of the Member wherein said lands are located.

#### ARTICLE IX – AMENDMENTS

9.1 This Agreement may be amended at any time by the Members. All amendments shall be in writing, signed by all Members and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code Section 28E.8.

9.2 Eligible political subdivisions may be amended into the Authority by filing written notice with the Authority and adopting this Agreement by resolution. The amended Agreement will be signed by all Members and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code Section 28E.8.

9.3 Withdrawal of any Member may be accomplished by filing written notice with the Authority and the other Members 60 days before the effective date of withdrawal. No Member may withdraw from this Agreement until the withdrawing Member has met its full obligations as of the effective date of withdrawal. The amended Agreement will be signed by all Members and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code Section 28E.8.

ARTICLE X – TERMINATION

10.1 This Agreement may be terminated upon the unanimous consent of the Members. If the Agreement is to be terminated, a notice of the intent to terminate the Authority shall be sent to all Members at least 90 days before the date of termination.

ARTICLE XI – GENERAL PROVISIONS

11.1 Entire Agreement: This Agreement contains the entire agreement 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 Members. 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.

11.2 Severability: 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.

11.3 Assignment: This Agreement shall be binding upon and inure to the benefit of the Members and their respective successors and assigns. The Members agree that no Member shall have the right to assign their rights and obligations hereunder to any Member without prior written consent of the other Members, which consent shall not be unreasonably withheld. Members are limited by law to counties, cities, and soil and water conservation districts.

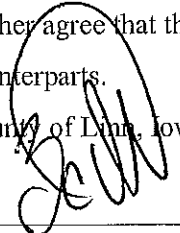
ARTICLE XII – GOVERNING LAW

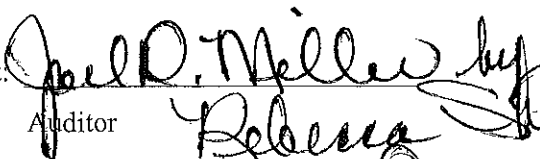
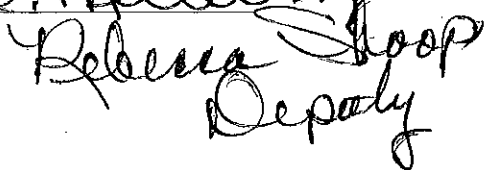
12.1 This Agreement shall be governed by and interpreted under the laws of the State of Iowa.

ARTICLE XIII – EXECUTION OF DOCUMENTS AND RECORDATION

13.1 This Agreement shall take effect upon execution by the Members as required by law and filed in an electronic format with the Iowa Secretary of State as required by Iowa Code Section 28E.8. The Members agree to timely execute any documents necessary to carry out the terms of this Agreement. The Members further agree that this document may be executed outside the presence of the other Members and in separate counterparts.

County of Linn, Iowa

By  \_\_\_\_\_  
Chairperson 7-25-12

Attest:  \_\_\_\_\_  
Auditor  \_\_\_\_\_  
Deputy

City of Cedar Rapids, Iowa

By Randy Gortz  
Mayor

Attest: Amy Severson  
City Clerk

City of Hiawatha, Iowa

By Thomas A. Davis  
Mayor

Attest: Ann Downs  
City Clerk

City of Marion, Iowa

By William Bond  
Mayor

Attest: Wesley A. Nelson  
City Clerk

City of Robins, Iowa

By James S. Cullen  
Mayor

Attest: Jim Dickhaut  
City Clerk

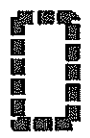
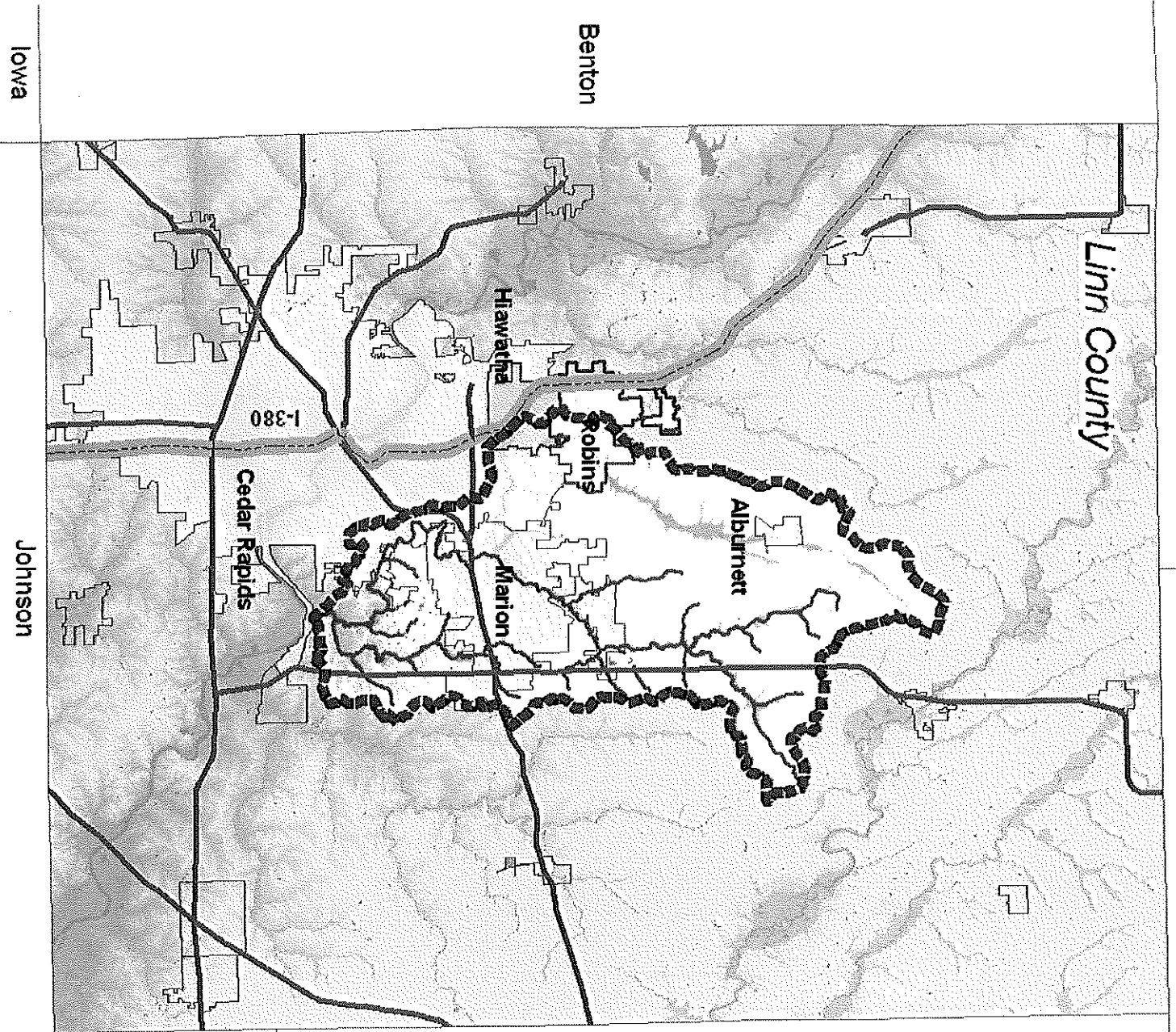
Linn County Soil & Water Conservation District

By Lana Kowse  
District Chairperson

Attest: Mary E. Weber  
Secretary



# Indian Creek Watershed



Indian Creek Watershed



Indian Creek & Tributaries



Rivers



Floodplain

Jones



Cedar

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Prepared by and to be returned to: Bill Micheel, Linn County Planning & Development  
935 2nd Street S.W., Cedar Rapids, Iowa 52404-2100 (319) 892-5130

RESOLUTION APPROVING THE ARTICLES OF AGREEMENT  
CREATING THE INDIAN CREEK WATERSHED MANAGEMENT AUTHORITY

RESOLUTION # 2012-7-116

WHEREAS, the County of Linn desires to enter into an Agreement that would establish a Watershed Management Authority within the Indian Creek Watershed to enable cooperation in watershed planning and improvements pursuant to Iowa Code Chapter 466B.23 and;

WHEREAS, Chapter 28E of the Code of Iowa provides the authority for public agencies to enter into agreements for their mutual advantage and;


WHEREAS, This Agreement is made and entered into as of August 1<sup>st</sup>, 2012, by and between the eligible political subdivisions that adopt these Articles of Agreement, defined as the Cities of Alburnett, Cedar Rapids, Hiawatha, Marlon, Robins; the County of Linn; and the Linn County Soil & Water Conservation District;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY OF LINN, IOWA:

1. The Chairperson is hereby authorized to sign and execute the Articles of Agreement for the Indian Creek Watershed Management Authority, a copy of which is attached hereto and incorporated herein by this reference.
2. Said Agreement is hereby approved as to form and content and is found to be in the best interest of the County of Linn, Iowa and the eligible political subdivisions that adopt these Articles of Agreement, defined as the Cities of Alburnett, Cedar Rapids, Hiawatha, Marlon, Robins; the County of Linn; and the Linn County Soil & Water Conservation District.
3. The Linn County Auditor is hereby authorized to record a certified copy of this Resolution, together with said attached Agreement, in the office of the Recorder for Linn County, Iowa and to file a copy of this Resolution and Agreement with the Secretary of State, as required by Chapter 28E, Iowa Code.

Passed and approved this 25<sup>th</sup> day of July, 2012.

Linn County Board of Supervisors

  
\_\_\_\_\_  
Chairperson

Aye: 4  
Nay: 0  
Abstain: 0  
Absent: 1

Vice Chairperson

*[Signature]*  
Supervisor

*[Signature]*  
Supervisor

*[Signature]*  
Supervisor

Attest:

*[Signature]*  
Joel Miller, Linn County Auditor and Clerk to the Board of Supervisors

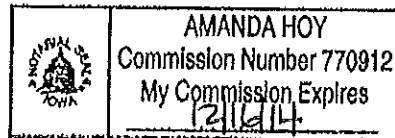
State of Iowa )  
                  ) SS  
County of Linn )

I, Joel Miller, County Auditor of Linn County, Iowa and Clerk to the Board of Supervisors, Linn County, Iowa, hereby certify that at a regular meeting of the said Board of Supervisors the foregoing resolution was duly adopted by a vote of:

4 Aye, 0 Nay, 0 Abstain, 1 Absent

*[Signature]*  
Joe Miller  
Subscribed and sworn to before me by the aforesaid Joel Miller, on this 28<sup>th</sup> day of July 4<sup>th</sup> day of August 2012.

*[Signature]*  
Notary Public State of Iowa



RESOLUTION 0712-2

RESOLUTION APPROVING THE ARTICLES OF AGREEMENT  
CREATING THE INDIAN CREEK WATERSHED MANAGEMENT AUTHORITY

WHEREAS, the City of Robins desires to enter into an Agreement that would establish a Watershed Management Authority within the Indian Creek Watershed to enable cooperation in watershed planning and improvements pursuant to Iowa Code Chapter 466B.23 and;

WHEREAS, Chapter 28E of the Code of Iowa provides the authority for public agencies to enter into agreements for their mutual advantage and;

WHEREAS, This Agreement is made and entered into as of July 1, 2012, by and between the eligible political subdivisions that adopt these Articles of Agreement, defined as the cities of Alburnett, Cedar Rapids, Hiawatha, Marion, Robins; and the County of Linn; and the Linn County Soil & Water Conservation District;

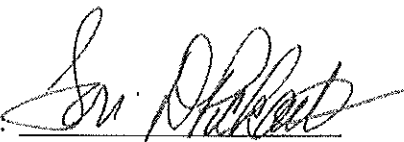
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROBINS, IOWA:

1. The Mayor and the City Clerk are hereby authorized to sign and execute the Articles of Agreement for the Indian Creek Watershed Management Authority, a copy of which is attached hereto and incorporated herein by this reference.
2. Said Agreement is hereby approved as to form and content and is found to be in the best interest of the City of Robins, Iowa and the eligible political subdivisions that adopt these Articles of Agreement, defined as the cities of Alburnett, Cedar Rapids, Hiawatha, Marion, Robins; and the County of Linn; and the Linn County Soil & Water Conservation District.
3. The City of Robins is hereby authorized to record a certified copy of this Resolution, together with said attached Agreement, in the office of the Recorder for Linn County, Iowa and to file a copy of this Resolution and Agreement with the Secretary of State, as required by Chapter 28E, Iowa Code.

It was moved by Don Norton and seconded by Brad Sevcik the Resolution be adopted.

PASSED and APPROVED this 2<sup>nd</sup> day of July, 2012.

  
\_\_\_\_\_  
Ian G. S. Cullis, Mayor

ATTEST:   
\_\_\_\_\_  
Lori D. Pickart, City Clerk

Prepared/Return to City of Hiawatha, Kim Downs, 101 Emmons Street Hiawatha, Iowa 52233,  
319-393-1515

**RESOLUTION NO. 12-157  
City Council**

**RESOLUTION APPROVING THE ARTICLES OF AGREEMENT  
CREATING THE INDIAN CREEK WATERSHED MANAGEMENT AUTHORITY**

WHEREAS, the City of Hiawatha desires to enter into an Agreement that would establish a Watershed Management Authority within the Indian Creek Watershed to enable cooperation in watershed planning and improvements pursuant to Iowa Code Chapter 466B.23, and

WHEREAS, Chapter 28E of the Code of Iowa provides the authority for public agencies to enter into agreements for their mutual advantage, and

WHEREAS, This Agreement is made and entered into as of July 1, 2012, by and between the eligible political subdivisions that adopt these Articles of Agreement, defined as the cities of Alburnett, Cedar Rapids, Hiawatha, Marion, Robins; and the County of Linn; and the Linn County Soil & Water Conservation District, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY/COUNTY/SWCD OF BLANK, IOWA:

1. The Mayor and the City Clerk are hereby authorized to sign and execute the Articles of Agreement for the Indian Creek Watershed Management Authority, a copy of which is attached hereto and incorporated herein by this reference.
2. Said Agreement is hereby approved as to form and content and is found to be in the best interest of the City of Hiawatha, Iowa and the eligible political subdivisions that adopt these Articles of Agreement, defined as the cities of Alburnett, Cedar Rapids, Hiawatha, Marion, Robins; and the County of Linn; and the Linn County Soil & Water Conservation District.
3. The City Clerk is hereby authorized to record a certified copy of this Resolution, together with said attached Agreement, in the office of the Recorder for Linn County, Iowa and to file a copy of this Resolution and Agreement with the Secretary of State, as required by Chapter 28E, Iowa Code.

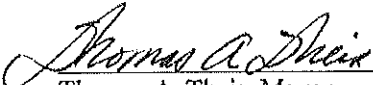
It was moved by Bob Wheeler and seconded by Dick Olson the Resolution be adopted.

AYES: Bob Wheeler, Bob Rampulla, Dick Olson, Marty Bruns

NAYS: None

ABSENT: Dennis Norton

PASSED AND APPROVED this 1st day of August, 2012.

  
Thomas A. Theis, Mayor

ATTEST:

  
Kim Downs, City Clerk

*I, Kim Downs, City Clerk of the City of Hiawatha, Iowa, do hereby certify that the within and foregoing offer was duly approved and accepted by the City Council of the City of Hiawatha, by Resolution No. 12-157 and said resolution was passed and approved on the 1st day of August, 2012.*

  
Kim Downs, City Clerk

43-13-035

DAS w/orq  
agr

ENG  
STR  
FIN  
TRS  
AUD FILE  
IDOT  
CITY OF ALBURNETT  
CITY OF HIAWATHA  
CITY OF MARION  
LINN COUNTY  
LINN SWCD  
43-13-035

RESOLUTION NO. 1089-07-12

WHEREAS, the City of Cedar Rapids and the cities of Alburnett, Hiawatha, Marion and Robins; the County of Linn; and the Linn County Soil & Water Conservation District have entered into a 28E Agreement for the Indian Creek Watershed Management Authority regarding the joint or cooperative work of watershed planning and improvements for the mutual advantage of the political subdivisions involved for the Indian Creek Watershed, and

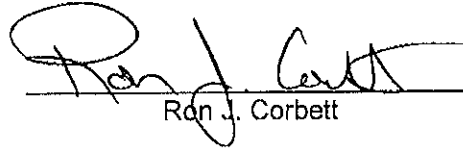
WHEREAS, the Indian Creek Watershed is defined as a Hydrologic Unit Code 10 watershed defined by the watershed boundary of Indian Creek, Dry Creek, Squaw Creek and their tributaries, located within the County of Linn in Iowa, and

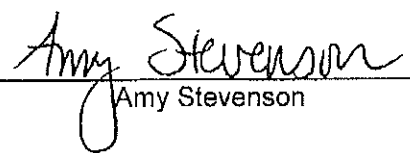
WHEREAS, the Agreement is effective from the approval of two or more of the political authorities to the unanimous consent of the Members or if a notice of the intent to terminate the Authority shall be sent to all Members at least 90 days before the date of termination, and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, that the Mayor is hereby authorized to execute the signing of the Agreement.

Passed this 24<sup>th</sup> day of July, 2012.

Voting: Council member Karr moved the adoption of the resolution; seconded by Council member Vernon. Adopted, Ayes, Council members Gulick, Karr, Poe, Shey, Shields, Swore, Vernon and Mayor Corbett.

  
\_\_\_\_\_, Mayor  
Ron J. Corbett

Attest:  
  
\_\_\_\_\_, City Clerk  
Amy Stevenson

RESOLUTION NO. 22618

RESOLUTION APPROVING 28E AGREEMENT FOR THE INDIAN CREEK WATERSHED MANAGEMENT AUTHORITY REGARDING THE JOINT OR COOPERATIVE WORK OF WATERSHED PLANNING AND IMPROVEMENTS FOR THE INDIAN CREEK WATERSHED.

WHEREAS, the City of Marion and the cities of Alburnett, Hiawatha, Cedar Rapids, and Robins; the County of Linn; and the Linn County Soil & Water Conservation District have entered into a 28E Agreement for the Indian Creek Watershed Management Authority regarding the joint or cooperative work of watershed planning and improvements for the mutual advantage of the political subdivisions involved for the Indian Creek Watershed, and

WHEREAS, the Indian Creek Watershed is defined as a Hydrologic Unit Code 10 watershed defined by the watershed boundary of Indian Creek, Dry Creek, Squaw Creek and their Tributaries, located within the County of Linn in Iowa, and

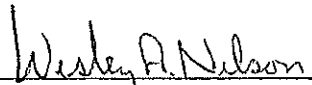
WHEREAS, the Agreement is effective from the approval of two or more of the political authorities to the unanimous consent of the members or if a notice of the intent to terminate the Authority shall be sent to all members at least 90 days before the date of termination, and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARION, IOWA, that the mayor is hereby authorized to execute the signing of the agreement.

Passed this 9<sup>th</sup> day of August, 2012.

  
\_\_\_\_\_  
Snooks Bouska, Mayor

ATTEST:

  
\_\_\_\_\_  
Wes Nelson, City Clerk