

Dakota County Contract No. _____
JOINT POWERS AGREEMENT BETWEEN
DAKOTA COUNTY AND
THE CITIES, TOWNSHIPS AND SCHOOL DISTRICTS IN DAKOTA COUNTY
FOR THE PROVISION OF ABSENTEE VOTING
ADMINISTRATION SERVICES

This is a Joint Powers Agreement ("JPA") between the County of Dakota ("County") and THE CITIES, TOWNSHIPS AND SCHOOL DISTRICTS IN DAKOTA COUNTY ("Governmental Entities") entered into pursuant to Minn. Stat. § 471.59, for the provision of absentee voting administration services beginning with the November 2023 elections.

Section 1
Term And Renewal

1. This JPA shall be in effect beginning July 1, 2023 until December 31, 2024, subject to automatic renewal on January 1 of each odd calendar year for a two year period beginning January 1, 2025. To allow for preparation and transition of duties, the first election that will be subject to the terms of this agreement is the November 2023 election.

Section 2
Contract Termination

2. This Agreement may be terminated as follows:
 - 2.1. During the initial term, this JPA may only be terminated by written agreement of the County with the affected Governmental Entity;
 - 2.2. Beginning January 1, 2025, participation in this agreement may be terminated without cause by the County or individual Governmental Entity at the end of a renewal term by providing written notice to the other Party no later than June 1 in the year prior to the next automatic renewal in Section 1;
 - 2.3. Beginning January 1, 2025, participation in this agreement may be terminated without cause by the County at the end of a renewal term by providing written notice to the Governmental Entity no later than July 15 in the year prior to the next automatic renewal in Section 1, if the County determines, in its sole discretion, that there is an insufficient number of Governmental Entities in Dakota County participating in this Agreement to equitably apportion the cost of Absentee Voting Administration between the remaining participating Governmental Entities;
 - 2.4. Any Party may terminate this Agreement for cause by providing 7 calendar days' written notice to the other party when a party fails to perform or fails to diligently and timely any material provision of this Agreement or provide payment within the time specified in this Agreement. The written notice must state the intent to terminate the Agreement and specify the events or circumstances and relevant provision warranting termination of the Agreement;
 - 2.5. Termination of this Agreement does not discharge any liability, responsibility, or right of any party that arises from the performance of, or failure to adequately, perform the provisions of this Agreement prior to the effective date of termination, such as payment of an invoice for services satisfactorily performed prior to the effective date of termination. Termination shall not discharge any obligation which, by its nature, would

survive after the date of termination.

Section 3

Absentee Voting Administration

3. County and the Governmental Entities agree to consolidate absentee voting administration countywide in accordance with the Absentee Voting Administration Division of Duties Between Cities, Townships, School Districts and County attached hereto as **Attachment A** and incorporated by reference. The Parties agree that the County Election Director and the Governmental Entities' Clerks may agree, in writing, to modify operational responsibilities identified in **Attachment A**. Prior April 1 of each calendar year, the Parties shall meet to discuss performance of the previous year election cycle and evaluate roles and duties of the Parties.

In addition to temporary staffing necessary to administer absentee voting for specific elections, County will hire at least two full-time equivalent ("FTE") positions (Elections Systems Manager and Election Coordinator, or successor positions) to ensure sufficient resources are available to manage the consolidated absentee voting for the county while maintaining service levels of all other election work.

In agreeing to the consolidation of absentee voting administrative functions to ensure the successful conduct of multiple, simultaneous elections in the County, the Parties acknowledge that decisions made by the County regarding resources, procedures, and policies are based upon providing the same scope and level of service to all the participating jurisdictions and the Governmental Entities recognize that such decisions, made for the benefit of the whole, may not be subject to review by the Governmental Entities.

Section 4

Applicability

4. This agreement between the County and the Governmental Entities is limited to absentee voting administration as described in **Attachment A**, all other voting processes are outside of the scope of this agreement. This agreement is applicable for any election in a precinct within the jurisdiction of Dakota County at which offices or questions for the following categories are voted on:

- Category A: Federal Offices
State Offices or Constitutional Amendments
Judicial Offices
County Offices or Ballot Questions
Soil and Water District Offices or Ballot Questions
- Category B: Municipal (City/Township) Offices or Ballot Questions
- Category C: School District Offices or Ballot Questions

Section 5

Allocation of Costs and Invoicing

5. The cost sharing for absentee voting administration and invoicing shall be as follows:

5.1. The Governmental Entities will proportionately share the annual FTE cost hired

by the County for this Agreement.

- 5.2. The Parties agree to proportionately share all other costs of absentee voting administration incurred by the County, after application of any grant or other state or federal funds received by the County for absentee voting administration. The Parties' cost sharing calculations are dependent upon the following allocation of cost within the election categories identified in Section 4 and then further proportioned by registered voters that voted. The cost allocation for the election categories shall be:

- 5.2.1. When Category A, B and C offices or questions all appear on the ballot, the share of costs will be 50% County, 35% City/Township and 15% School District;
- 5.2.2. When Category A and B offices or questions both appear on the ballot, the County and City/Township will share costs 50%/50%;
- 5.2.3. When Category A and C offices or questions both appear on the ballot, the County and School District will share costs 50%/50
- 5.2.4. When Category B and C offices or questions both appear on the ballot, the City/Township and School District will share costs 50%/50%;
- 5.2.5. When only Category A offices or questions appear on the ballot the County and City/Township will share costs 50%/50%, except, if only County or Soil and Water District offices or ballot questions appear, then County will pay 100% of the cost;
- 5.2.6. When only B or C offices or questions appear on the ballot, the share will be:
 - 100% City/Township if Category B
 - 100% School District if Category C

- 5.3. The County will invoice each Governmental Entity its cost share allocation for the applicable election categories and its share of the annual FTE costs proportioned by the registered voters that voted as calculated on election day.
- 5.4. Each Governmental Entity will be invoiced within 60-days of the final election day of each calendar year. Said invoice shall be due and payable within thirty-five (35) calendar days of invoicing.
- 5.5. For illustrative purposes, a cost projection for the 2023-2024 elections are attached as **Attachment B**. Final invoices will reflect absentee voting administration costs and registered voters that voted as calculated on election day by the County.

Section 6

Electronic Voting System and E-Pollbook Costs

6. The cost of the purchase, operation and maintenance of the electronic voting system and electronic pollbooks are not included in this Agreement and are the subject of separate agreements.

Section 7

Independent Contractor

7. It is agreed that nothing in this contract is intended or should be construed as creating the relationship of agents, partners, joint ventures, or associates between the parties hereto or as constituting the County or the Governmental Entities as the employee of the other entity for any purpose or in any manner whatsoever. The County is an independent contractor and neither it, its employees, agents, nor its representatives are employees of the Governmental Entities. From any amounts due the County, there shall be no deductions for federal income tax or FICA payments, nor for any state income tax, nor for any other purposes which are associated with an employer-employee relationship unless required by law.

Section 8 Data Practices

8. All data created, collected, received, maintained, or disseminated for any purpose in the course of this contract is governed by the Minnesota Government Data Practices Act, any other applicable statute, or any rules adopted to implement the Act or statute, as well as federal statutes and regulations on data privacy. Election data shall also be governed by Minnesota Election Law and associated Minnesota Rules.

Section 9 No Waiver

9. No delay or omission by either party hereto to exercise any right or power occurring upon any noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof unless the same is consented to in writing. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements to be observed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition, or agreement herein contained. All remedies provided for in this Agreement shall be cumulative and in addition to, and not in lieu of, any other remedies available to either party at law, in equity, or otherwise.

Section 10 Governing Law

10. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

Section 11 Entire Agreement

11. It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof and hereby rescinds and replace all prior Agreements with the respective Governmental Entities with this Agreement. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

Section 12

No Assignment

12. Neither party shall assign, sublet, or transfer this Agreement, either in whole or in part, without the prior written consent of the other party, and any attempt to do so shall be void and of no force and effect.

Section 13 Notice

13. Any notice or demand shall be in writing and shall be sent registered or certified mail to the other party addressed as follows:

To the Governmental Entity: To the person and address designated by each Governmental Entity in writing.

To the County: Dakota County Elections Director
1590 Highway 55
Hastings MN 55033

Section 14 Audit Provision

14. Both parties agree that either party, the State Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the other party and involve transactions relating to this Agreement. Such materials shall be maintained, and such access and rights shall be in force and effect during the period of the contract and for six (6) years after its termination or cancellation.

Section 15 Indemnification and Insurance

15. Each party to this Agreement shall be solely liable for the acts of its elected officials, officers, employees, or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other parties, their elected officials, officers, employees, or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability of the County and the Governmental Entities. Each party warrants that they are able to comply with the aforementioned indemnity requirements through an insurance or self-insurance program and that each has minimum coverage consistent with liability limits contained in Minn. Stat. Ch. 466. In the event of any claims or actions filed against either party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties.

Section 16 Survival of Provisions

16. It is expressly understood and agreed that Sections 8, 10, 14 and 15 hereof shall survive the completion of performance and termination or cancellation of this

Agreement.

Section 17
Authority

17. The person or persons executing this Joint Powers Agreement on behalf of the Governmental Entity and County represent that they are duly authorized to execute this Joint Powers Agreement on behalf of the Governmental Entity and the County and represent and warrant that this Joint Powers Agreement is a legal, valid and binding obligation and is enforceable in accordance with its terms.

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands.

COUNTY OF DAKOTA

By: _____
Its: Board Chair

Dated: _____

APPROVED AS TO FORM:

By: _____
Assistant Dakota County Attorney

Dated: _____

DRAFT

CITY OF ***

By: _____
****, Its Mayor

Dated: _____

By: _____
***, Its Clerk

Dated: _____

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TOWNSHIP OF ***

By: _____
****, Its Board Chair

Dated: _____

By: _____
***, Its Clerk

Dated: _____

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***** SCHOOL DISTRICT *****

By:

****, Its Superintendent

Dated: _____

By:

***, Its ***

Dated: _____