STATE OF MINNESOTA
JOINT POWERS AGREEMENT

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. ("Contractor").

Recitals

Under Minn. Stat. § 471.59, subd. 10, and Minnesota Rules, subpart 8235.0200 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 for the general election for United States Senate and for recounts in State Senate District 16 and State House Districts 12B and 16A. The Contractor represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the State.

Agreement

1 Term of Agreement

1.1 Effective date: November 19, 2008, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.
1.2 Expiration date: January 1, 2009, or until all obligations have been satisfactorily fulfilled, whichever occurs later.

2 Agreement between the Parties

The Contractor 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 of the votes cast in the county in which the Contractor is the County Auditor and in any additional jurisdiction mutually agreed upon by Contractor and State, pursuant to the provisions of Minnesota Statutes and Minnesota Rules relating to recounts, the Minnesota 2008 Recount Guide, all of which are attached to this contract as Appendices B, C and D, respectively, as well as the information provided during the Web streaming video transmission to counties of November 13, 2008 and any other guidance provided to the Deputy Recount Official by the State. Appendix A will be updated prior to the commence ment of the recount to show all participating jurisdictions. The recount will begin on or about November 19, 2008 and 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 this contract immediately and without any further cause. The State and Contractor agree that this process should be completed on or before December 5, 2008, 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. The Contractor will be paid three cents for each ballot handled in the course of the recount, with a minimum payment of $100. The Contractor 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 an aggregate of $100,000 for all Contractors..

4 Authorized Representatives The State's Authorized Representative is Gary Poser, Director of Elections, 180 State Office Building, Saint Paul MN 55155 651-201-1352, or his/her successor, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Governmental Unit's Authorized Representative is the County Auditor or municipal clerk who has signed the contract

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 same parties who executed and approved this agreement, or their successors in office.

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 same parties who executed and approved the original agreement, or their successors in office.

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 Governmental Unit. No other understanding regarding this agreement, whether written or oral, may be used to bind either party. 

Joint Powers Agreement (Rev. 6/03)
6. Liability
The Governmental Unit will indemnify, save, and hold the State, its agents, and employees harmless from any claim or cause of action, including attorney's fees incurred by the State, arising from the performance of this agreement by the Governmental Unit or the Governmental Unit's agents or employees. This clause will not be construed to bar any legal remedies the Governmental Unit may have for the State's failure to fulfill its obligations under this agreement.

Signatures for this agreement are being obtained by the signing of counterparts. Each Contractor will sign signature block #2 and return this page to Jenny Kurz, Office of the Secretary of State, 60 Empire Drive, Suite 100, Saint Paul MN 55103-2141.

1. STATE ENCUMBRANCE VERIFICATION
Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.
Signed: Jennifer Henry
Date: 11/10/08

MAPS PO - 34424372

2. GOVERNMENTAL UNIT
By: Michelle D. Forsell
Title: PROJECT MANAGER
Date: 11-22-08

By: 
Title: 
Date: 

3. STATE AGENCY

By: 
(with delegated authority)
Title: 

Date:

4. COMMISSIONER OF ADMINISTRATION
delegated to Materials Management Division

By: 

Date:

Distribution:
Agency
Governmental Unit
State's Authorized Representative - Photo Copy

Joint Powers Agreement (Rev. 6/03)