



Board of County Commissioners Agenda Request

2Q
Agenda Item #

Requested Meeting Date: August 9, 2022

Title of Item: Primary and General Election Recount Agreements

<input type="checkbox"/> REGULAR AGENDA <input checked="" type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing*
Submitted by: Kirk Peysar, County Auditor		Department: County Auditor
Presenter (Name and Title): Kirk Peysar, County Auditor		Estimated Time Needed: n/a
Summary of Issue: In the event of a Federal, State or Judicial office recount in either the Primary or General election(s). The agreements authorize the Aitkin County Auditor to act on behalf of the Minnesota Secretary of State to conduct the recount(s), if any. Compensation is established at 4 cents per ballot, with a \$100 minimum.		
Alternatives, Options, Effects on Others/Comments:		
Recommended Action/Motion: Authorize signatures to agreements with the MN Secretary of State for recounts.		
Financial Impact: Is there a cost associated with this request? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No What is the total cost, with tax and shipping? \$ as attached Is this budgeted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>Please Explain:</i>		

Legally binding agreements must have County Attorney approval prior to submission.



State of Minnesota

Joint Powers Agreement

SWIFT Contract Number: 216188

County Name: _____

This Agreement is between the State of Minnesota, acting through its Office of the Secretary of State ("State") and the County Auditor of each of the Counties or the City Clerk of each of the cities listed in Appendix A. ("Governmental Unit").

Recitals

Under Minnesota Statutes § 471.59, subd. 10, the State is empowered to engage such assistance as deemed necessary. The State is in need of election recount services for the automatic recount of votes pursuant to Minnesota Statutes, section 204C.35, subd. 1 and Minnesota Rules, part 8235.0200, for the 2022 primary election, and for relevant jurisdictions, the Congressional District One special election, as necessary for state and federal offices. The Governmental Unit represents that it is duly qualified and agrees to perform all services described in this agreement to the satisfaction of the State.

Agreement

1. Term of Agreement

- 1.1 Effective Date: July 15, 2022 or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.
- 1.2 Expiration Date: September 1, 2022 or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2. Agreement between the Parties

The Governmental Unit will act as a Deputy Recount Official designated by the Secretary of State pursuant to Minnesota Rules, part 8235.0200 and will conduct a recount as necessary of the votes cast in the county in which the Governmental Unit is the County Auditor and in any additional jurisdiction mutually agreed upon by Governmental Unit and State, pursuant to the provisions of Minnesota Statutes and Minnesota Rules relating to recounts, the Minnesota Recount Guide, all of which are attached to this agreement as Appendices B, C and D, respectively, as well as the information provided during the Web streaming video transmission to counties to be provided on a date to be determined by State, and any other guidance provided to the Deputy Recount Official by State. Appendix A is the list of participating jurisdictions and it will be updated prior to the commencement of the recount to reflect all participating jurisdictions. The primary election/CD 1 recount will begin on August 19, 2022 at 9:00 A.M, and recounts will continue until all ballots in the jurisdictions being counted by the Deputy Recount Official are counted or designated as challenged. In the event that an election contest is filed in any of these elections and the court takes jurisdiction, the State may cancel the relevant portion of this agreement immediately and without any further cause. State and Governmental Unit agree that this process will be completed on August 23, 2022 for any primary election recount, unless civil litigation delays completion. The results of the recount, along

with all explanatory notes and any ballots challenged by candidates in the election shall be securely forwarded and provided to the State by personal delivery or express courier for delivery to the State, at the expense of the State at the conclusion of the recount process in the county or city.

3. Payment

a) Compensation. Governmental Unit will be paid four cents for each ballot handled in the course of any recount covered by this agreement, with a minimum payment of \$100 if a recount occurs in the Governmental Unit's jurisdiction. The Governmental Unit will submit a log of all ballots handled to State to verify the total.

b) Travel. No travel expenses will be paid.

The total obligation of the State under this Agreement will not exceed \$50,000 for all Governmental Units for the primary election.

4. Authorized Representatives

The State's Authorized Representative is David Maeda, Director of Elections, 180 State Office Building, Saint Paul MN 55155, 651-556-0612, or his successor.

The Governmental Unit's Authorized Representative is the County Auditor or municipal clerk who has signed the agreement, or his/her successor.

5. Assignment, Amendments, Waiver, and Contract Complete.

5.1 Assignment. The Governmental Unit may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the State and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.

5.2 Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.

5.3 Waiver. If the State fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.

5.4 Contract Complete. This Agreement contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6. Indemnification.

6.1 In the performance of this Agreement, the Indemnifying Party must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Indemnifying Party's:

- Intentional, willful, or negligent acts or omissions; or
- Actions that give rise to strict liability; or
- Breach of contract or warranty.

The Indemnifying Party is defined to include the Governmental Unit, the Governmental Unit's reseller, any third party that has a business relationship with the Governmental Unit, or Governmental Unit's agents or employees, and to the fullest extent permitted by law. The indemnification obligations of

this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Indemnifying Party may have for the State's failure to fulfill its obligation under this Agreement.

6.2 Nothing within this Agreement, whether express or implied, shall be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Indemnifying Party. This shall extend to all agreements related to the subject matter of this Contract, and to all terms subsequently added, without regard to order of precedence.

7. State Audits.

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

8. Government Data Practices.

The Governmental Unit and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (or, if the State contracting party is part of the Judicial Branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Governmental Unit under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Governmental Unit or the State.

If the Governmental Unit receives a request to release the data referred to in this clause, the Governmental Unit must immediately notify and consult with the State's Authorized Representative as to how the Governmental Unit should respond to the request. The Governmental Unit's response to the request shall comply with applicable law.

9. Venue

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

10. Termination

10.1 Termination. The State or the Governmental Unit may terminate this agreement at any time, with or without cause, upon 30 days' written notice to the other party.

10.2 Termination for Insufficient Funding. The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Governmental Unit. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Governmental Unit will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Governmental Unit notice of the lack of funding within a reasonable time of the State's receiving that notice.

11. E-Verify Certification (In accordance with Minn. Stat. § 16C.075).

For services valued in excess of \$50,000, the Governmental Unit certifies that as of the date of services performed on behalf of the State, Governmental Unit and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. The Governmental Unit is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

1. State Encumbrance Verification

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05

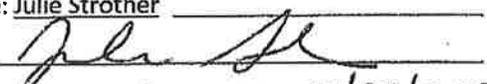
Print Name: Jennifer Kurz
Signature: 
Title: Fiscal Services Supv/Buyer Date: 7/29/2022
SWIFT Contract No. 216188/PO 4089

2. Governmental Unit

Print Name: _____
Signature: _____
Title: _____ Date: _____

3. State Agency

With delegated authority

Print Name: Julie Strother
Signature: 
Title: Deputy Secretary of State Date: 7/29/2022

4. Commissioner of Administration

As delegated to The Office of State Procurement

Print Name: _____
Signature: _____
Title: _____ Date: _____
Admin ID: _____

**Appendix A – Official Designations and Locations
State Primary, and for relevant jurisdictions, the Congressional District One Special Election**

<u>County</u>	<u>Name of Deputy Recount Official</u>	<u>Title of Deputy Recount Official</u>	<u>Phone Number</u>	<u>Start Date</u>	<u>Start Time</u>	<u>Recount Address</u>	<u>Room Name or Number</u>	<u>Number of Teams</u>
Altkin	Kirk Peysar	Auditor	218-927-7354	August 19th	9:00 AM	Government Center, 307 2nd St NW, Altkin, MN 56431	3rd Floor	4
Anoka	Paul Linnell	Elections Manager	763-324-1304	August 19th	9:00 AM	Anoka County Government Center, 2100 3rd Avenue, Anoka, MN 55303	Atrium	Up to 10
Becker	Mary Hendrickson	Auditor/Treasurer	218-846-7311	August 19th	9:00 AM	Becker County Courthouse, 915 Lake Avenue, Detroit Lakes, MN 56501-3403	Jury Assembly 3 rd Floor Courts Addition or 3 rd Floor Meeting Room Original Courthouse	3
Beltrami	JoDee Treat	Auditor/Treasurer	218-333-4175	August 19th	9:00 AM	Beltrami County Administration Building, 701 Minnesota Ave NW, Bemidji, MN 56601	Board Room	6
Benton	Nadean Inman	Auditor/Treasurer	320-968-5008	August 19th	9:00 AM	Government Center, 531 Dewey St, Foley, MN 56329	Boardroom	4
Big Stone	Michelle Knutson	Auditor/Treasurer	320-839-6366	August 19th	9:00 AM	Courthouse, 20 2nd St SE, Ortonville, MN 56278	Commissioners' Room	2
Blue Earth	Michael Stalberger	Property and Environmental Resources Director	507-304-4251	August 19th	9:00 AM	Blue Earth County Historic Courthouse, 410 S 5th Street, Mankato, MN 56001	TBD	TBD



State of Minnesota

Joint Powers Agreement

SWIFT Contract Number: 216190

County Name: _____

This Agreement is between the State of Minnesota, acting through its Office of the Secretary of State ("State") and the County Auditor of each of the Counties or the City Clerk of each of the cities listed in Appendix A. ("Governmental Unit").

Recitals

Under Minnesota Statutes § 471.59, subd. 10, the State is empowered to engage such assistance as deemed necessary. The State is in need of election recount services for the automatic recount of votes pursuant to Minnesota Statutes, section 204C.35, subd. 1 and Minnesota Rules, part 8235.0200 for the 2022 general election, as necessary for state offices. The Governmental Unit represents that it is duly qualified and agrees to perform all services described in this agreement to the satisfaction of the State.

Agreement

1. Term of Agreement

1.1 Effective Date: October 15, 2022 or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.

1.2 Expiration Date: December 31, 2022 or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2. Agreement between the Parties

The Governmental Unit will act as a Deputy Recount Official designated by the Secretary of State pursuant to Minnesota Rules, part 8235.0200 and will conduct a recount as necessary of the votes cast in the county in which the Governmental Unit is the County Auditor and in any additional jurisdiction mutually agreed upon by Governmental Unit and State, pursuant to the provisions of Minnesota Statutes and Minnesota Rules relating to recounts, the Minnesota Recount Guide, all of which are attached to this agreement as Appendices B, C and D, respectively, as well as the information provided during the Web streaming video transmission to counties to be provided on a date to be determined by State, and any other guidance provided to the Deputy Recount Official by State. Appendix A is the list of participating jurisdictions and it will be updated prior to the commencement of the recount to reflect all participating jurisdictions. The general election recount will begin on December 5, 2022 at 9:00 A.M, and recounts will continue until all ballots in the jurisdictions being counted by the Deputy Recount Official are counted or designated as challenged. In the event that an election contest is filed in any of these elections and the court takes jurisdiction, the State may cancel the relevant portion of this agreement immediately and without any further cause. State and Governmental Unit agree that this process will be completed on December 9, 2022 for any general election recount, unless civil litigation delays completion. The results of the recount, along with all explanatory notes and any ballots challenged by candidates in the election shall be securely

forwarded and provided to the State by personal delivery or express courier for delivery to the State, at the expense of the State at the conclusion of the recount process in the county or city.

3. Payment

a) Compensation. Governmental Unit will be paid four cents for each ballot handled in the course of any recount covered by this agreement, with a minimum payment of \$100 if a recount occurs in the Governmental Unit's jurisdiction. The Governmental Unit will submit a log of all ballots handled to State to verify the total.

b) Travel. No travel expenses will be paid.

The total obligation of the State under this Agreement will not exceed \$120,000 for all Governmental Units for the primary election.

4. Authorized Representatives

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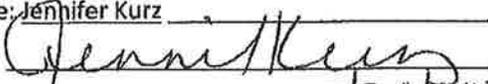
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1. State Encumbrance Verification

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05

Print Name: Jennifer Kurz

Signature: 

Title: Fiscal Services Supv/Buyer Date: 7/29/2022

SWIFT Contract No. 216190/PO 4090

2. Governmental Unit

Print Name: _____

Signature: _____

Title: _____ Date: _____

3. State Agency

With delegated authority

Print Name: Julie Strother

Signature: 

Title: Deputy Secretary of State Date: 7/27/2022

4. Commissioner of Administration

As delegated to The Office of State Procurement

Print Name: _____

Signature: _____

Title: _____ Date: _____

Admin ID: _____

**Appendix A – Official Designations and Locations
State General Election**

<u>County</u>	<u>Name of Deputy Recount Official</u>	<u>Title of Deputy Recount Official</u>	<u>Phone Number</u>	<u>Start Date</u>	<u>Start Time</u>	<u>Recount Address</u>	<u>Room Name or Number</u>	<u>Number of Teams</u>
Aitkin	Kirk Peysar	Auditor	218-927-7354	December 5th	9:00 AM	Government Center, 307 2nd St NW, Aitkin, MN 56431	3rd Floor	4
Anoka	Paul Linnell	Elections Manager	763-324-1304	December 5th	9:00 AM	Anoka County Government Center, 2100 3rd Avenue, Anoka, MN 55303	Atrium	Up to 10
Becker	Mary Hendrickson	Auditor/Treasurer	218-846-7311	December 5th	9:00 AM	Becker County Courthouse, 915 Lake Avenue, Detroit Lakes, MN 56501-3403	Jury Assembly 3 rd Floor Courts Addition or 3 rd Floor Meeting Room Original Courthouse	3
Beltrami	JoDee Treat	Auditor/Treasurer	218-333-4175	December 5th	9:00 AM	Beltrami County Administration Building, 701 Minnesota Ave NW, Bemidji, MN 56601	Board Room	6
Benton	Nadean Inman	Auditor/Treasurer	320-968-5008	December 5th	9:00 AM	Government Center, 531 Dewey St, Foley, MN 56329	Boardroom	4
Big Stone	Michelle Knutson	Auditor/Treasurer	320-839-6366	December 5th	9:00 AM	Courthouse, 20 2nd St SE, Ortonville, MN 56278	Commissioners' Room	2
Blue Earth	Michael Stalberger	Property and Environmental Resources Director	507-304-4251	December 5th	9:00 AM	Blue Earth County Historic Courthouse, 410 S 5th Street, Mankato, MN 56001	TBD	TBD