

**AGREEMENT BETWEEN
BLUE EARTH COUNTY and MANKATO AREA PUBLIC SCHOOLS (ISD 77)
FOR ELECTION SERVICES**

This is an Agreement between the County of Blue Earth ("County") and the Mankato Area Public Schools Independent School District No. 77 ("School") for the provision of election services by Blue Earth County on behalf of the School. It is Joint Powers Agreement entered into pursuant to Minnesota Statutes, section 471.59.

1. Duration

This Agreement will be in effect upon approval of the parties or August 21, 2023, whichever occurs later, and ends on December 31, 2023, and will apply to any and all School elections held during the duration of the Agreement.

2. Renewal and Termination

This Agreement may be renewed for an additional period by written consent of the County and School. This Agreement may be terminated by either of the parties by 30 days' written notice to the remaining party. Upon termination of this Agreement, the County shall retain all equipment, software, property, supplies, and materials in its possession prior to the effective date of this Agreement, plus any equipment, software, property, supplies, and materials purchased by the County to provide the services under this Agreement. The School shall retain any equipment, software, property, supplies, and materials purchased by the School outside of this Agreement for any elections or elections-related tasks.

3. County Responsibilities

Except as otherwise provided in this Agreement, the County will provide all services, equipment, and supplies required to perform election services on behalf of the School. The County will complete all election-related duties of the School under Minnesota election law, and other relevant state and federal laws, except for those duties specifically provided otherwise in this Agreement. A listing of services, equipment, and supplies is provided in Appendix A.

4. School Responsibilities

The School will perform the election-related responsibilities provided in Appendix B. The list of responsibilities in Appendix B shall be considered exhaustive except in instances of a responsibility assigned specifically to the School Clerk or School Board by state or federal law.

5. Disputes

In the event of any dispute between the parties arising from the distribution of responsibilities under this Agreement or the services provided hereunder, each party shall, prior to seeking external sources of resolution of such dispute, escalate the dispute to a senior representative of such party, and such senior representatives shall use good faith efforts to resolve the dispute between them. The County and the School shall make good faith efforts to resolve any and all disputes as quickly as possible.

6. Upgrading or Replacing Voting Systems

The County assesses the need to upgrade or replace the required voting systems used by all jurisdictions for all elections. The County will attempt to continue the practice of annual invoicing for voting systems as is done countywide. The cost of upgrading or replacing voting systems is not included in this Agreement and will be the subject of a separate agreement. Voting systems for purposes of this Agreement includes, but are not limited to: polling place tabulators/scanners, assistive voting equipment, electronic rosters, and absentee ballot tabulators/scanners and the supporting software.

7. Special Elections and Recounts

The County will conduct all special elections required by law during the term of this Agreement.

8. Insurance

During the term of this Agreement, the County will maintain, through commercially available insurance or on a self-insured basis, property insurance coverage on the voting equipment it owns, for the repair or replacement of the voting equipment if damaged or stolen. The School agrees that if any School-owned election related property is damaged, lost, or stolen, except through neglect or malfeasance by the County, the School will replace the property at its own expense.

9. Indemnification

The County shall defend, indemnify, and hold harmless the School, its agents, elected officials, officers, and employees from all claims arising out of or in any manner attributed to any violation of federal, state or local law which may be breached, intentionally or otherwise, by the County in fulfilling the terms of this Agreement for services; and the County agrees to pay reasonable attorney's fees the School may incur in defending the School for any such acts or omissions on the part of the County.

The School shall defend, indemnify, and hold harmless the County, its agents, elected officials, officers, and employees from all claims arising out of or in any manner attributed to any violation of federal, state or local law which may be breached, intentionally or otherwise, by the School in fulfilling the terms of this Agreement for services; and the School agrees to pay reasonable attorney's fees the County may incur in defending the County for any such acts or omissions on the part of the School.

10. Legal Representation

The Blue Earth County Attorney 's Office will advise and represent the County in all election-related matters. The School's attorney or designee will advise and represent the School in all election-related matters and will advise the County on election-related matters specifically related to School referendum elections.

11. Election Costs and Payments

Payments to cover the costs incurred by the County in the performance of the provisions of this Agreement will be made by the County, except as otherwise provided in this Agreement and Appendix B.

The cost of election services provided by the County to the School under this Agreement shall be as follows: \$92,400 for calendar year 2023. This payment shall constitute the School's full cost for election services provided by the County under this Agreement, except for voting system costs and special expenses such as mass mailing, large-scale publication, or events as described elsewhere in this Agreement. Any other elections-related expenses and services not provided under this Agreement shall be the responsibility the School.

If the County determines, in consultation with the School, a mass mailing, large-scale publication, or special event is in the best interest of the School's voters, or such mailing, publication or event is required by state or federal law, the School shall be responsible for the actual cost for that mailing, publication, or event.

The County will submit an invoice payable within 30 days of receipt to the School for the cost of election services on an at least annual basis, as well as at the conclusion of any special mailing, publication, or event service provided by the County. The County may elect to divide the cost of election services into multiple invoices, the total of which shall not exceed the annual cost for the election services under this Agreement.

12. Independent Contractor

It is agreed that nothing in this Agreement 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 as the employee of the School for any purpose or in any manner whatsoever. The County is an independent contractor and neither its employees, agents, nor its representatives are employees of the School. 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. Payment of federal income tax, FICA payments, and state income taxes are the responsibility of the County.

13. Data Practices

All data created, collected, received, maintained, or disseminated for any purpose in the course of this Agreement 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.

14. Alteration

The provisions of this Agreement may be altered by mutual written consent of the County and the School. Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver, nor will any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise or the exercise of any other right, remedy, power or privilege.

15. Entire Agreement

This Agreement shall constitute the entire agreement between the parties and shall supersede all prior oral and written negotiations.

16. Severability

If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, it shall in no way affect, impair, or invalidate any other provision of this Agreement, and the remaining provisions shall remain in full force and effect. To the extent that any such provision is found to be invalid, void, or otherwise unenforceable as written, the parties may revise it retroactively to the effective date so that it is enforceable to the greatest extent allowed by applicable law.

17. Natural Disaster

Parties shall not be liable or responsible for losses caused by interruption of service due to causes beyond its control, including, but not limited to, acts of God, equipment failure, power outages, inclement weather, and/or sabotage to the system.

18. Limitation of Liability

By the terms of this Agreement, a party does not waive any limitation of liability available to that party including, but not limited to, Minn. Stat. Chap. 466.

(Remainder of this page intentionally left blank. Signature page to follow.)

SIGNATURES

IN WITNESS THEREOF, the parties have subscribed their names as of the last date written below.

BLUE EARTH COUNTY

MANKATO AREA PUBLIC SCHOOLS (ISD 77)

By: _____
Vance Stuehrenberg, Chair
Blue Earth County Board of Commissioners

By: _____
Shannon Sinning, Chair
Mankato Area Public Schools (ISD 77)

Date: _____

Date: _____

By: _____
Robert W. Meyer,
Blue Earth County Administrator

By: _____
Paul Peterson,
Mankato Area Public Schools Superintendent

Date: _____

Date: _____

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Appendix A:

County responsibilities under this Agreement include, but are not limited to:

1. Provide suitable office and warehouse space to conduct all election-related activities and for storage of election equipment and supplies;
2. Provide appropriately trained staff to carry out the duties specified in this Agreement and oversee said staff's performance;
3. Recruitment, training, and assignment of election judges, including supervision while serving, in addition to setting salaries and meal allowances in consultation with School;
4. Provide accurate list of election judges and hours worked to School to complete payroll functions;
5. Secure polling place sites and perform annual inspection of polling places to verify compliance with all state and federal accessibility requirements;
6. Operation, maintenance, testing, demonstration, storage, and technical support for voting systems;
7. Maintenance, storage, and replacement of voting stations for each polling place and for absentee voting purposes;
8. Prepare and transport voting systems, voting stations, and other election materials to and from each polling place;
9. Provide election forms, supplies, and other related materials for each polling place;
10. Conduct preliminary tests and public accuracy tests of voting systems;
11. Programming and layout of ballots;
12. Print adequate supply of ballots;
13. Compilation and reporting of election results and election statistics for dissemination to the appropriate canvassing boards and the public;
14. Conduct recounts for School offices and ballot questions;
15. Administer absentee and early voting;
16. Advise, as requested by School, on the preparation, posting, and publication of election notices and publications;
17. Provide election-related information on the County web site with reciprocal linking to the School's website;
18. Provide information and assistance on election laws and procedures to School officials, candidates, the news media, and the general public;
19. Analyze proposed state and federal laws on election-related matters to determine impact on the School;
20. Maintain a database and prepare maps of election district and precinct boundaries;
21. Retain election records for at least 22 months following each election, unless specifically requested in writing by School to transfer records for proper retention; and
22. Comply with Minnesota Government Data Practices Act and respond to requests for data.

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Appendix B:

School responsibilities under this Agreement include, and are limited to, except in instances of a responsibility assigned by state or federal law specifically to the School Board Clerk or School Board:

1. Designate a principal contact and a secondary contact for the County for coordination, execution, and application of this Agreement;
2. Assist the County with and provide clarification on School polling place boundaries and address questions as they relate to School resident voters and registration;
3. Assist the County in the location of polling places in District, including utilization of City-owned buildings outside the County and/or other facilities;
4. Assist the County in procurement and use of voting equipment from other governmental units, including responsibility for any costs to use such equipment;
5. Provide and approve the title and text of any School questions to be placed on the ballot, in compliance with state law requirements;
6. Approve the ballot to be used in the election;
7. Authorize County to coordinate programming, layout, and printing of ballots with appropriate vendors;
8. Provide information and assistance on any specific referendum election questions or impacts to School officials, candidates, the news media, and the general public;
9. Maintain election-related information on School's website as requested by County;
10. Provide recruitment and outreach assistance as requested by County for election judges, including but not limited to website, social media, and traditional media opportunities;
11. Approve roster of election judges and provide for appointment by the School Board;
12. Complete payroll and all human resource functions and tax/reporting requirements of election judges' payments for services;
13. Conduct District canvass of District election, file official canvass of election results following each District election, and maintain permanent record of results of each election;
14. Complete post-election notification of election results as required by state law;
15. Maintain and preserve any election records according to state laws and retention schedules;
16. Prepare and present to School Board any statutorily-required resolutions, including but not limited to: designation of polling places and appointment of absentee ballot board;
17. Prepare, post, and publish election notices and publications, and provide copies to County for reciprocal posting; and
18. Complete mailings, with assistance from County, as required by federal and state law specifically related to polling place changes and School referendum notifications.