

**COST SHARE AGREEMENT BETWEEN  
Burnsville-Eagan-Savage District 191  
AND COUNTY OF DAKOTA  
FOR ELECTION HARDWARE, SOFTWARE, AND RELATED SERVICES**

This Agreement is entered into by and between the Burnsville-Eagan-Savage District 191 ("Municipality"), and the County of Dakota ("County"), 1590 Highway 55, Hastings, MN 55033. Municipality and County are referred to individually as the "Party" and are collectively referred to as the "Parties".

**WHEREAS**, pursuant to Minn. Stat. § 471.59, two or more governmental units, by agreement through action of their governing bodies, may jointly exercise powers common to the governmental units; and

**WHEREAS**, under Minn. Stat. § 201.225 the parties are empowered to purchase election hardware, software and related services; and

**WHEREAS**, the County along with cities and townships in Dakota County shared cost for the purchase and implementation of voting equipment in 1998 and 2015; and

**WHEREAS**, the Parties are desirous of cooperating to purchase a replacement for the voting equipment system for use by the Parties and other cities, townships, and school districts in Dakota County who enter into separate Cost Share Agreements with the County (collectively, the "Governmental Units").

**NOW, THEREFORE**, in consideration of the premises and covenants contained herein and subject to the provisions of Minn. Stat. § 471.59, the Parties agree as follows:

**I. PURPOSE**

A. The purpose of this Agreement is to authorize the County to purchase election hardware, software and related services for the Parties and to establish the obligations of the Parties with respect to their use and maintenance.

**II. TERM**

A. The term of this Agreement shall commence on the Effective Date, which is the date when all signatures of the Parties are obtained and shall remain in full force and effect until the Expiration Date, which is the date when the Vendor Contract entered into pursuant to Section III. A. terminates, this Agreement is terminated as provided herein, or by operation of law, whichever occurs first. This Agreement may be extended by written mutual agreement of the Parties.

### III. DUTIES OF THE COUNTY

The Vendor Contract includes hardware, software, licensing, and maintenance.

A. Solicitation. In conformance with the provisions of Minnesota law, the County will prepare a Request for Proposals (RFP) for an electronic voting system that meets the requirements of all Minnesota statutes and rules, including Minn. Stat. § 206.57, to be used by all local government units in Dakota County, including the Parties. The County will consult with the Municipality in preparation of the RFP. The solicitation will consist of a competitive process consistent with state law applicable to such solicitation.

The RFP will include vendor-supplied technical maintenance and regular maintenance and upgrades of the election hardware and software, wherever stored, for at least five years from the date of purchase, including assurances of sufficient parts, supplies and accessories, warranty service, and will seek to obtain a trade-in allowance for all electronic voting systems owned by Dakota County.

B. Award of Contract. The final decision on the vendor to whom the contract shall be awarded will be made by the Dakota County Board of Commissioners. The contract will be awarded to a vendor whose proposal meets all of the standards for voting systems required by Minnesota law. The County will defend and indemnify the Municipality, its elected officials, employees and/or agents and hold them harmless from all claims and damages arising out of the solicitation process and the award of contract for the election hardware, software and related services.

C. Repairs and Maintenance. The County will arrange for all necessary repairs, maintenance and upgrades to the election hardware and software between election seasons.

D. Purchase and Delivery. The County will arrange for the purchase and delivery of election hardware and peripherals.

E. Licenses. The County will obtain all licenses and other rights necessary for the Municipality to use the election hardware and software for its intended use. The County will defend and indemnify the Municipality, its elected officials, employees and/or agents and hold them harmless from all claims and damages arising out of any license, copyright or other intellectual property right.

F. Insurance. The County will include the election hardware and software on its commercial property casualty insurance coverage.

G. Ownership. The County will own the election hardware and software purchased pursuant to this Agreement, regardless of where the election hardware and software may be stored or used.

#### IV. DUTIES OF THE MUNICIPALITY

A. Existing Election Hardware and Software. To the extent the Municipality has ballot tabulation equipment or ballot boxes in its possession, it will turn such equipment over to the County.

B. Storage, Handling and Service. The Municipality must provide safe storage and handling of the election hardware and software when such equipment is in the Municipality's possession. The Municipality will report any needed hardware and software maintenance, in writing, to the County. Any election hardware or software problems on election days may be reported to the County orally.

C. Payment.

- a. Upon award of the contract, the County will first pay 65% of the purchase price and apply trade-in credit received, if any, to each of the election hardware and software packages purchased. The Municipality will pay its pro rata share of the remaining cost, by percentage, for the election hardware and software packages purchased by the County for the Municipality as identified in Appendix A.
- b. Payment by the Municipality to the County will be made in five equal annual installments, without interest, on or before January 31<sup>st</sup> of each year beginning in 2027 and ending in 2031. The Municipality may prepay installments at any time without penalty. The Municipality will pay the County within 45 calendar days of receipt of an invoice from the County.
- c. The Municipality will pay to the County its pro rata share of the annual maintenance costs for the election equipment. The Municipality will pay the County within 45 days receipt of an invoice from the County.

D. Operation of the System. Municipality shall operate in compliance with the following General Conditions Governing Operation of the System:

- a. Municipality shall distribute voting equipment to precincts in the quantities advised by the County in each election held in the Municipality through the term of this Agreement.
- b. Municipality must only use the polling place and election procedures approved by or from the County or the Minnesota Secretary of State.

## **V. INDEMNIFICATION**

A. Municipality. The Municipality will defend and indemnify the County, its elected officials, employees, and agents and hold them harmless from all claims and damages arising out of the use, transport, storage, handling, or maintenance of the voting equipment, which are attributable to the intentional, willful, or negligent acts or omissions of the Municipality, its elected officials, employees, or agents.

B. County. The County will defend and indemnify the Municipality, its elected officials, employees, and agents and hold them harmless from all claims and damages arising out of the solicitation and award of the Vendor Contract and arising out of the transport, handling, or storage of the voting equipment attributable to the intentional, willful, or negligent acts or omissions of the County, its elected officials, employees, or agents. The County does not warrant, nor does it indemnify the Municipality for performance of or failure to perform by the Contract Vendor. Nevertheless, the County will pursue any and all rights it may have with respect to warranties, when requested by the Municipality or when necessary, to assure conformance with the intended use of the voting equipment.

C. Municipal Tort Claims Act. It is understood and agreed that the provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466, and other applicable laws govern liability arising from the Parties' acts or omissions. Each Party warrants that it is able to comply with the aforementioned indemnity requirements through an insurance or self-insurance program and that each has minimum coverage consistent with the liability limits contained in Minn. Stat. Ch. 466. For purposes of determining total liability for tort damages which may arise from this Agreement, the Parties are to be considered a single governmental unit.

## **VI. STATE AUDIT**

Under Minn. Stat. § 16C.05, subd. 5, each Party's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the Expiration Date of this Agreement.

## **VII. GOVERNMENT DATA PRACTICES**

For purposes of this Agreement, all data created, collected, received, stored, used, maintained, or disseminated by the Parties in the performance of this Agreement is subject to the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and its implementing rules, as well as any other applicable State or Federal laws on data privacy or security.

Each Party shall provide the other Party with prompt notice of a breach of the security of data defined in Minn. Stat. § 13.055, subd. 1(a) or suspected breach of the security of data and shall assist in remedying such breach. Providing or accepting assistance does not constitute a waiver of any claim or cause of action for breach of contract.

The Parties shall promptly notify each other when any third-party requests data related to this Agreement, the voting equipment, or the Vendor Contract. The Party who originated the data subject to the request will give the Party receiving the request instructions concerning the release of the data to the data requester before the data is released.

## **VIII. VENUE**

Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate court of competent jurisdiction in Dakota County, Minnesota.

## **IX. TERMINATION**

A. The County will notify the Municipality if its Governmental Unit Share as stated in Appendix A is projected to increase. Small cities and townships that utilize mail balloting will not be subject to this cost-share agreement. Otherwise, the parties must mutually agree to terminate this Agreement in writing by the undersigned or their successors.

B. Termination. This Agreement shall remain in effect until the occurrence of any one of the following events:

- a. Termination is necessitated by operation of law or as a result of a decision by a court of competent jurisdiction.
- b. The Agreement entered into pursuant to Paragraph III. B. above has expired or has otherwise been terminated.
- c. Parties mutually agree to terminate Agreement.

## **X. MISCELLANEOUS PROVISIONS**

A. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is void, invalid, or unenforceable, it will not affect the validity and enforceability of the remainder of this Agreement, unless the void, invalid, or unenforceable provision substantially impairs the value of the entire Agreement with respect to either Party.

B. Assignment. No Party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other Party and an assignment agreement, approved and executed by all Parties to this Agreement, or their successors in office.

C. Amendments. Any amendment to this Agreement must be in writing and is not effective until approved and executed by all Parties to this Agreement, or their successors in office.

D. Waiver. If any Party fails to enforce any provision of this Agreement, such failure does not waive the provision or its right to enforce it.

E. Contract Complete. This Agreement contains all negotiations and agreements between the Parties. No other understanding regarding this Agreement, whether written or oral, is binding on any Party.

F. Compliance with Laws. The Parties shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement.

## **XI. GENERAL CONDITIONS GOVERNING OPERATION OF THE SYSTEM**

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Municipality and the County have caused this Agreement to be executed on their behalf.

COUNTY OF DAKOTA

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

MUNICIPALITY OF

\_\_\_\_\_

By: \_\_\_\_\_

School Board Chair

Date: \_\_\_\_\_

By: \_\_\_\_\_

School Board Clerk

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Assistant County Attorney/Date  
File No. KS-

### **Appendix A: COST PROJECTIONS FOR INITIAL EQUIPMENT PURCHASE\***

\*The information in this Appendix A is informational only and based on all Governmental Units identified in the chart executing a Cost Sharing Agreement and a total Purchase Price of \$5,000,000. If one or more of these factors changes, the Municipal Share will likely increase.

	<b>Voters</b>	<b>Percentage</b>	<b>Amount</b>	
Dakota County	289,935	65%	\$ 3,250,000	
Cities/Townships	289,935	30%	\$ 1,500,000	
School Districts	289,935	5%	\$ 250,000	

<b>Municipality Share</b>	<b>Voters</b>	<b>% of Reg Voters</b>	<b>Amount</b>	<b>Annual Payback</b>
Apple Valley	35,995	12.4%	\$ 186,382	\$ 37,276
Burnsville	37,579	13.0%	\$ 194,584	\$ 38,917
Castle Rock Twp	998	0.3%	\$ 5,168	\$ 1,034
Coates	98		\$ -	\$ -
Douglas Twp	536	0.2%	\$ 2,775	\$ 555
Eagan	45,746	15.8%	\$ 236,873	\$ 47,375
Empire	2,022	0.7%	\$ 10,470	\$ 2,094
Eureka Twp	1,088	0.4%	\$ 5,634	\$ 1,127
Farmington	14,909	5.1%	\$ 77,199	\$ 15,440
Greenvale Twp	624	0.2%	\$ 3,231	\$ 646
Hampton City	440	0.2%	\$ 2,278	\$ 456
Hampton Twp	630	0.2%	\$ 3,262	\$ 652
Hastings	15,061	5.2%	\$ 77,986	\$ 15,597
Inver Grove Heights	23,212	8.0%	\$ 120,192	\$ 24,038
Lakeville	49,329	17.0%	\$ 255,426	\$ 51,085
Lilydale	802	0.3%	\$ 4,153	\$ 831
Marshan Twp	882	0.3%	\$ 4,567	\$ 913
Mendota City	148	0.1%	\$ 766	\$ 153
Mendota Heights	9,119	3.1%	\$ 47,218	\$ 9,444
Miesville	88		\$ -	\$ -
New Trier	62		\$ -	\$ -
Nininger Twp	631	0.2%	\$ 3,267	\$ 653
Northfield	989	0.3%	\$ 5,121	\$ 1,024
Randolph City	297	0.1%	\$ 1,538	\$ 308
Randolph Twp	560	0.2%	\$ 2,900	\$ 580
Ravenna Twp	1,738	0.6%	\$ 8,999	\$ 1,800
Rosemount	18,686	6.5%	\$ 96,756	\$ 19,351
Sciota Twp	340	0.1%	\$ 1,761	\$ 352
South St. Paul	12,322	4.3%	\$ 63,803	\$ 12,761
Sunfish Lake	435	0.2%	\$ 2,252	\$ 450
Vermillion City	307	0.1%	\$ 1,590	\$ 318
Vermillion Twp	918	0.3%	\$4,753	\$ 951
Waterford Twp	395	0.1%	\$ 2,045	\$ 409
West St. Paul	12,949	4.5%	\$ 67,050	\$ 13,410



ISD 191	33,351	11.5%	\$ 28,757	\$ 5,751
ISD 192	24,434	8.4%	\$ 21,069	\$ 4,214
ISD 194	37,762	13.0%	\$ 32,561	\$ 6,512
ISD 195	1,603	0.6%	\$ 1,382	\$ 276
ISD 196	108,067	37.3%	\$ 93,182	\$ 18,636
ISD 197	30,660	10.6%	\$ 26,437	\$ 5,287
ISD 199	18,833	6.5%	\$16,239	\$ 3,248
ISD 200	20,498	7.1%	\$ 17,675	\$ 3,535
ISD 252	129	0.0%	\$ 111	\$ 22
ISD 659	2,337	0.8%	\$ 2,015	\$ 403
SSD 6	12,261	4.2%	\$ 10,572	\$ 2,114