

Preparer: Matt Lechtenberg, Executive Officer III, PH: (515) 281-3857
Iowa Department of Agriculture & Land Stewardship
Henry A. Wallace Bldg., 502 E. 9th Street, Des Moines, IA 50319-0050

Return to: Matt Lechtenberg, Iowa Department of Agriculture & Land Stewardship
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28E AGREEMENT BETWEEN IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP – DIVISION OF SOIL CONSERVATION AND WATER QUALITY; STORY COUNTY, IOWA; AND THE CITY OF AMES, IOWA; FOR THE WATER QUALITY WETLAND PROJECT: STO842407B

This 28E Agreement by and between the Iowa Department of Agriculture and Land Stewardship – Division of Soil Conservation and Water Quality (hereinafter “DIVISION”) located at 502 East 9th Street, Des Moines, Iowa 50319; Story County, Iowa (hereinafter “COUNTY”), a governmental subdivision of the State of Iowa; and the City of Ames, Iowa, a municipal corporation of the County of Story, State of Iowa (hereinafter “CITY”); Collectively referred to as “Parties” or “the Parties”). This Agreement is entered into pursuant to Chapter 28E of the Code of Iowa.

I. PURPOSE

This Agreement is executed to define responsibilities, including performance of services and financial, of the Parties related to the ownership, design, permitting, construction, and maintenance of a water quality wetland in Story County (Project ID: Sto842407B) (the “Project”) that meets the requirements of the Water Quality Initiative (WQI), on real property legally described as: Lot C, Prairie Valley Subdivision First Addition, located in the Northwest Quarter (NW1/4) of Section 7, Range 24 West of the 5th P.M., Story County, Iowa (The “Property”). The Property is locally known as the Dotson Wetland.

II. EFFECTIVE DATE AND TERM

This Agreement shall take effect upon execution by the parties as required by law, and filing with the Secretary of State in an electronic format as required by law. This agreement shall continue in effect until December 31, 2025, unless terminated earlier pursuant to the provisions herein. The Agreement may be extended by the written agreement of all parties on terms stated therein.

III. ADMINISTRATION

This Agreement shall be administered by the DIVISION. All administrative decisions concerning this Agreement shall be undertaken pursuant to the terms outlined below. No separate entity is created under this Agreement.

IV. POWERS AND DUTIES

The parties to this Agreement shall retain all powers and duties conferred by their respective enabling acts but shall assist each other in the exercise of these powers and the performance of these duties.

V. DIVISION RESPONSIBILITIES

The DIVISION shall:

- A. Provide technical assistance related to the design and construction observation/checkout of the wetland project.
- B. Act as the fiscal agent for the PROJECT. The duties of the fiscal agent shall include construction bidding, awarding contract to contractor, managing contract with contractor, and providing payments to contractor. Provide all financing for design and construction, observation/checkout costs, and initial seeding after construction is completed.
- C. Provide permitting support for applicable permits required by this project.

VI. CITY RESPONSIBILITIES

The CITY shall:

- A. Own and maintain pump and power infrastructure including all hardware, piping, power supply and associated infrastructure, and secure the long-term maintenance of pump and power infrastructure through agreement with the necessary parties.
- B. Register any nutrient offsets or credits generated by the wetland in the Nutrient Reduction Exchange administered by the Iowa Department of Natural Resources.
- C. Provide cost-share in the event of major or catastrophic failure, such as caused by significant flooding, of no more than one half of the cost of the repair or reconstruction of the PROJECT.

VII. COUNTY RESPONSIBILITIES

The COUNTY shall:

- A. Allow the construction of the wetland on County owned property (Property) and acquire any necessary permission from any adjacent landowners to construct the Project. This Agreement is wholly contingent upon the County providing the Property upon which the water quality wetland will be installed and securing the

long-term maintenance and protection of the wetland through easement with the local Soil and Water Conservation District.

- B. Obtain and transfer to the CITY any and all claims any wetland landowner may have to register on the Nutrient Reduction Exchange the practice(s) installed on landowner's property while either this Agreement or related easement are in effect.
- C. Provide cost-share in the event of catastrophic failure, such as caused by significant flooding, of no more than one half of the cost of the repair or reconstruction of the PROJECT.
- D. Provide vegetation maintenance.

IX. AMENDMENT

This Agreement may be amended from time to time by written agreement of the Parties. All amendments shall be in writing, signed by all Parties, and filed in an electronic format with the Secretary of State as required by Iowa Code Section 28E.8(1)(b) (2023).

X. TERMINATION

Any or all parties may terminate this Agreement at any time upon 120 days prior written notice to the other parties. Upon termination of this Agreement, the Parties agree to use their best efforts to wrap up all operations undertaken pursuant to this Agreement. In the event of a conflict as to the distribution of funding associated with the administration of this Agreement, such conflict shall be resolved between the parties by arbitration paid for equally between the disputing parties.

XI. NOTICES

Whenever notices and correspondence are to be given under this Agreement, the notices shall be given by personal delivery to the other party, or sent by mail, postage prepaid, to the other party as follows:

<u>To THE COUNTY</u> Story County 900 6 th Street Nevada, IA 50201	<u>To the DIVISION</u> Division of Soil Conservation & Water Quality - IDALS 502 E. 9 th Street Wallace State Office Building Des Moines, IA 50319-0050
<u>To the CITY</u> City of Ames 515 Clark Ave. Ames, IA 50010	

XII. APPLICABLE LAW

This Agreement is to be governed by the laws of the State of Iowa.

XIII. FILING AND RECORDING

It is agreed that the DIVISION will file this Agreement in an electronic format with the Secretary of State as required by Iowa Code section 28E.8(1)(a) (2023).

IN WITNESS WHEREOF, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this 28E Agreement and have caused their duly authorized representatives to execute this 28E Agreement.

[Remainder of this page has intentionally been left blank. Signature pages follow.]

DIVISION OF SOIL CONSERVATION AND WATER QUALITY

BY: _____ DATE: _____

Grant Menke, Deputy Secretary of Agriculture
Iowa Department of Agriculture & Land Stewardship

This instrument was acknowledged before me on the ____ day of _____, 2024, by Grant Menke, Deputy Secretary of the Iowa Department of Agriculture & Land Stewardship.

Notary Public in and for the State of Iowa

IN WITNESS THEREOF, STORY COUNTY, IOWA has caused this 28E Agreement to be executed on the ____ day of _____, 2024.

Story County, Iowa

By: _____
Chairperson, Board of Supervisors

Attest: _____
Story County Auditor

STATE OF IOWA)
) ss:
COUNTY OF STORY)

On this ____ day of _____, 2024, before me, a Notary Public in and for said County, personally appeared _____ and _____ to me personally known, and who being duly sworn, did say that they are the Chairperson and Auditor, respectively of the Board of Supervisors of Story County, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said County, and that said instrument was signed and sealed on behalf of said County by authority and resolution of its Board of Supervisors as contained in Resolution No. _____ adopted on _____, 2024, and said Chairperson and Auditor acknowledged said instrument to be the free act and deed of said County by it voluntarily executed.

Notary Public for Iowa

IN WITNESS THEREOF, the City of Ames has caused this 28E Agreement to be executed on the ____ day of _____, 2024.

CITY OF AMES, IOWA

ATTEST:

John A. Haila, Mayor

Renee Hall, City Clerk

Approved As To Form:

Jane Chang
Assistant City Attorney

STATE OF IOWA)
) ss:
COUNTY OF STORY)

On this ____ day of _____, 2024 before me, a Notary Public in and for said County, personally appeared John A. Haila and Renee Hall to me personally known, and who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of Ames, Iowa, a Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipal Corporation, and that said instrument was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council, as contained in Resolution No. _____, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipal Corporation by it voluntarily executed.

Notary Public for Iowa