

RESOLUTION 2017-13

RESOLUTION AUTHORIZING THE CHAIR TO SIGN THE 28E AGREEMENT FOR IOWA PRECINCT ATLAS CONSORTIUM

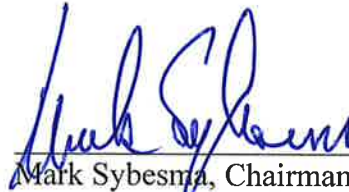
WHEREAS, the purpose of the agreement is to provide an organizational structure to purchase a copyright license for distribution and use of Precinct Atlas within the State of Iowa; and,

WHEREAS, authority for this agreement is contained in Chapter 28E of the Code of Iowa.

WHEREAS, the Auditor for Sioux County, Ryan Dokter, finds any Precinct Atlas bylaws to be necessary and appropriate.


NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of Sioux County to authorize the Chair to sign the 28E Agreement for Iowa Precinct Atlas Consortium.

Resolution adopted this 2nd day of May, 2017.



Mark Sybesma, Chairman
Sioux County Board of Supervisors

ATTEST:



Ryan Dokter
Sioux County Auditor

28E AGREEMENT

FOR

IOWA PRECINCT ATLAS CONSORTIUM

This Agreement is made and entered into by, between and among the undersigned counties, each having adopted this Agreement by resolution of its board of supervisors, and hereby join together to form a public body corporate and politic and separate legal entity under Iowa Code Chapter 28E, and amendments thereto, known as the Iowa Precinct Atlas Consortium (“IPAC”).

SECTION 1: IDENTITY OF THE PARTIES

- 1.1 The undersigned counties are political subdivisions and constitute “public agencies” as defined in Iowa Code section 28E.2.
- 1.2 The Auditors of the undersigned counties shall be hereinafter collectively referred to as “Members.”

SECTION 2: PURPOSE

The parties enter into this 28E Agreement to provide an organizational structure to purchase a copyright license for distribution and use within Iowa in order to facilitate the Members’ use of the computer software programs known as Precinct Atlas and Absentee Atlas, also known as Absentee Precinct Atlas or Satellite Atlas, as well as related software and hardware components (hereinafter collectively referred to as “Precinct Atlas”). Each Member county shall be obligated under such copyright license entered into by IPAC. In addition, IPAC shall engage in any other related activity in which an Iowa 28E organization may lawfully be engaged. IPAC shall comply with all provisions of Iowa Code Chapter 28E, including subjecting itself to open meeting and public record requirements, with the notice and publication requirements set forth in Iowa Code Section 28E.6 (2013).

SECTION 3: TERM AND TERMINATION

- 3.1 Effective Date. This Agreement shall be effective when the undersigned initial Members’ counties, as listed in Exhibit “A,” execute this Agreement and this Agreement is filed with the Iowa Secretary of State as required by Iowa Code Section 28E.8.
- 3.2 Term. The term of this Agreement shall be perpetual, unless terminated by the following process:
 - a) Approval by a majority the Board of Directors; and
 - b) Submission of the matter to the Board of Supervisors of the county of each Member. An explanation of the reasons for the termination shall be sent to the Board of Supervisors of the county of each Member. Each such county desiring to vote upon termination shall do so by resolution of the Board of

Supervisors and return of the same to the President of the IPAC Board of Directors within thirty (30) days of the date the copy of the proposed termination is mailed. Any county not voting upon the proposed termination within this time shall be considered to have approved the termination. In order for termination to occur, it must be approved by seventy-five percent (75%) of the Member counties.

- c) Alternatively, termination will be deemed to be approved in the event any laws are enacted that prohibit the use of Precinct Atlas by the Member counties.

3.3 Effective Date of Termination. If termination is approved pursuant to Section 3.2 on or before January 31 in any fiscal year, then the termination shall be effective the following July 1. If termination is approved after January 31 in any fiscal year, then the termination shall not be effective until one year after the following July 1.

3.4 Distribution of Assets. In the event IPAC is terminated pursuant to this Agreement, cash and cash equivalents (after payment of all just debts, obligations and liabilities of IPAC) shall be apportioned among the current Member counties based upon a pro rata percentage of each Members' fees under this Agreement for the fiscal year of termination. All property of IPAC other than cash and cash equivalents (after payment of all just debts, obligations and liabilities of IPAC), shall be delivered, assigned and conveyed to the entity that is providing support services of Precinct Atlas to IPAC.

SECTION 4: MEMBERS

4.1 Initial Members. Initial Members shall be the Auditors of the counties which have executed, approved and adopted this Agreement through a resolution by the county's Boards of Supervisors by July 31, 2013.

4.2 Member Fees. For the fiscal years ending June 30, 2014 and June 30, 2015, each Member county shall pay a fee equal to \$1,500 plus two (2) cents per registered voter as of May 1 of the applicable year. Fees for subsequent fiscal years shall be set by the IPAC Board by the end of each calendar year for the upcoming fiscal year. Member fees are due and payable July 31 of each year.

4.3 Rollover of Unspent Memorandum of Understanding Fees. Any Initial Members which were participants in the memorandum of understanding of the previously unincorporated Iowa Precinct Atlas Association of County Auditors hereby agree to have all funds associated with its fees paid to Cerro Gordo County remaining with the unincorporated association on July 1, 2013 transferred to IPAC.

4.4 Additional Members. After July 31, 2013, new Members may be admitted only if all of the following occur:

- a) The President of the IPAC Board approves admitting the new Member, including the effective date of membership;
- b) The new Member's county executes, approves and adopts, through a resolution by the county's Board of Supervisors, this Agreement, subsequent amendments thereto and the bylaws in effect at that time; and
- c) The new Member's county pays the member fees for the current fiscal year.

4.5 Member Voting. Every Member in attendance at either an annual or special meeting of IPAC Members shall be entitled to one vote on any question or resolution presented to the Members during the meeting. Proxy voting shall not be allowed, except that a Member's staff person shall be allowed to vote in the place of an absent County Auditor. A Member shall be considered in attendance for purposes of voting only by being present in person at a meeting – participation via phone or other electronic means shall not be considered being present for purposes of voting.

4.6 Quorum. A majority of the Members shall constitute a quorum. A quorum must be present in order for the Members to conduct business.

4.7 Action. In order for an action to be approved, it must be approved by a majority of the Members present at a meeting, unless a higher threshold is required by a specific provision in this Agreement or the bylaws.

4.8 Member Meetings. The IPAC annual meeting shall be held in conjunction with the summer conference of the Iowa State Association of County Auditors. Other conferences, schools, and special meetings of the Members shall be called by the President or by a majority vote of the Board. The President shall promptly give notice of meetings and copies of agendas to all the Members.

4.9 Member Withdrawal. A Member county may voluntarily withdraw from IPAC by providing the Board of Directors with written notice. A Member county that withdraws will not receive any refund of fees, regardless of when in the fiscal year the Member county withdraws. If the IPAC Board of Directors receives notice of withdrawal prior to January 31 of any fiscal year, then the Member county will be under no obligation to pay fees associated with the next fiscal year. If the IPAC Board of Directors receives notice of withdrawal after January 31 of any fiscal year, then the Member county will still be obligated to pay the fees associated with the next fiscal year. Upon receipt of notice to withdraw, any Member or other representative of the Member's county that is serving in an elected or appointed IPAC position shall be deemed to have resigned from the position. Any Member which withdraws under this Section 4.9 must discontinue use of Precinct Atlas on the first day in which the Member county's fees expire and will remove Precinct Atlas from all systems (as required under IPAC's license for use of Precinct Atlas with Cerro Gordo County) of the withdrawing Member county by the same date. If the withdrawing Member later wants to be re-admitted to IPAC, it must go through the process set forth in Section 4.4.

4.10 Member Removal. Upon approval by a majority of the Board of Directors, a Member may be removed for any of the following reasons:

- a) a Member's county breaches the licensing agreement between IPAC and Cerro Gordo County;
- b) a Member's county is 60 days delinquent in paying its fees under this Agreement;
- c) otherwise "for cause," which shall only be for serious delinquencies.

If a Member is removed under Section 4.10(c), such removal shall only be effective after approval by both the Board of Directors and the Members. Members removed under this Section 4.10 shall be required to pay fees in the same manner as a Member withdrawing under Section 4.9. Upon removal, any Member or other representative of the Member's county that is serving in an elected or appointed IPAC position shall be deemed to have resigned from the position and the removed Member must discontinue use of Precinct Atlas and remove Precinct Atlas from all systems (as required under IPAC's license for use of Precinct Atlas with Cerro Gordo County) of the removed Member county by the same date.

SECTION 5: GOVERNANCE AND ELECTIONS

5.1 Board Duties. IPAC shall be under the direction and control of the Board of Directors. The IPAC Board of Directors shall have each and all of the following powers:

- a) To contract with any public or private entity to provide all necessary services, specifically including a limited exclusive license agreement with Cerro Gordo County;
- b) To rent, lease or purchase any tangible personal property, real estate or services reasonably necessary to fulfill the purposes of this Agreement;
- c) To establish a system of accounting and budgeting, and a system for receiving payments;
- d) To retain legal counsel, accountants and other professional individuals needed in order to fulfill the purposes of this Agreement;
- e) To sue and be sued;
- f) To appoint a fiscal agent;
- g) To do and perform any acts authorized by Chapter 28E of the Code of Iowa, under, through or by means of its officers, agents and employees, or by contracts with any person or entity;
- h) 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;
- i) To receive funds from each Member as set forth in this Agreement;
- j) To accept grants, contributions or loans from Federal, State or local agencies;
- k) To establish the times and places for business meetings and educational conferences, and set agendas for those meetings and conferences; and
- l) To exercise any other power or do any other legal act necessary to discharge its obligations and fulfill the purposes of this Agreement.

5.2 Initial Board of Directors. The initial IPAC Board of Directors shall be those individuals serving on the executive board of the previously unincorporated Iowa Precinct Atlas Association of County Auditors

as of the Effective Date of this Agreement. The Cerro Gordo County Auditor shall also serve as a voting initial Director. The initial Board of Directors shall serve until successor Directors take office, as described below.

5.3 Subsequent Board of Directors. The board shall include the following positions:

- a) President;
- b) Vice President;
- c) Secretary; and
- d) At least two (2) general Directors.

The bylaws shall determine if additional Directors or positions for general Directors are necessary.

5.4 Duties of Director Positions.

- a) The President shall preside at the IPAC business meetings and Director meetings, preserve order, enforce this Agreement and IPAC's bylaws, and appoint committee members, unless otherwise provided. The President shall appoint any additional committee for a special purpose different from the purposes of the Standing Committees.
- b) The Vice President shall assist the President. During the temporary absence or disability of the President, the Vice President shall discharge the duties of the President. Should the President be permanently absent or disabled, the Vice President shall succeed to the office of the President.
- c) The Secretary shall keep minutes of all IPAC business and Director Board meetings and other IPAC business records. The Secretary's records and all accounts shall be open at all times for inspection by any IPAC Member.

5.5 Director Elections. Director nominations for each position shall be made pursuant to the bylaws. Any Member in good standing may be nominated. Directors shall be elected by a plurality vote of the Members present, so that the nominee for each Director position receiving the greatest number of votes relative to all other nominees for such Director position will be elected. Voting shall be by secret written ballot for any position in which more persons have been nominated than there are positions to be filled.

5.6 Quorum. A majority of the Directors shall constitute a quorum. A quorum must be present in order for the Board to conduct business.

5.7 Director Action. Each Director shall have one vote and action shall be taken through approval by a majority of the Directors present, unless a specific provision requires a higher threshold in this Agreement or the bylaws.

5.8 Director Meetings. Director meetings shall be held as needed and called by the President. Director meetings may be held via telephone or other forms of electronic communication. Directors participating in a Director meeting via telephone or other forms of electronic communication shall be deemed present for purposes of voting.

5.9 Standing Committee Duties. Each Standing Committee shall consist of Members in good standing as appointed by the Board of Directors. At the discretion of the Board of Directors, a Standing Committee may be expanded for a definite or indefinite period of time, for a special purpose, in order to more effectively complete work of the committee and additional committees may be created by the Board of Directors. The chair of any Standing Committee must give prior notice of all meetings and agendas to the committee members and the President and shall report regularly to the Board of Directors concerning the committee's activities.

5.10 Vacancies. In the event of vacancies by any person serving as a Director or committee member by death, resignation (which must be provided in writing to the Board of Directors), inability to serve, or withdrawal or removal of the county in which the Member represents, then the President shall appoint a Member to the position for the remainder of the term.

5.11 Conflict of Interest. If a Director engages in employment or an activity that contracts with or otherwise engages in activities with IPAC, then such Director shall disclose the existence of a conflict to the Board of Directors and refrain from taking any official action that would detrimentally affect or create a benefit for the employment or activity. Official action specifically includes participating in any vote or taking affirmative action to influence any vote on the matter.

SECTION 6: SCOPE, AMENDMENTS AND BYLAWS

6.1 Substantive Amendments to this Agreement. Substantive amendments to this Agreement shall be made by resolution of the Board of Directors of IPAC adopting such amendment and then submitting it to the Members for approval. A separate explanation of the reasons for the amendment shall be included. If the amendment is approved by the Members, then such amendment and explanation shall be submitted to the Boards of Supervisors for each Member's county. Each county desiring to vote upon the amendment shall do so by resolution of its Board of Supervisors and return the same to the President of the Board within thirty (30) days of the date the copy of the proposed amendment is mailed. Any county not voting upon the amendment within this time shall be considered to have approved the amendment. If the amendment is approved by a majority of the Member counties under this process, it shall become effective on the day as stated in the amendment. Amendments shall be filed and recorded as required by Iowa Code Section 28E.8.

6.2 Bylaws. Bylaws shall be approved by the Members and substantive amendments to the bylaws shall be approved by the Members.

6.3 Non-substantive amendments to bylaws or this Agreement. The Board of Directors is authorized to make non-substantive amendments to this Agreement or IPAC's Bylaws. Non-substantive amendments shall only mean amendments made to reflect the current membership of IPAC, so long as such Members have been accepted pursuant to the procedures set forth in this Agreement.

6.4 Notice. All notices required to be provided to the IPAC Board under this Agreement shall be in writing and shall be addressed to the Secretary of IPAC at the offices of the Iowa State Association of Counties.

6.5 Entire Agreement. This Agreement and attachments hereto, and any bylaws later enacted as provided by this Agreement, constitute the entire Agreement between the parties, and supersedes or replaces any prior agreements between the parties relating to this subject matter.

6.6 Invalidity. If any term, provision or condition of this Agreement shall be determined invalid by a court of law, such invalidity shall in no way effect the validity of any other term, provision or condition of this Agreement, and the remainder of the Agreement shall survive in full force and effect, unless to do so would substantially impair the rights and obligations of the parties to this Agreement.

6.7 No Waiver. The waiver by any party of a breach or violation of any provisions of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach.

SIGNATURE PAGE

IN WITNESS WHEREOF, SIOUX COUNTY EXECUTES THIS 28E AGREEMENT, TO BE A MEMBER IN THE IOWA PRECINCT ATLAS CONSORTIUM

EFFECTIVE MAY 2, 2017:

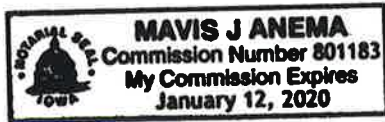
BY: *Mark Sybesma*
Mark Sybesma (print name)
Board of Supervisors, Chairperson

ATTEST: *Ryan Dokter*
Ryan Dokter (print name)
County Auditor

ACKNOWLEDGMENT BY NOTARY

STATE OF IOWA)
)ss.
SIOUX COUNTY)

On this 2nd day of May, 2017, before me the undersigned, a Notary Public in and for said County and State, personally appeared Mark Sybesma and Ryan Dokter, to me personally known, who, being duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor of Sioux County, Iowa respectively; that the seal affixed hereto is the seal of said County; that said instrument was signed and sealed on behalf of the said Sioux County, Iowa, by authority of its Board of Supervisors and that said Mark Sybesma and Ryan Dokter as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of said County, it and by them voluntarily executed.



Mavis J. Anema

Notary Public In and For Sioux County And State of Iowa