Iowa Land Records

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DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

Prepared By and Return To: Phil Dunshee, 5408 NW 88th Street, Suite 120, Johnston, IA 50131
515-309-0140

COUNTY ELECTRONIC SERVICES SYSTEM 28E AGREEMENT

WHEREAS, Iowa counties and the Iowa County Recorders Association (hereinafter "ASSOCIATION") are required to implement electronic recording and electronic transactions in each county and develop county and statewide internet web sites to provide electronic access to records and information; and

WHEREAS, the board of supervisors of each county is required to execute a chapter 28E agreement with the Iowa county recorders association for the implementation of the county land record information systems as provided in House File 882, 2005 Acts; and

WHEREAS, Iowa counties and the Iowa County Recorders Association have created an Iowa Land Record information system and electronic services web portal in order to comply with the requirement for a statewide web site and electronic recording ; and

WHEREAS, Iowa counties and the Iowa County Recorders Association require the means to receive authorized fees for electronic recording and other services; and

WHEREAS, Iowa counties and the Iowa County Recorders Association are required to implement and maintain the county land record information system, and to develop a plan for integrating the system with electronic government and internet applications of other governmental entities; and

WHEREAS, the Iowa Land Record information system and electronic services web portal could potentially have beneficial applications for counties far beyond land record information; and

WHEREAS, each county is a public agency within the meaning of Iowa Code Chapter 28E (2005), and the Iowa County Recorders Association is a private agency within the meaning of Iowa Code Chapter 28E (2005);

THEREFORE, the Association and the undersigned counties enter into this 28E Agreement for the creation of an organization to govern and coordinate the Iowa Land Record information system and electronic services web portal under the following terms and conditions:

1. CREATION. The undersigned counties, on behalf of the county recorder and other elected county officials, each having adopted this Agreement by motion of its board of supervisors, and the Association, having adopted this Agreement by vote of its members, hereby join together to form and create a public body corporate and politic and separate legal entity under Iowa Code Chapter 28E (2005), known as the Electronic Services System (ESS). This entity shall have the power, privileges, and authority as hereinafter set forth in this Agreement.

2. DUTIES. As provided in House File 882, 2005 Acts, the Iowa County Recorders Association shall have the duty to execute contracts necessary for implementation of the county land record information system.

3. DURATION. This Agreement shall become effective at such time as the undersigned counties and the Association execute this Agreement in the manner hereinafter provided, and this Agreement is filed and recorded as required by Iowa Code section 28E.8 (2005). Copies of the filed and recorded Agreement shall be provided to the Association and member counties. The operations of ESS shall be perpetual unless ESS is abolished by a two-thirds vote of the Association.

4. ORGANIZATION. ESS shall be under the direction and control of the ASSOCIATION Board of Directors.

5. POWERS OF THE ASSOCIATION BOARD. The ASSOCIATION Board of Directors shall have each and all of the following powers regarding ESS:
(a) To provide Iowa counties with an electronic services system for land record information.
(b) To receive and disburse electronically into bank accounts designated by the ASSOCIATION and each County Recorder authorized fees for electronic recording and other services.
(c) To provide Iowa counties with an electronic services system for other services provided through the Office of the County Recorder;
(d) To provide Iowa counties with an electronic services system for other services subject to the approval of the Board of Directors of an affiliate of the Iowa State Association of Counties, other local government association or other organization;
(e) To contract with any public or private entity to provide all necessary services;
(f) To rent, lease or purchase any tangible personal property, real estate or services reasonably necessary to fulfill the purposes of this Agreement;
(g) To establish a system of accounting and budgeting, and a system for receiving payments;
(h) To retain legal counsel, accountants and other professional individuals needed in order to fulfill the purposes of this Agreement; and
(i) To exercise any other power or do any other legal act necessary to discharge its obligations and fulfill the purposes of this Agreement.

6. COORDINATING COMMITTEE. The ASSOCIATION Board of Directors shall establish an ESS Coordinating Committee made up of county officials representing ISAC affiliate organizations which choose to participate in ESS, county employees and selected stakeholders to coordinate efforts to deliver services and information through ESS, provide advice and technical assistance to the ASSOCIATION, and to make policy recommendations regarding the operations of ESS. The Committee shall initially consist of no more than 15 members. The ASSOCIATION may adjust the size of the Committee as circumstances require.

7. BUDGET. The ASSOCIATION Board of Directors shall, prior to July 1 of each year, prepare and adopt a budget for the operation of ESS for the next fiscal year. The ASSOCIATION Board of Directors shall make a copy of the ESS budget available to each member county. The ASSOCIATION Board of Directors may amend the ESS budget during the fiscal year.

The accounts of ESS shall be audited and verified by a certified public accountant within two hundred seventy (270) days of each fiscal year and a copy thereof provided to each member of the ASSOCIATION Board of Directors, the Auditor of the State of Iowa and, upon request, to any county that is a party to this Agreement.

8. FUNDING. ESS shall provide the services referred to in this Agreement to each member county. Funding for the operation of ESS shall be provided through the ELECTRONIC TRANSACTION FEE as provided in Section 331.605C of the Iowa Code, any transaction service or user fees, and other sources deemed appropriate by the Association and its members.

9. ADDITIONAL MEMBERSHIP. After September 1, 2005, any Iowa county may become party to this Agreement and gain membership in ESS by adoption of this Agreement, as it may have been amended, by motion of its board of supervisors. Membership shall be effective upon filing and recording of the Agreement as required by Iowa Code section 28E.8 (2005), with a copy of the filed and recorded Agreement to be provided to the ASSOCIATION and the new member county.

10. WITHDRAWAL. Any county, by motion of its board of supervisors, may withdraw from ESS by giving written notice to the ASSOCIATION Board of Directors no later than November 15; preceding the fiscal year of withdrawal. Services of ESS shall continue to be provided to the withdrawing county until the date of withdrawal.

11. STANDARDS. Members shall comply with all standards, policies and requirements for the delivery of electronic services adopted by the ASSOCIATION.

12. AMENDMENTS. The ASSOCIATION Board of Directors may submit an amendment to this agreement to the ASSOCIATION for approval. Upon adoption of the amendment by the ASSOCIATION, it will be submitted to the Board of Supervisors in each ESS member county. A separate explanation of the reasons for the amendment shall be included. Each county desiring to vote upon the amendment shall do so by motion and return to ASSOCIATION a certified copy of the motion stating the county's vote within thirty (30) days of the date that the county received a copy of the proposed amendment. Any county not voting upon the amendment within this time shall be considered to have approved the amendment.

If the amendment receives a majority of the votes of all ESS member counties, it shall become effective ten (10) days following the date the vote is tabulated. Amendments shall be filed and recorded as required by Iowa Code section 28E.8 (2005).

13. NON-LIABILITY. ESS is a public corporation. The ASSOCIATION and individual counties shall not be liable for any acts, deeds, resolutions or other actions of ESS. Each individual county, and its assets and taxing authority may not be reached, attached or executed upon by any creditor or claimant of ESS. The ASSOCIATION and its assets may not be reached, attached or executed upon by any creditor or claimant of ESS.

14. THIRD PARTY BENEFIT. Neither the provisions of this Agreement nor the provisions of any agreement that ESS may have with any public or private agency shall inure to the benefit of any other third party or any individual resident or taxpayer of any county and neither this Agreement nor any agreement that ESS may have with any public or private agency may be the basis of a claim or cause of action on behalf of any other third party or any individual resident or taxpayer of any county.

15. DISPOSITION OF ASSETS. In the event this Agreement is terminated and ESS is abolished, all property of ESS shall be delivered, assigned and conveyed to the ESS member counties in equal shares, after payment of all just debts, obligations and liabilities of ESS.

16. SEVERABILITY. If any portion of this Agreement or the application of this Agreement to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given affect without the invalid provisions or applications, and to this end, the provisions of this Agreement are declared to be severable.

THE EXECUTION OF THIS AGREEMENT BY THE ASSOCIATION AND BY EACH UNDERSIGNED COUNTY SHALL CONSTITUTE ADOPTION OF THIS AGREEMENT. FOR EACH UNDERSIGNED COUNTY, SUCH EXECUTION SHALL BE PURSUANT TO AUTHORITY GRANTED BY MOTION OF THE BOARD OF SUPERVISORS.

A COPY OF THIS AGREEMENT, EXECUTED BY EACH PARTICIPATING COUNTY, WILL BE FILED WITH THE SECRETARY OF STATE PURSUANT TO 28E.8.

ELECTRONIC SERVICES SYSTEM
28E AGREEMENT
IOWA COUNTY RECORDERS ASSOCIATION

Date 8-10-2005
Joan McCalmant
ASSOCIATION President
STATE OF IOWA)
) ss
COUNTY OF POLK
I, Joan McCalmant, being first duly sworn on oath depose and state that I am the President of the Iowa County Recorders Association (ASSOCIATION), and that I executed the foregoing instrument as President of the private, nonprofit corporation and that the statements contained therein are true.

Joan McCalmant
ASSOCIATION President
Subscribed and sworn to before me this 10th day of August, 2005.

Notary Public in the State of Iowa

KARLA TISHER
NOTARIAL SEAL - IOWA
COMMISSION #177157
MY COMMISSION EXPIRES 12/01/06

ELECTRONIC SERVICES SYSTEM
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Delaware County, Iowa

6th day of September, 2005
Signature Date

Chairperson Shirley E. Helmrichs County Board of Supervisors
(SEAL) Shirley E. Helmirchs

ATTEST Sharon McCrabb
County Auditor Sharon McCrabb

STATE OF IOWA)
) ss
COUNTY OF Delaware)

On this 6th day of September, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Shirley E. Helmrichs and Sharon McCrabb, to me personally known, who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and Auditor, respectively, of Delaware County, Iowa; that this instrument was signed and sealed on behalf of said county by authority of its Board of Supervisors; and that the said Shirley E. Helmrichs and Sharon McCrabb as such officers acknowledged the execution of the said instrument to be the voluntary act and deed of Delaware County by it and by them voluntarily executed.

(Seal) Carolyn A. Wilson
Notary Public in and for the State of Iowa

CAROLYN A. WILSON
Commission Number 167742
My Commission Expires
12-17-07