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DELAWARE COUNTY IOWA

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Manchester, IA 52057

Document prepared by:
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MEMORANDUM OF AGREEMENT BETWEEN

DELAWARE COUNTY, IOWA

AND

THE IOWA DEPARTMENT OF TRANSPORTATION

THIS AGREEMENT is made and entered into this 8th day of January, 2007, by and between Delaware County, Iowa, hereinafter referred to as the County, and the Iowa Department of Transportation, hereinafter referred to as the Department.

I. AUTHORITY

This Agreement is entered into pursuant to the provisions of Iowa Code section 321M.5 and Iowa Code Chapter 28E.

II. DURATION

This Agreement shall become effective upon filing with the Office of the Delaware County Recorder and the Secretary of the State of Iowa in accordance with the provisions of Iowa Code section 28E.8, Filing and Recording. The Agreement as amended by the parties is valid until terminated as set out herein.

III. PURPOSE

The purpose of this Agreement is to establish the terms and conditions whereby the County will perform driver's licensing functions, including skills testing and issuance of non-commercial and commercial driver's licenses, non-operator identification cards and persons with disabilities identification devices on behalf and as an agent of the Department under Iowa Code Chapter 321M.

IV. DUTIES OF THE COUNTY

The duties of the County under this Agreement shall be as follows:

A. The County shall comply with all applicable statutes and administrative rules of the State of Iowa, including Iowa Code Chapter 321M; with all applicable federal laws, including regulations of the Federal Motor Carrier Safety Administration (FMCSA); standard operating issuance procedures of the Department as set forth in procedural memos, e-mails, Examiner Manual, On-Line Manual, Document Identification Training Manual, ID Checking Guide; all other documented standards of the Department for the issuance of driver's license and with all local ordinances.

B. The County shall allow the FMCSA, its representatives and/or the Department to conduct random examinations, evaluations, road test observations, on-site inspections and audits of its operating facilities, records and testing procedures as they relate to driver's licensing and related functions without prior notice.

C. The County shall allow the FMCSA, its representatives and/or the Department, its employees or designees, without prior notice or identification, to take the tests actually administered by the County as if the employees or designees were test applicants, and allow the Department to retest a sample of drivers who were examined by the County in order to compare pass/fail results.

D. The County shall require examining personnel employed by or under the direction or control of the County, to submit to performance testing as required by the Department.

E. The County shall ensure that vision screenings, knowledge exams and skills tests are conducted strictly in accordance with the test specifications and procedures prescribed by the Department's Examiner Manual, and the additional requirements of using Department-approved examinations, forms, scoring procedures and road test routes. This includes the requirement that tests be conducted in a vehicle which is representative of the class and type of vehicle for which the driver's license applicant seeks licensure and for which the County skills tester is certified to test.

F. The County shall maintain for at least 90 days the Examiner's copy of every commercial and non-commercial knowledge exam score sheet, commercial and non-commercial skills score sheet, including the pre-trip inspection, basic maneuvering and road test, along with other items to be retained as outlined in Section A of the Department's Examiner Manual.

G. The County shall forward to the Department, upon request, copies of any items described in paragraph F.

H. The County shall require examining personnel employed by and under the direction or control of the County to attend training courses, workshops, seminars and other instructional meetings as required by the Department.

I. The County shall permit only those persons who have been authorized by the Department to administer skills testing, including commercial, non-commercial and motorcycle skills tests.

J. The County shall ensure that each skills tester meet all of the following conditions:

1. Be employed and serve under the direction and control of the County signing this Agreement.

2. Successfully complete an initial training program approved by the Department.

3. Attend training courses, workshops, seminars and other instructional meetings as required by the Department.

4. Possess and maintain a valid Iowa driver's license.

5. Possess a driving record which does not indicate that he or she may be incapable to operate a motor vehicle safely, as determined by the Department.

6. Conduct skills tests, both commercial and non-commercial, in accordance with all legal requirements and in accordance with test specifications and procedures prescribed by the Department in procedural memos, e-mails, and the Examiner Manual.

7. Complete an annual drive test observation, with the DOT Supervisor, for each specific type of skill test he/she is to administer.

8. Administer a minimum of ten (10) skill tests annually for each specific type of skill test he/she is to administer. In making this determination, drive tests will be evaluated by the vehicle tested and scoring standard applied, not the class of license ultimately issued.

    a. Because the vehicle type and drive test scoring standard for a non commercial class C (operator) is the same as the drive test for a non commercial class D-3 (chauffeur license), a non commercial class C drive test may be counted toward the requirement to conduct non commercial class D-3 drive tests.

b. Because the drive test scoring standard is the same for class A and B and class D-1 and D-2, if a truck used to test for a class D-1 or D-2 meets the CMV thresholds, that drive test could be counted toward meeting the requirement for administering CDL tests.
c. Using the same logic, commercial tests may count toward the requirements for administering D-1 and D-2 tests.

K. The County shall not engage the services of any individual employed by the Department as skills tester or employee.

L. The County shall not allow any skills tester or employee of the County to assist any driver's license applicant in obtaining a passing score on a knowledge or skills test.

M. The County shall not use any title in respect to its examining personnel that would be normally associated with an administrator of the Department, such as Driver License Director or DL Director.

N. The County shall require all examining personnel to notify the Department and the County before the end of the next business day after the examiner receives notice of any denial, suspension, revocation, cancellation or disqualification of his or her driver's license or any driver improvement action ordered by a court or the State.

O. The County shall designate the County Treasurer to be responsible for the County's operation under this Agreement.

P. The County shall comply with provisions of Part VI of this agreement dealing with financing.

Q. The County shall give the Department thirty days' advance notice in writing of the County's intent to terminate this Agreement.

R. The County shall provide the Department a list of all examining personnel conducting driver's licensing functions.

S. The County shall notify the Department of all office closings, other than regular weekend and holiday closings.

T. The County shall comply with the following additional requirements in respect to discipline of county employees performing driver's license related functions:

1. Notify the Department of any punitive, disciplinary or corrective actions taken against any employee relating to inappropriate conduct or performance while conducting driver's license related functions.

2. Utilize performance and disciplinary procedures for County employees that are substantially similar to current Iowa Department of Administrative Services (DAS) rules for performance evaluation and discipline of State (DOT) employees engaged in driver's license issuance activity.

3. Make documentation of all disciplinary action taken available to the appropriate DOT supervisor.

V. DUTIES OF THE DEPARTMENT

The duties of the Iowa Department of Transportation shall be as follows:

A. The Department shall provide supervision and oversight to the County while performing driver's licensing functions.

1. Supervision will be provided by a Department Driver License Supervisor.

2. The Department may, from time to time, conduct scheduled and unscheduled site visits in the County which will include:

a. Review of procedural and operational communications with the County's examining personnel.

b. Review of driver license program files.

c. Review of processes included, but not limited to: storage and accountability of security items, care of Department provided equipment, license issuance procedures, applicant eligibility, documentation procedures, quality assurance, skills testing, and fee accountability. Follow-up documentation from the supervisor will be provided to the County Treasurer.

d. Complete annual drive test observations for each specific type of skill test, for each skill tester.

3. The Department will develop and provide for delivery of training and training materials to the County relating to driver's licensing procedures.

4. Each County program will be evaluated at least annually. A formal report will be filed with the Central Office and reviewed with the County Treasurer.

B. The Department shall certify the County to administer commercial driver's license knowledge examinations and commercial skills tests under the provisions of Title 49, Code of Federal Regulations, Part 383.75 and Iowa Code section 321M.6.

C. The Department shall authorize the County to administer non-commercial knowledge examinations and non-commercial skill tests under the provisions of Iowa Code Chapter 321 and 761 Iowa Administrative Code.

D. The Department shall provide telephone assistance for the issuance of driver's license, non-operator identification cards and persons with disabilities identification devices.

E. The Department shall provide to the County all equipment, issuance hardware, software, forms, supplies and data line communications necessary for the issuance of driver's licenses, non-operator identification cards and persons with disabilities identification devices. The Department shall provide to the County copies of, or access to, all applicable procedural memos, e-mails and manuals, including the Examiner Manual. The Department shall provide to the County forms and supplies used for the operation of driver licensing activities limited to the legislative appropriation to support County issuance.

F. The Department shall authorize the County equal access to computer databases that are necessary to perform driver's license issuance activities.

VI. FINANCING

A. The County shall retain funding as authorized under Chapter 321M for each driver's license and non-operator identification card issued.

B. All fees collected by the Counties for issuance of driver's licenses and non-operator identification cards shall be deposited intact daily without over and short adjustments by the issuing Counties to the State Treasurer's account. Counties with one or more local bank accounts for travel sites must make the daily deposit into the specific account established for that day's work location. The monies may not be deposited into any other account established for driver license receipts. Counties must provide new banking information to the DOT one week prior to changing banks or bank accounts.

C. A monthly driver's license issuance fee retention report will be generated by the Cash Drawer Finance System on the last business day of the month. The report shall contain detailed daily information associated with driver's license deposit activity and summary retention fees due the County.

D. The summary retention fees due the county will appear as an adjusted journal entry in the month end history report generated by the Cash Drawer Finance System and will be reflected in the amount of funds transferred via Electronic Fund Transfer (EFT) by the Department of Transportation.

VII. WITHDRAWAL OF AUTHORIZATION AND TERMINATION OF AGREEMENT

A. Pursuant to Iowa Code section 321M.4 (1), the Department reserves the right to withdraw authorization for the County to issue driver's licenses, commercial driver's licenses and non-operator identification cards immediately upon determining that the County, or examining personnel employed by the County, has done one or more of the following:

1. Failed to comply with or satisfy any of the provisions of the Agreement or the Department's standards for the issuance of driver's licenses.

2. Falsified any record or information relating to the issuance of a driver's license, non-operator identification card, or persons with disabilities identification device.

3. Committed an act or omission which compromises the integrity of Iowa's driver's license program.

4. Employed skills testers who do not have a valid driver's license, whose driver's license is revoked, suspended, cancelled, disqualified, or whose application for a driver's license has been denied.

B. If the Department determines that grounds for withdrawal of the authorization exist and the grounds relate to a failure to comply with or satisfy any part of this Agreement, the Department may postpone the withdrawal of authorization and place the County program on probation for 30 to 120 days and afford the County the opportunity to correct the program deficiency and ensure compliance with this Agreement and Department standards.

C. Notice of withdrawal of authorization or placement on probation shall be in writing and shall set forth the reasons for the withdrawal of authorization or probation.

D. The County has the right to appeal any withdrawal of authorization imposed by the Director of the Office of Driver Services by making such appeal in writing within ten (10) days to the Director of the Iowa Motor Vehicle Division. A stay of any withdrawal of authorization will not be granted while any appeal is pending. The decision of the Director shall be final agency action and may be appealed to the District Court. A County may make written application to the Department for reauthorization once the program deficiency is corrected.

E. The Department shall reauthorize the County upon correction of the program deficiency to the Department's satisfaction.

F. Failure to correct the program deficiencies and obtain reauthorization within 30 days of the County's receipt of the original notice of withdrawal of authorization shall result in termination of this Agreement. Written notification of the final termination of this Agreement shall be provided to the County ten (10) days prior to termination.

G. Notwithstanding any other provision of this agreement, if at any time the County fails to meet the certification standards for the issuance of commercial driver's license under the provisions of Title 49, Code of Federal Regulations, Part 383.75; Iowa Code section 321M.6; or 761 Iowa Administrative Code Chapter 607, the Department shall notify the County in writing of its deficiencies and the County shall have 30 days to correct said deficiencies. Should the County fail to correct any specified deficiencies as determined by the Department, the Department shall decertify the County from issuing commercial driver's licenses, the County's right to issue commercial driver's licenses shall be terminated, and the county shall cease issuing commercial driver's licenses.

VIII. AMENDMENT

The parties may amend this Agreement from time to time, in writing, by mutual agreement.

IX. ACTIONS ON WITHDRAWAL OF AUTHORIZATION AND SEVERABILITY

A. Upon receipt of a notice of withdrawal of authorization to issue driver's licenses under this Agreement, the County and Department shall:

1. Undertake no new obligations as of the date of receipt of the notice and shall confine their activities solely and entirely to finishing work on obligations already undertaken in connection with the performance of this Agreement.

2. Incur no expenses or costs beyond the effective date of the withdrawal of authorization to be paid by the Department or County in connection with the performance of this Agreement.

3. Take such action as may be necessary, or as may be directed, for the protection and preservation of all property related to this Agreement which is in the possession of the County and in which the Department has or may acquire an interest as provided in Part X of this Agreement.

B. In the event of a breach of this Agreement by the County or the Department, said breach shall not affect any remaining terms or conditions of this Agreement. Further, if any terms or conditions of this Agreement are held to be invalid or illegal, the remaining terms or conditions shall be severable and not affected.

C. No party to this Agreement shall be deemed to be in breach of the Agreement for failure to comply with the terms of the Agreement if unable to comply due to an action or omission of the other party.

X. PROPERTY

A. It is mutually agreed that any properties/equipment obtained by the Department and used for the purpose of the Agreement, shall remain assigned to the County by the Department for use by the County for as long as there is a need for the property to accomplish the purposes of the Agreement. The Department may assign replacement equipment as it determines appropriate.

B. Upon termination of this Agreement, property provided by the Department and assigned to the County shall be returned to the Department unless mutually agreed to otherwise.

XI. LEGAL ENTITY

No new legal or administrative entity is created by this Agreement and the signatories hereto shall administer the same.

XII. NON-APPROPRIATION CLAUSE

Notwithstanding any other provision of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the State of Iowa to appropriate funds or discontinuance or material alteration of the program for which funds were provided, the Iowa Department of Transportation shall have the right to terminate this contract without penalty by giving not less than 90 days' written notice.

XIII. ASSIGNABILITY

The rights and interests of the parties under this Agreement shall not be assignable.

IN WITNESS WHEREOF, the Department and the County have caused this Agreement to be executed in two counterparts, each of which shall be considered an original.

Steven L. Kreneke
Chairman,
County Board of Supervisors

1/8/2007
Date

N. J. Richardson
Director,
Iowa Department of Transportation

4.18.7
Date

APPROVED AS TO FORM:

John E. Bynum
County Attorney

Assistant Attorney General

SEAL OF DUBUQUE COUNTY, DUBUQUE, IOWA.