

**INTERGOVERNMENTAL AGREEMENT CREATING
THE CLARKE COUNTY RESERVOIR COMMISSION**

COPY

This agreement is made and entered into by, between and among the City of Osceola, Iowa, the Osceola Waterworks Board of Trustees, the City of Murray, Iowa, the City of Woodburn, Iowa, Clarke County, Iowa, and Southern Iowa Rural Water Association, (all parties being hereinafter collectively referred to as "Sponsors")

FILED
SECRETARY OF STATE
IOWA
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SECTION I

NAME AND OFFICE

Pursuant to the provisions of Chapter 28E, Code of Iowa, 2001, and amendments thereto, the Sponsors hereby form and create, as a public body corporate and a separate legal entity, the Clarke County Reservoir Commission (hereinafter called the "Commission"). The principal office shall be located at City Hall, Osceola, Iowa 50213, and the contact person shall be the City Administrator of the City of Osceola.

SECTION II

PURPOSES



The purposes of the Commission are as follows:

- (a) To make decisions in the locating, planning, and design of a new reservoir and regional recreation facility in Clarke County, Iowa. Multiple sites, including the Coyote Canyon and Whitebreast sites, will be investigated and pursued for feasibility and funding as multi-purpose reservoirs for flood control, erosion control, recreation and water supply purposes as agreed by the Commission.
- (b) To cooperate with and pursue the support of all interested and/or affected public and private agencies and/or individuals, on a Federal, State and Local basis.
- (c) To pursue all possible funding sources, both public and private, for the design, development, construction and maintenance of the reservoir.
- (d) To share all expenses incurred as a result of decisions made and action taken by the Commission in the pursuance of the purposes set forth above.

- (e) Following construction, the Commission shall be responsible for management and protection of the water supply; including management of the public recreation activities allowed on the lake and the surrounding publicly owned ground. The Osceola Waterworks Board of Trustees shall be responsible for management, operation and maintenance of the intake, raw water pumping station, raw water mains to the Osceola water treatment plant, the Osceola water treatment plant, and the Osceola water distribution system. The Osceola Waterworks Board of Trustees and SIRWA shall jointly acquire and hold the necessary water withdrawal permits for the benefit of all residents of Clarke County and any other users in the regional water distribution system. Water rights and specific water withdrawal amounts for each entity shall be determined jointly by the Osceola Waterworks Board of Trustees and SIRWA.
- (f) The Commission may use any and all means to control activities within the reservoir watershed through partnering with Clarke County; working with the Iowa Department of Natural Resources (IDNR) and/or the Clarke County Conservation Board for land management services; and working with the Natural Resources Conservation Service to develop and implement agricultural land management practices that will maintain and/or improve water quality.

SECTION III

ORGANIZATION

- (a) The governing body of the Commission shall consist of a representative of the governing body of each participating sponsor, or designated substitute, which substitute shall be approved by the body represented, and one person jointly selected by the representatives of the governing bodies.
- (b) The Chair and the Vice-Chair of the Commission shall be elected by majority of Commission membership and shall serve for a term of one year or until their respective successors in the office are chosen. There shall be no limit on the successive terms, which an incumbent may serve.
- (c) The Commission shall hold at least one meeting each year on dates and at places which shall be determined by the Commission. Special meetings may be held at the call of the Chair, Vice-Chair or majority of the membership of the Commission.
- (d) The Commission may hire a Director and such other supervisory, clerical and other personnel as are necessary to carry out the functions of the Commission. The Commission shall fix their compensation and benefits and shall approve all personnel rules and regulations pertaining thereto. The Commission may utilize staff of existing regional organizations to provide these functions instead of hiring these new personnel.
- (e) The Director shall be the Secretary and Treasurer of the Commission and shall have the authority, duties and obligations normally associated with these offices, including, but not limited to, the receipt and disbursement of funds and the preparation and submission of quarterly and annual financial reports to the Commission.

- (f) The Commission may employ legal counsel, who may be a paid employee of one of the Sponsors, and who may receive compensation set by the Commission for the performance of legal services.
- (g) The Commission shall cause this Agreement to be filed with the Secretary of State and shall notify the Secretary of State of the name of any Sponsor withdrawing from or joining the Commission.
- (h) Additional Sponsors or public agencies may be added to the membership of the Commission only upon a unanimous vote of all the members of the Commission. In the event an additional Sponsor shall apply for membership in the Commission and the application is considered and approved by the then existing Commission, then that Sponsor may be added to the membership. The additional Sponsor, as a condition of membership, agrees to abide by the terms of this Agreement as set out herein and must possess legal power and authority to do so.

SECTION IV.

DURATION

The Commission shall have perpetual duration.

SECTION V. POWERS

The Commission shall be a public body corporate and a separate legal entity exercising public and essential governmental functions to provide for the public health, safety and welfare and shall have the following powers:

- (a) To adopt and have a common seal and to alter the same at pleasure
- (b) To sue and be sued.
- (c) To acquire, hold, use and dispose of the reserves derived from the operation of its facilities and other moneys of the Commission.
- (d) To acquire, hold, use and dispose of other personal property for the purpose of the Commission.
- (e) To acquire by purchase, gift, lease or otherwise, real property and easements therein, the same to be titled in the Commission, necessary, useful and convenient for the operation of the Commission, subject to all liens thereon, if any, and to hold and use the same, and to dispose of property so acquired which is no longer necessary for the purposes of this Commission.
- (f) To accept gifts or grants of real property titled in the Commission, or personal property, money, material, labor or supplies for the purposes of the Commission, and to make and perform such agreements and contracts as may be necessary or

- convenient in connection with procuring, acceptance or disposition of such gifts or grants.
- (g) To make and enforce by-laws or rules and regulation for the management and operation of its business and affairs.
 - (h) To do and perform any acts and things authorized by Chapter 28E, Code of Iowa, 2001, and by this Agreement, under, through or by means of its officers, agents and employees, or by contracts with any person.
 - (i) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Commission or to carry out any powers expressly given by this Agreement.
 - (j) To cause the design of a new reservoir and regional recreation facility in Clarke County, procurement of necessary funding, procurement of all necessary land and/or procurement of land options, gain approval from all necessary regulatory agencies, cause the construction of the Reservoir and appurtenances thereto.
 - (k) To make or cause to be made studies and surveys necessary or useful and convenient to carrying out the functions of the Commission.
 - (l) To contract with and compensate consultants for professional services including, but not limited to, architects, engineers, planners, lawyers, accountants, rate specialists, and all others found necessary or useful and convenient to the stated purposes of the Commission.
 - (m) To provide for a system of budgeting, accounting, auditing and reporting of all Commission funds and transactions, for a depository, and for the bonding of employees.
 - (n) To consult with representatives of Federal, State and local agencies and departments, and their officers and employees, and to contract with such agencies and departments.
 - (o) To borrow money, make and issue negotiable bonds, certificates, refunding bonds and notes and to secure the payment of such bonds, certificates, refunding bonds and notes or any part thereof, buy a pledge of any or all of the Commission's net revenues and any other funds which it has a right to, or may hereafter have the right to, pledge for such purposes.
 - (p) To provide in the proceeding authorizing such obligation for remedies upon default in the payment of principal and interest on any such obligations including, but not limited to, the appointment of a trustee to represent the holders of such obligations in default and the appointment of a receiver to have the powers and duties provided for in the proceeding authorizing such obligations.
 - (q) To receive funds from each member Sponsor in the pursuance of the purposes of the Commission and in accordance with the powers set forth herein. The contributions of the municipalities of the City of Osceola, the City of Murray, the City of Woodburn, and Clarke County, Iowa, shall be determined on a basis of the ratio of the municipality's population to the population of Clarke County as a whole. For the purpose of this paragraph, the contribution of Clarke County shall be based upon the population living outside an incorporated city compared to the population of the county as a whole. The initial contribution percentages shall be as follows: SIRWA - 23.2%; the Osceola Waterworks Board - 26.8%; the City of Osceola - 25.5%; the City of Murray - 4.2%; the City of Woodburn - 1.3%; and Clarke County, Iowa - 19%. Thereafter, contributions percentages of the municipalities and Clarke County,

Iowa, shall be determined from the results of the official decennial census of the United States, unless an official interim census is available and its use is authorized by the Commission.

- (r) To hire employees, fix their compensation, benefits, personnel rules and regulations, and terminate their employment.
- (s) To borrow money and accept grants, contributions or loans from, and to enter into contracts, leases, or other transactions with Municipal, County, State or the Federal Government.

SECTION VI

TECHNICAL COOPERATION FROM SPONSORS

The sponsors agree to respond to reasonable requests to make local records available to the Commission, its staff and its consultants or employees for the purposes of this Agreement, and to assure that engineers, architects and consultants hired by the Sponsors release materials, data and other pertinent items paid for by public funds to the Commission to aid in the efficient and effective accomplishment of such purposes.

SECTION VII

FINANCING

- (a) The Commission shall prepare a budget based on a fiscal year corresponding to the fiscal year required for the member Sponsors for the operation of the Commission. Fiscal years shall be from July 1 through June 30 of the following year. The budget shall be adopted in February preceding the budget year. Each member Sponsor's Board or Council must give approval for expenditures above the approved annual budget. The budget for the initial fiscal year and all subsequent years shall be determined by the Commission and approved by each Sponsor.
- (b) The Commission shall request each Sponsor to provide in its budget for its share of the Commission budget.
- (c) The share of each budget from each Sponsor shall be due and payable to the Treasurer of the Commission in such periodic payments as set forth and approved by the Commission.
- (d) Special appropriations shall be made by the parties hereto for funding the operation of the Commission prior to the establishment of the budget cycle.

- (e) Any special or budgetary appropriation adopted by the Commission shall be membership requirement of each and every Sponsor. The failure of a Sponsor to pay over to the Commission the allotted share of a Commission budget will be considered a momentary withdrawal of that Sponsor and a default of this Agreement.

SECTION VIII.

NOT FOR PROFIT

It is expressly understood that the Commission is to be operated not for profit and no profit or dividend will inure to the benefit of any person.

SECTION IX.

SUSPENSION OF VOTING RIGHTS AND SERVICES

During any period of delinquency by a Sponsor in the payment to the Commission of its share of the budget, such Sponsor shall not be entitled to the services of the Commission, nor shall the Sponsor be entitled to vote on matters coming before the Commission, unless such delinquency shall be waived for voting purposes by a three-quarters vote of the remaining members of the Commission.

SECTION X.

WITHDRAWAL AND DISSOLUTION

- (a) The Commission shall be completely dissolved and this Agreement terminated only upon the affirmative two-thirds majority vote of the Commission, which vote shall specify the date and time such dissolution shall be effective, which date and time may be amended at or before such time but not thereafter, by an affirmative two-thirds majority vote of the Commission.
- (b) In the event of a vote to completely dissolve the Commission, any real or personal property shall be sold prior to the date and time set for dissolution and the proceeds prorated among the Sponsors at the time of dissolution on the basis of the sum of the portions of the budget for the Commission provided by them for and during the period of this Agreement and any predecessor to this Agreement. The current budget year shall be used as one of the years in the calculation. If all Sponsors have made their

- proper contribution, the balance remaining of funds collected during the current year shall be refunded to the contributors before determining the value of the assets of the Commission at dissolution, and that year shall not be used in calculating the shares.
- (c) Anything herein to the contrary notwithstanding, Sponsors may not withdraw or in any manner terminate, amend, or modify this Agreement or any contract for the services of the Commission, to the detriment of bondholders, if revenue bonds or obligations issued in anticipation of the issuance of revenue bonds have been issued and are outstanding. Any revenue bonds for the payment and discharge of which, upon maturity or upon redemption prior to maturity, provision has been made, through the setting apart of monies sufficient for that purpose, in a reserve fund or special trust account created pursuant to this Agreement, or through the irrevocable segregation for that purpose in a sinking fund or other fund or trust account of moneys sufficient therefor, shall not be deemed to be outstanding and unpaid within the meaning of any provision of this Agreement.

SECTION XI.

MANNER OF ACQUIRING AND HOLDING REAL PROPERTY

The Commission will acquire on behalf of the Sponsors such land rights, including fee title and easement as needed in connection with the improvements required to complete the purpose of this Agreement. Any zoning issues and changes would be the responsibility of the County and its Planning and Zoning Commission.

All land rights shall not be sold or otherwise conveyed for the evaluated life of the project, except to a public agency with taxing authority, which will continue to maintain and operate the development in accordance with the purpose of this Agreement.

SECTION XII.

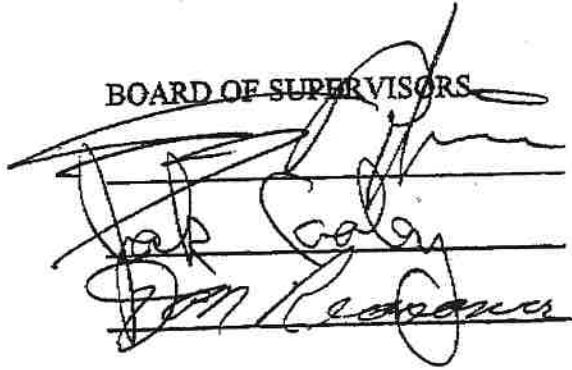
AMENDMENT OF AGREEMENT

Amendment of this Agreement shall be by the same procedures by which this Agreement was approved and executed.

Dated this 9th day of JULY, 2002.

CLARKE COUNTY

BOARD OF SUPERVISORS



ATTEST:




Clarke County Auditor

CITY OF OSCEOLA

Resolution to enter an Intergovernmental Agreement creating the Clarke County Reservoir

Commission passed and approved this 18th day of JUNE, 2002.



Mayor, City of Osceola

ATTEST:

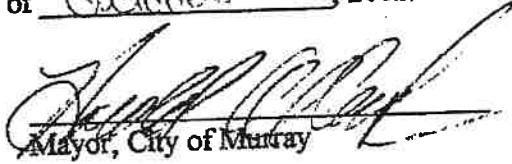


City Clerk

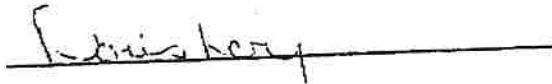
CITY OF MURRAY

Resolution to enter an Intergovernmental Agreement creating the Clarke County Reservoir

Commission passed and approved this 7th day of October, 2002.


Mayor, City of Murray

ATTEST:

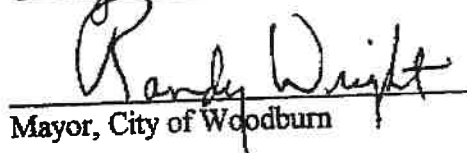


City Clerk

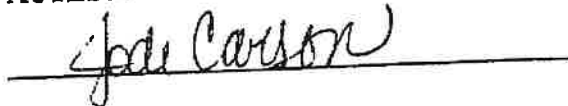
CITY OF WOODBURN

Resolution to enter an Intergovernmental Agreement creating the Clarke County Reservoir

Commission passed and approved this 12 day of August, 2002.


Mayor, City of Woodburn

ATTEST:



City Clerk

SOUTHERN IOWA RURAL WATER ASSOCIATION

By: *Henry Hester*
President

By: *Ethel Campbell*
Secretary

OSCEOLA WATER WORKS BOARD OF TRUSTEES

By: *Darlene D. Hage*
Chairperson

By: *E. C.*
Secretary

James Law Office, P.C.

Marion E. James, J.D., L.L.M.
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FILED
SECRETARY OF STATE
IOWA

MAR 7 9 00 AM '03

February 25, 2003

Chester Culver
Secretary of State
1st floor Lucas Building
321 E. 12th Street
Des Moines, IA 50319

RE: Intergovernmental Agreement Creating The Clarke County Reservoir
Commission

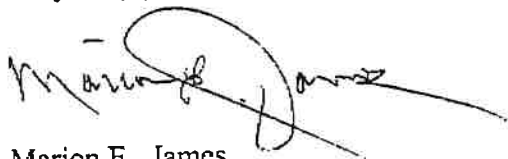
Dear Mr. Culver:

Please file the enclosed Intergovernmental Agreement Creating The Clarke County Reservoir Commission, which was formed pursuant to Iowa Code Chapter 28E.

After it has been filed, please return the original document to me in the pre-addressed, stamped envelope provided for your convenience.

Thank you for your assistance.

Very truly yours,



Marion E. James

lh
enclosures
copy to: Ralph Lesko

CHESTER J. CULVER
IOWA SECRETARY OF STATE



HOOVER BUILDING, 2ND FLOOR
DES MOINES, IOWA 50319

March 07, 2003

MARION E. JAMES
JAMES LAW OFFICE, P.C.
205 1/2 NORTH ELM ST.
CRESTON, IA 50801-2305

RE: Filing of 28E Agreement between the CITY OF OSCEOLA, IOWA and the
THE OSCEOLA WATERWORKS BOARD OF TRUSTEES, THE CITY OF
MURRAY, IOWA, ET AL

Dear MR JAMES

We have received the above described agreement which you have submitted
to this office for filing, pursuant to the provisions of Chapter 28E, Code of Iowa.

You may consider the same filed as of March 07, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Chester Culver".

Chester J Culver
Secretary of State

CJC/db
Enclosures