



Michael A. Mauro
Secretary of State
State of Iowa

28E Agreement

FOR OFFICE USE ONLY:

FILED

M501143

7/22/2008 9:50:18 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 Fayette	County	Fayette
Party 2	City of West Union	City	Fayette
Party 3	City of Westgate	City	Fayette
Party 4	City of Waucoma	City	Fayette
Party 5	City of Wadena	City	Fayette

**Enter "Other" if not in Iowa*

Item 2. The type of Public Service included in this agreement is: 360 Sanitation
 (Enter only one Service Code and Description) Code Number Service Description

Item 3. The purpose of this agreement is: *(please be specific)*
 To establish a commission for the purpose of planning, developing, operating and maintaining Solid Waste Facilities for and on behalf of the municipalities who are parties to this agreement to provide solid waste management in Fayette County, IA.

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.

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 Wilkinson FIRST Name Cindy
 Title Financial Director Department Financial Director
 Email _____ Phone 563-422-3552



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28E Agreement Additional Participants

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Item 1. The full legal name, organization type and county of each participant to this agreement are (continued):

	Full Legal Name	Organization Type	*County
Party 6	City of St. Lucas	City	Fayette
Party 7	City of Randalia	City	Fayette
Party 8	City of Oelwein	City	Fayette
Party 9	City of Maynard	City	Fayette
Party 10	City of Hawkeye	City	Fayette
Party 11	City of Fayette	City	Fayette
Party 12	City of Elgin	City	Fayette
Party 13	City of Donnan	City	Fayette
Party 14	City of Clermont	City	Fayette
Party 15	City of Arlington	City	Fayette

*Enter "Other" if not in Iowa

COURT RECORDER
FAYETTE COUNTY, IOWA~~INTERGOVERNMENTAL AGREEMENT CREATING~~
THE FAYETTE COUNTY SOLID WASTE
MANAGEMENT COMMISSION

'82 MAY 6 PM 4 08 (AMENDING AND SUPERSEDING PRIOR JOINT AGREEMENT)

This agreement is made and entered into as of April 5, 1982, by, between and among the City of Arlington, Iowa; the City of Clermont, Iowa; the City of Donnan, Iowa; the City of Elgin, Iowa; the City of Fayette, Iowa; the City of Hawkeye, Iowa; the City of Maynard, Iowa; the City of Oelwein, Iowa; the City of Randalia, Iowa; the City of St. Lucas, Iowa; the City of Wadena, Iowa; the City of Waucoma, Iowa; the City of Westgate, Iowa; and the City of West Union, Iowa; and the County of Fayette, Iowa representing the unincorporated areas of Fayette County (all parties being hereinafter called the "Municipalities").

WITNESSETH:

ARTICLE I.

CREATION OF THE FAYETTE COUNTY SOLID

WASTE MANAGEMENT COMMISSION

Pursuant to the provisions of Chapter 28E, Code of Iowa, 1979, the Municipalities hereby form and create the Fayette County Solid Waste Management Commission (hereinafter called the "Commission").

ARTICLE II.DURATION

Section 1. Duration. The duration of this Commission shall be perpetual, unless terminated or dissolved as hereinafter provided.

ARTICLE III.PURPOSE

Section 1. Purpose. The purpose of the agreement is to create a Fayette County Solid Waste Management Commission. This Commission is established for the purpose of planning, developing, operating and maintaining Solid Waste Facilities for and on behalf of the municipalities who are parties to this agreement to provide solid waste management in Fayette County, Iowa.

ARTICLE IV.

ORGANIZATION

(a). The governing body of the Commission shall consist of members appointed by each participating municipality or their designated substitute, which substitute shall be a member of and approved by the municipality they represent. Each member of the Commission shall have one vote for each one thousand population or fraction thereof, residing in the municipality represented. Such population shall be ascertained from the most recent federal census or special federal census, which ever is latest, for that municipality. The population of the County of Fayette shall be that of the unincorporated portion of the county.

(b). There shall be one class of membership in the Commission, which shall be a full membership and each member Municipality shall designate by resolution of its governing body its membership within the Commission.

(c). A quorum of the Commission shall consist of a majority of the entire membership, regardless of the number of votes held by each member present.

(d). A majority vote of the Commission as authorization for or as a prerequisite to any certain Commission action shall mean a majority of the total votes represented by the representatives constituting the quorum of the Commission at the meeting at which such action is considered.

(e). The Chairman and the Vice-Chairman 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 office are chosen. The incumbent in each said office may succeed himself; and annual elections shall be held.

(f). The Commission shall hold at least one meeting during each three months of the year on dates and at places which shall be determined by the Commission. Special meetings may be held at the call of the Chairman, Vice-Chairman or majority of the membership of the Commission.

ARTICLE IV ORGANIZATION CONT.

(g) The Commission shall elect a six member Executive Board composed of members of the Commission which shall have and exercise such powers of the Commission, during the period of time between meetings of the Commission, as may be lawfully delegated, including without limitation conducting surveys and establishing and operating the solid waste disposal site. The Chairman and Vice-Chairman of the Commission shall serve in that capacity on this Board. The terms of this Board shall be staggered with two members being replaced each year. The terms of the first Board will be staggered from one year to three years. Thereafter members of this Board shall be appointed for a three year term and may succeed themselves. In the event that a member of the Board is replaced by his municipality as a representative to the Commission, his successor as such representative shall succeed to his membership on the Board for the balance of his term.

(h) The Board may hire, subject to the approval of the Commission, such supervisory, clerical and other personnel as are necessary to carry out the functions of the Commission and the Board. The Board shall fix their compensation and benefits, and shall approve all personnel rules, regulations and job descriptions pertaining thereto.

(i) The Board may employ legal counsel, who may be a paid employee of one of the members, and who may receive compensation set by the Commission for the performance of his duties.

ARTICLE V
POWERS AND DUTIES

Section 1. Powers The Commission will have the power to do any and all things necessary to carry out the requirements of Chapter 455B of the 1981 Code of Iowa. Such powers to include but not limited to the power and authority to buy, sell, lease, mortgage, encumber any and all real estate needed and any and all personal property to include machinery and equipment, and the following:

(a) To make and enforce by-laws or rules and regulations for the management and operation of its business and affairs and for the use, maintenance and operation of its facilities and any other of its properties, and to annul the same.

(b) To do and perform any acts and things authorized by Chapters 28E and 28F, Code of Iowa, 1981.

(c) 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 purpose of the Commission.

(d) To cause the disposal of solid waste material originating within each Municipality pursuant to the contract between the Commission and the Municipality pertinent thereto. Neither the Commission nor the executive board shall have the authority to regulate the manner and method of pickup of any solid waste in any municipality nor shall they have the authority to bind any municipality as to charges for pick-up and delivery unless said municipality shall agree to such regulations by written consent.

(e) To fix, establish and maintain such rates, tolls, fee, rentals or other charges for the services and facilities of the Commission sufficient to pay at all times the cost of maintaining, repairing and operating said facilities, to pay the principal of and interest on bonds of the Commission then outstanding, to provide for replacements, depreciation and necessary extensions and enlargements and to provide a margin of safety.

(f) To make or cause to be made studies and surveys necessary or useful and convenient to carrying out the functions of the Commission.

ARTICLE V POWERS AND DUTIES CONT.

(g) To prepare and recommend to member Municipalities local ordinances governing refuse collection transportation and disposal, regulation of private collection haulers, land use regulations, sanitation, burning of private or public wastes, incineration standards and other such regulations as may from time to time be required.

(h) 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.

(i) To borrow money, make and issue negotiable bonds, certificates, bond anticipation notes, refunding bonds and notes and to secure the payment of such bonds, certificates, refunding bonds and notes or any part thereof by a pledge of any or all of the commission net revenue and any other funds which it has a right to, or may hereafter have the right to pledge for such purposes.

(j) To provide in the proceeding authorizing such obligations for remedies upon default in the payment of principal and interest of 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 of the Commission's property, such trustee and such receiver to have the powers and duties provided for in the proceeding authorizing such obligations.

(k) To hire employees, fix their compensation, benefits, personnel rules and regulations, and terminate their employment.

(l) To enter into contracts, leases, or other transactions with municipal, county, State or the Federal Government, individuals or private corporations.

Section 2. Duties of the Commission. a.) The duties of this Commission shall be to provide members with satisfactory solid waste disposal facilities and to maintain a cooperative relationship with individual governmental units. b) The duties shall also include adopting by-laws for the operation of the Commission and providing member governments with copies of the official by-laws.

ARTICLE VI

FINANCING:

Section 1. In the performance of its duties, the Commission may accept and expand funds from federal, state or municipal agencies, public or semi-public, or private individuals or corporations, and shall carry out such cooperative undertakings. Each member Municipality shall make payment for providing disposal of domestic solid waste from residents therein.

Section 2. The Commission shall make expenditures for the purchase, lease or rent of required land, facilities, equipment and supplies necessary to carry out the purpose of this agreement. The Commission shall also have the power to sublet or rent any property owned or leased and the income therefrom shall accrue to the Fayette County Solid Waste Management Commission.

Section 3. The Commission shall prepare a budget based on fiscal years for the operation of the Commission to be adopted in December of the year preceding the budget year.

Section 4. The Commission shall request each Municipality unit to provide in its budget for its share of the Commission budget.

Section 5. The Commission, for the purpose of allocating portion of the Commission budget for the retirement of bonds and interest for each Municipality, shall adopt a percentage formula for the Commission membership based upon population as shown by the last official federal census.

Section 6. The share of each budget from each Municipality shall be due and payable to the Solid Waste Fund in quarterly or semi-annual payments to be made within 30 days after the beginning of the pay period of the Commission's budget year.

Section 7. Any budgetary or special appropriation adopted by the Commission shall be a membership requirement of each and every Municipality. The failure of a Municipality to pay over to the Commission the allotted share of a Commission budget may be considered a momentary withdrawal of that Municipality and a default of this Agreement.

Section 8. 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.

ARTICLE VII
AENDMENT OF AGREEMENT

Any proposal arrived at by the Commission shall be submitted to the Municipalities for approval. Governing bodies of the Municipalities disapproving a proposal shall submit an amended proposal to the Commission for review. The final proposal shall be resubmitted to the Municipalities for approval. This Agreement shall never be amended in any way so as to adversely affect the interest of the holders of any bonds or other obligations of the Commission.

ARTICLE VIII
MANNER OF ACQUIRING AND HOLDING PROPERTY

The Commission may lease, purchase, or acquire by any other means, from members or from any other source, such real and personal property as it is required for the operation of the Commission and the carrying out of the purpose of this Agreement. The Commission shall maintain title to all such property in the name of the Commission. Property shall be acquired or disposed of only upon a majority vote of a quorum attending a duly called Commission meeting.

ARTICLE IX
SUSPENSION OF VOTING RIGHTS AND SERVICES

During a period of delinquency by a Municipality in the payment to the Commission of its share of a budget and before such delinquency is determined a voluntary withdrawal, such Municipality shall not be entitled to the services of the Commission, nor shall the Municipality be entitled to vote on matters coming before the Board, unless such delinquency shall be waived for voting purposes by a majority vote of the remaining members of the Commission.

ARTICLE X
WITHDRAWAL OR DISSOLUTION

Section 1. The withdrawal of any Municipality from the Commission must be preceded by one year formal notice to the Commission. Such withdrawing Municipality shall not be entitled to a share of the value of the real and personal property of the Commission.

Section 2. The Commission shall be completely dissolved and this Agreement terminated only upon the affirmative majority vote of the Commission. The Commission shall not be dissolved until a procedure is agreed upon for the settlement of all outstanding obligations.

ARTICLE XI

That a certain Agreement to cooperate heretofore entered into by certain of the undersigned creating Fayette County Solid Waste Management Commission is hereby approved, amended or superseded by this Agreement.

This Agreement may be executed by one or more of the parties hereto separately in any number of counterparts, each of which when so executed and delivered shall be part of the original, and such counterparts together shall constitute one and the same instrument.

In testimony whereof, said Municipalities have caused this Agreement to be executed on their Clerks or Auditor, and the corporate seal of said Municipalities to be affixed hereto all as of the day and year first above written.