

# Notice & Agenda

## Swift County Board of Commissioners

### AGENDA

Tuesday, July 3, 2018

9:00 AM

**LEC Meeting Room – 301 14<sup>th</sup> St N, Benson, MN**

If you need any type of accommodation to participate in this meeting, please contact the County Administrator at 320-314-8399 at least 48 hours prior to the meeting. Times are only estimates and items may be taken out of order.

<u>Time</u>	<u>Reference</u>	<u>Item</u>
9:00 a.m.		<b>Call to Order and Roll Call</b>
9:01 a.m.		<b>Approve Agenda</b>
9:03 a.m.		<b>Consent Agenda</b>
	1-4	(1) Minutes from the June 19, 2018 Regular Meeting and Board of Equalization
	5-6	(2) Consider approval of County Policies
	7	(3) Consider approval of tobacco licenses for the following businesses: Clontarf Liquor Store dba Prairie Pub
	8-47	(4) Consider approval of State of Minnesota Joint Powers Agreements with the County of Swift on Behalf of its County Attorney, Sheriff and HRA
9:04 a.m.		<b>Consider Approval of Commissioner warrants and review Auditor warrants reviewed</b>
9:05 a.m.		<b>Commissioner and Board reports</b>
9:20 a.m.		<b>County Administrator report</b>
9:25 a.m.		<b>Citizens Comments</b>
9:25 a.m.		<b>Andy Sander, County Engineer</b>
	48-49	Consider approval to award S.A.P. 076-598-012 and S.A.P. 076-599-041 bridge replacement project on CR 85 and 100 Street SW pending State approval and allow the chairman to sign the contract
	50-51	Consider approval to award S.A.P. 076-598-012 and S.A.P. 076-599-041 bridge replacement project on CR 85 and 100 Street SW pending State approval and allow the chairman to sign the contract
9:35 a.m.		<b>Kelsey Baker, Administrator</b>
	52-63	Consider signing the joint powers agreement (JPA) for Counties Providing Technology (CPT)
9:45 a.m.		<b>Other Business</b> Montevideo Veterans Home
10:00 a.m.		<b>Adjournment</b>

## SWIFT COUNTY BOARD MINUTES

June 19, 2018

Chairman Rudningen called the meeting to order at 5:02 PM with all members present. Also present: County Administrator Kelsey Baker, County Auditor Kim Saterbak, and Terri Orr. Chairman Rudningen noted for the record he will be leaving at 6:05 PM and Vice-Chair E. Pederson will Chair the remainder of the meeting.

Chairman Rudningen asked if there were any changes or additions to the agenda. Chairman Rudningen requested under Other Business the addition to consider approval of a medical leave and moved Catie Lee, Human Services after Riverview Dairy. There were no other changes.

**06-19-18-01** Commissioner Fox moved and Commissioner P. Peterson seconded to approve the agenda as presented. Motion carried unanimously.

**06-19-18-02** Commissioner E. Pederson moved and Commissioner P. Peterson seconded to approve the Consent Agenda items: (1) Approval of Minutes from the June 5, 2018 Regular Meeting, (2) Approval of one Daycare Deferred Loan and one Daycare Grant, (3) Approval of equal Employment Opportunity and Affirmative Action Guidelines. Motion carried unanimously.

**06-19-18-03** Commissioner Hendrickx moved and Commissioner Fox seconded to approve the Commissioner warrants as follows: County General Revenue, \$202,987.06; Solid Waste Fund, \$31,561.16; Road and Bridge, \$12,070.16; Revolving Loan Fund, \$145,281.21; Human Services, \$91.26; Capital Projects Fund, \$3,212.40; County Ditches Fund, \$1,394.00; State Fund Agency, \$295.25; which includes the following bills over \$2,000: 6W Department Of Community Correction, \$125,735.98; Anderson Larson, \$4,490.00; Barn Doctors, Inc., \$6,436.00; Comm of MB, Treasury Division, \$3,696.25; Computer Professionals Unlimited Inc., \$6,124.00; Dooley Petroleum Inc., \$2,719.05; Douglas County Sheriff's Dept., \$3,422.27; Thomas A Jones, \$2,120.00; Kandiyohi County Sheriff's Dept., \$9,977.95; MAAC Inc., \$2,650.00; MN Dept. of Employment & Economic Development, \$29,056.24; Pflipsen Trucking LLC, \$17,196.66; Safe Avenues, \$3,250.00; Swift County RDA, \$111,224.97; Waste Management of Northern Minnesota, \$9,954.16; Wilcox Law Office, \$4,275.92; Wold Architects & Engineers, \$12,454.58; Ziegler Inc., \$2,936.62. Motion carried unanimously.

Board and Committee Reports were given as follows: Commissioner P. Peterson reported on Policy Committee, 6W Corrections and Prairie Five Rides. Commissioner Hendrickx reported on 6W Corrections, Demolition Program, AMC District meeting, Highway 59-119 Project, Health Insurance Committee, METS and Private Industry Council. Commissioner Fox reported on Chippewa River Watershed, AMC District 6 meeting, Wellness Committee and Restorative Practice. Commissioner E. Pederson reported on District meeting, SWCD meeting and RDA loan Committee. Chairman Rudningen reported on Wellness Committee, Insurance Committee, Radio Board and Planning and Zoning meeting.

Administrator Kelsey Baker reported on the Policy Committee, Enhancing the Organization, Personnel Report, Benson/KMS Blandin Grant and Swift County Blandin Broadband Community Grant.

Chairman Rudningen asked at 5:25 for Citizens comments: There were none.

Benson School District #777 Superintendent, Dennis Laumeier presented the 2018 School Bond Referendum. A lengthy discussion was held.

Riverview Dairy Solid Waste requested approval of a Resolution giving preliminary approval to the Issuance of Municipal Industrial Development Revenue.

**06-19-18-04** Commissioner Hendrickx moved and Commissioner P. Peterson seconded to approve the Resolution giving preliminary approval to the Issuance of Municipal Industrial Development Revenue, which includes setting a public hearing date for Tuesday, July 17, 2018 at 9:30 AM.

Human Services Director Catie Lee requested approval of PrimeWest Health for County Based purchasing. A lengthy discussion was held.

**06-19-18-05** Commissioner Hendrickx moved and Commissioner Fox seconded to approve PrimeWest Health County Based Purchasing, with the 2 year pay option. Motion carried unanimously.

Parks, Drainage & Wetlands Supervisor Mike Johnson requested approval to set a public hearing date for County Ditch #52 petition to outlet un-assessed lands.

**06-19-18-06** Commissioner Fox moved and Commissioner P. Peterson seconded to approve a public hearing for Ditch #52 on Tuesday, July 24, 2018 at 9:00 AM. Motion carried unanimously.

RDA Director Jennifer Frost requested approval of a RLF Loan for ACE Ag Inc.

**06-19-18-07** Commissioner P. Peterson moved and Commissioner Hendrickx seconded to approve a RLF Loan Application for ACE Ag Inc. Motion carried unanimously.

Administrator Kelsey Baker requested approval on behalf of Scott Collins of a Conditional Use Permit #5491 requested by the City of DeGraff, 207 Atlantic Ave., DeGraff, MN 56271 (Purchaser) & Walter A. Mumm, 8055 50<sup>th</sup> Ave. NW, Montevideo, MN 56265(Owner) for construction a municipal sewage treatment system (wastewater stabilization pond facility). A brief discussion was held.

**06-19-18-08** Commissioner Fox moved and Commissioner Hendrickx seconded to approve a Conditional Use Permit #5491 requested by the City of DeGraff, 207 Atlantic Ave., DeGraff, MN 56271 (Purchaser) & Walter A. Mumm, 8055 50<sup>th</sup> Ave. NW, Montevideo, MN 56265(Owner) for construction a municipal sewage treatment system (wastewater stabilization pond facility). Motion carried unanimously.

Human Services Director Catie Lee updated the board on Prairie Five, Policy meeting and Out of Home Placements.

Fiscal Supervisor Gary Jensen updated the board on the May Financial Summary for Human Services.

Administrator Kelsey Bake further asked the board for a motion to approve an employee to take medical leave without pay.

**06-19-18-09** Commissioner E. Pederson moved and Commissioner Hendrickx seconded to approve an employee taking medical leave without pay. Motion carried unanimously.

Administrator Kelsey Baker further updated the board on Computer Professionals Unlimited Inc. A lengthy discussion was held.

**06-19-18-10** Commissioner P. Peterson moved and Commissioner Hendrickx seconded to adjourn. Motion carried unanimously.

Meeting adjourned at 6:35 PM.

WITNESSED:

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Eric Rudningen, Chair

ATTEST:

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Kelsey Baker, County Administrator

**SWIFT COUNTY BOARD OF APPEAL AND EQUALIZATION MINUTES**  
**June 19, 2018**

County Auditor Kim Saterbak called the meeting to order at 6:43 PM with Commissioner Hendrickx, Commissioner P. Peterson, Commissioner E. Pederson and Commissioner Fox present, as well as County Administrator Kelsey Baker, County Assessor Wayne Knutson, and Terri Orr. Member absent Commissioner Rudningen. At the start of the meeting no members of the public were in the audience.

The County Board of Equalization members took an oath to fairly and impartially review market values and equalize as fairly as possible all values in the County.

Commissioner Hendrickx nominated E. Pederson as Chair.

**06-19-18-01** Commissioner P. Peterson moved nominations cease and move the nomination of E. Pederson as Chair. Commissioner Hendrickx seconded the motion. Motion carried unanimously.

Commissioner E. Pederson took over the meeting as Chair.

Assessor Knutson presented the 2018 assessed values.

A discussion was held regarding the local boards and new requirement for appointments.

**06-19-18-03** Commissioner Hendrickx moved and Commissioner E. Pederson seconded to accept the final property values. Motion carried unanimously.

**06-19-18-04** Commissioner P. Peterson moved and Commissioner Hendrickx seconded to adjourn the Board of Appeal and Equalization Meeting. Motion carried unanimously and the meeting adjourned at 7:07 PM.

WITNESSED:

\_\_\_\_\_  
Ed Pederson, Chair

ATTEST:

\_\_\_\_\_  
Kimberly Saterbak, County Auditor



# Request for Board Action

BOARD MEETING DATE:  
June 3, 2018

## Commissioner's Report

### Department Information

ORIGINATING DEPARTMENT: Policy Committee	REQUESTOR: Catie Lee	REQUESTOR PHONE: 320-843-6301
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### Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider approving 6 Policies		
AGENDA YOU ARE REQUESTING TIME ON: Consent Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? No	
IS THIS MANDATED? Most are	EXPLANATION OF MANDATE: County Board action needs to be taken to review and approve Policies	
BACKGROUND/JUSTIFICATION:		
<b>County Policies</b>		
Number and Name of Policy	Policy Purpose	Summary of Changes
220-Swift County Social Media Policy	To provide guidance to staff about what is and isn't acceptable to put or comment on social media	Brand new policy
219 – Tobacco Policy	To provide rules on smoking in and around Swift County Buildings	There were no recommended changes to the content of the Policy.
501 – Procurement Policy	Provides procedures to purchase services and goods for the county	There were no recommended changes to the content of the Policy.
504 – Overage Payments	Outlines what Swift County will reimburse if an overpayment is received	There were no recommended changes to the content of the Policy.
701 – Security Guidelines	Guidelines on how employees should handle information resources	Old tech language was changed. ie: Floppy disk to media
702 – Commissioners' Computer/E-mail	Outlines technical expectations that will be provided to the commissioners	There were no recommended changes to the content of the Policy.
703 – Computer Viruses	Provides guidance regarding computer viruses	There were no recommended changes to the content of the Policy.

All changes are either tracked and identified in the document or are in **colored** font. The Policies are located in the drop box for your review.

PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?

[Click here to enter text.](#)

### Budget Information

FUNDING: NA

### Review/Recommendation

COUNTY ATTORNEY: <b>Danielle Olson</b>	COUNTY ADMINISTRATOR: <b>Kelsey Baker</b>
RECOMMENDATIONS: <a href="#">Click here to enter text.</a>	RECOMMENDATIONS:
COMMENTS: n/a	COMMENTS: <a href="#">Click here to enter text.</a>

June 28 2018

# Request for Board Action

BOARD MEETING DATE:  
July 3 2018

## Commissioner's Report

### Department Information

ORIGINATING DEPARTMENT: Auditor	REQUESTOR: Marlene Molden/Kim Saterbak	REQUESTOR PHONE: 320-843-4069
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### Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Approval of tobacco licenses for the following businesses: Clontarf Liquor Store dba Prairie Pub.	
AGENDA YOU ARE REQUESTING TIME ON: Consent Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? No
IS THIS MANDATED? Yes	EXPLANATION OF MANDATE: Tobacco licenses are required to be reviewed by the Board of Commissioners
BACKGROUND/JUSTIFICATION: Yearly renewal of tobacco license.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?	The license has been reviewed by the County Attorney and County Sherriff. Both have signed off on the license. No violations of their license have been reported.

### Budget Information

FUNDING: n/a
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### Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Approval	RECOMMENDATIONS:
COMMENTS: None	COMMENTS: None

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE COUNTY OF \_\_\_\_\_ ON BEHALF OF ITS COUNTY ATTORNEY AND SHERIFF

WHEREAS, the County of \_\_\_\_\_ on behalf of its County Attorney and Sheriff desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State's criminal justice data communications network for which the County is eligible. The Joint Powers Agreements further provide the County with the ability to add, modify and delete connectivity, systems and tools over the five year life of the agreement and obligates the County to pay the costs for the network connection.

NOW, THEREFORE, BE IT RESOLVED by the County Board of \_\_\_\_\_, Minnesota as follows:

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the County of \_\_\_\_\_ on behalf of its County Attorney and Sheriff are hereby approved.

2. That the [title]\_\_\_\_\_, [name]\_\_\_\_\_, or his or her successor, is designated the Authorized Representative for the Sheriff. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the County's connection to the systems and tools offered by the State.

To assist the Authorized Representative with the administration of the agreement, [name or position name] is appointed as the Authorized Representative's designee.

3. That the [title]\_\_\_\_\_, [name]\_\_\_\_\_, or his or her successor, is designated the Authorized Representative for the County Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the County's connection to the systems and tools offered by the State.

To assist the Authorized Representative with the administration of the agreement, [name or position name] is appointed as the Authorized Representative's designee.

4. That \_\_\_\_\_, the Chair of the County of \_\_\_\_\_, and \_\_\_\_\_, the County Board Clerk, are authorized to sign the State of Minnesota Joint Powers Agreements.

Passed and Adopted by the Council on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
By: [name of board chair]  
Its Board Chair

ATTEST:

\_\_\_\_\_  
By: [name]  
Its County Board Clerk

## CJDN Fee Structure

Effective July 2018

### Statements:

**All** agencies receiving data from the BCA or through the BCA will be charged at least \$50 per-month. (Regardless if they are connected directly to us or not)

**Current paying** agencies will continue to pay their current monthly fee regardless of the method of connection. (Exception: See VPN agency charges below)

**New** agencies will pay \$50 per-month.

**Agencies** that are currently not paying any fees will be charged \$50 per-month.

**VPN** agencies will pay \$50 per-month plus \$15.00 per-fob p/m (for CJA & Private Law Firm ) or \$35 per-fob p/m (for NCJA).

\$100 one-time charge plus \$100.00 fob replacement charge (fobs have a 4-5 year renewal cycle).

\* BCA Master Agreement with Agency will have language added to reflect Agency/PLF arrangement. Agreement will also allow PLF to support multiple agencies with single connection.

### Connection types:

- 1. VPN – Site-Site Connection directly to BCA**
- 2. Direct (CJDN connection)**  
(Additional MN-IT billing is direct to agency upon BCA approving MN-IT CJDN WAN Agreement Agency shall have an appropriate agreement (Management Control Agreement with MN.IT))
- 3. Shared – Agency shares connection with another BCA connected agency**  
(Agencies are advised to put in place an interagency Agreement (sometimes referred to as downstream agency or agency sitting behind another agency agreement).)
- 4. Extended – Extending a network connection from a BCA connected agency to an existing agency.**  
(Agencies are advised to put in place an interagency Agreement (sometimes referred to as downstream agency or agency sitting behind another agency agreement).)

# COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the County of Swift on behalf of its Prosecuting Attorney (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

## Recitals

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 127955, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Subscriber Amendment. Any party may terminate this Subscriber Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Subscriber Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is [www.courts.state.mn.us](http://www.courts.state.mn.us)) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

- i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.
- ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.
- iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.
- iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. “**Rules of Public Access**” means 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, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records* or *Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is [www.courts.state.mn.us](http://www.courts.state.mn.us).

g. “**Court**” shall mean the State of Minnesota, State Court Administrator's Office.

h. “**Subscriber**” shall mean the Agency.

i. “**Subscriber Records**” means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

**3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES.** Following execution of this Subscriber Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of an Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

**4. SCOPE OF ACCESS TO COURT RECORDS LIMITED.** Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or other

materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

**5. GUARANTEES OF CONFIDENTIALITY.** Subscriber agrees:

**a.** To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

**b.** To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

**c.** To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

**d.** That, without limiting section 1 of this Subscriber Amendment, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

**e.** That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

**6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS.** Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

**7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS.** During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

**a. Court Data Services Programs.** Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

**b. Court Data Services Databases.** Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

**c. Marks.** Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks "MNCIS" and "Odyssey."

**d. Restrictions on Duplication, Disclosure, and Use.** Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its licensors and Subscriber will advise its bona fide personnel who are permitted access to

any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

**e. Proprietary Notices.** Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

**f. Title; Return.** The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

**8. INJUNCTIVE RELIEF.** Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

**9. LIABILITY.** Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be

governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

**10. AVAILABILITY.** Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

**11.** [reserved]

**12. ADDITIONAL USER OBLIGATIONS.** The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

**a. Judicial Policy Statement.** Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

**b. Access and Use; Log.** Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

**c. Personnel.** Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

**d. Minnesota Data Practices Act Applicability.** If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn.

Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the BCA systems and tools under this Subscriber Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

**13. FEES; INVOICES.** Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Subscriber Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Subscriber Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Subscriber Amendment for the current fiscal year, if applicable.

**14. MODIFICATION OF FEES.** Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Subscriber Amendment as provided in section 1 hereof.

**15. WARRANTY DISCLAIMERS.**

**a. WARRANTY EXCLUSIONS.** EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

**b. ACCURACY AND COMPLETENESS OF INFORMATION.** WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

**16. RELATIONSHIP OF THE PARTIES.** Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA

shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

**17. NOTICE.** Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

**18. NON-WAIVER.** The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

**19. FORCE MAJEURE.** Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

**20. SEVERABILITY.** Every provision of this Subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

**21. ASSIGNMENT AND BINDING EFFECT.** Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

**22. GOVERNING LAW.** This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

**23. VENUE AND JURISDICTION.** Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

**24. INTEGRATION.** This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

**1. SUBSCRIBER (AGENCY)**

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**2. DEPARTMENT OF PUBLIC SAFETY,  
BUREAU OF CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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

**4. COURTS**

Authority granted to Bureau of Criminal Apprehension

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with authorized authority)

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

**STATE OF MINNESOTA  
JOINT POWERS AGREEMENT  
AUTHORIZED AGENCY**

This agreement is between the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension ("BCA") and the County of Swift on behalf of its Prosecuting Attorney ("Agency").

**Recitals**

Under Minn. Stat. § 471.59, the BCA and the Agency are empowered to engage in those agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46 the BCA must provide a criminal justice data communications network to benefit authorized agencies in Minnesota. The Agency is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized agencies in performing their duties. Agency wants to access these data in support of its official duties.

The purpose of this Agreement is to create a method by which the Agency has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

**Agreement**

**1 Term of Agreement**

- 1.1 Effective date:** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 Expiration date:** This Agreement expires five years from the date it is effective.

**2 Agreement between the Parties**

**2.1 General access.** BCA agrees to provide Agency with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Agency is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

**2.2 Methods of access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

- A. Direct access** occurs when individual users at the Agency use Agency's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.
- B. Indirect access** occurs when individual users at the Agency go to another Agency to obtain data and information from BCA's systems and tools. This method of access generally results in the Agency with indirect access obtaining the needed data and information in a physical format like a paper report.
- C. Computer-to-computer system interface** occurs when Agency's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Agency employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Agency will select a method of access and can change the methodology following the process in Clause 2.10.

**2.3 Federal systems access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Agency with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.

**2.4 Agency policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Agency has created its own policies to ensure that Agency's employees and contractors comply with all applicable requirements. Agency ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://bcanextest.x.state.mn.us/launchpad/>.

**2.5 Agency resources.** To assist Agency in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://dps.mn.gov/divisions/bca/bca-divisions/mnjis/Documents/BCA-Policy-on-Appropriate-Use-of-Systems-and-Data.pdf>.

**2.6 Access granted.**

A. Agency is granted permission to use all current and future BCA systems and tools for which Agency is eligible. Eligibility is dependent on Agency (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Agency's written request for use of a specific system or tool.

B. To facilitate changes in systems and tools, Agency grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Agency needs to meet its criminal justice obligations and for which Agency is eligible.

**2.7 Future access.** On written request by Agency, BCA also may provide Agency with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Agency agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.

**2.8 Limitations on access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Agency agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.

**2.9 Supersedes prior agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Agency regarding access to and use of systems and tools provided by BCA.

**2.10 Requirement to update information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving a city as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, [BCA.ServiceDesk@state.mn.us](mailto:BCA.ServiceDesk@state.mn.us).

**2.11 Transaction record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Agency conducted a particular transaction.

If Agency uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Agency's method of access is a computer to computer interface as described in Clause 2.2C, the Agency must

keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If an Agency accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Agency must have a transaction record of all subsequent access to the data that are kept by the Agency. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

**2.12 Court information access.** Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by Agency under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Agency's access to and/or submission of the Court Records delivered through the BCA systems and tools.

**2.13 Vendor personnel screening.** The BCA will conduct all vendor personnel screening on behalf of Agency as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Agency.

### **3 Payment**

The Agency currently accesses the criminal justice data communications network described in Minn. Stat. §299C.46. No charges will be assessed to the agency as a condition of this agreement.

If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

### **4 Authorized Representatives**

The BCA's Authorized Representative is Dana Gotz, Department of Public Safety, Bureau of Criminal Apprehension, Minnesota Justice Information Services, 1430 Maryland Avenue, St. Paul, MN 55106, 651-793-1007, or her successor.

The Agency's Authorized Representative is Danielle Olson, County Attorney, 211 11<sup>th</sup> Street N, Benson, MN 56215, (320) 843-2134, or his/her successor.

### **5 Assignment, Amendments, Waiver, and Contract Complete**

**5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.

**5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.

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

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

### **6 Liability**

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat.

Ch. 466, governs the Agency's liability.

## 7 Audits

**7.1** Under Minn. Stat. § 16C.05, subd. 5, the Agency's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement. Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

**7.2** Under applicable state and federal law, the Agency's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.

**7.3** If Agency accesses federal databases, the Agency's records are subject to examination by the FBI and Agency will cooperate with FBI examiners and make any requested data available for review and audit.

**7.4** To facilitate the audits required by state and federal law, Agency is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

## 8 Government Data Practices

**8.1 BCA and Agency.** The Agency and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Agency under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Agency or the BCA.

**8.2 Court Records.** If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Agency comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

## 9 Investigation of alleged violations; sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Agency.

**9.1 Investigation.** Agency and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Agency and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Agency of the suspected violation, subject to any restrictions in applicable law. When Agency becomes aware that a violation has occurred, Agency will inform BCA subject to any restrictions in applicable law.

### 9.2 Sanctions Involving Only BCA Systems and Tools.

The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber Amendment. None of these provisions alter the Agency's internal discipline processes, including those governed by a collective bargaining agreement.

**9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Agency

must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Agency must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Agency and BCA's determination controls.

**9.2.2** If BCA determines that Agency has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Agency's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.

### **9.3 Sanctions Involving Only Court Data Services**

The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Agency. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Agency. The agreement further provides that only the Court has the authority to reinstate access and use.

**9.3.1** Agency understands that if it has signed the Court Data Services Subscriber Amendment and if Agency's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Agency also understands that reinstatement is only at the direction of the Court.

**9.3.2** Agency further agrees that if Agency believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

## **10 Venue**

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

## **11 Termination**

**11.1 Termination.** The BCA or the Agency may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

**11.2 Termination for Insufficient Funding.** Either party 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 notice to the other party's authorized representative. The Agency is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will 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. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

## **12 Continuing obligations**

The following clauses survive the expiration or cancellation of this Agreement: 6. Liability; 7. Audits; 8. Government Data Practices; 9. Investigation of alleged violations; sanctions; and 10. Venue.

*The parties indicate their agreement and authority to execute this Agreement by signing below.*

**1. AGENCY**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF  
CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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

# COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the County of Swift on behalf of its Sheriff’s Office (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

## Recitals

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 127957, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Subscriber Amendment. Any party may terminate this Subscriber Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Subscriber Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is [www.courts.state.mn.us](http://www.courts.state.mn.us)) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

- i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.
- ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.
- iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.
- iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. “**Rules of Public Access**” means 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, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records* or *Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is [www.courts.state.mn.us](http://www.courts.state.mn.us).

g. “**Court**” shall mean the State of Minnesota, State Court Administrator's Office.

h. “**Subscriber**” shall mean the Agency.

i. “**Subscriber Records**” means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

**3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES.** Following execution of this Subscriber Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of an Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

**4. SCOPE OF ACCESS TO COURT RECORDS LIMITED.** Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or other

materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

**5. GUARANTEES OF CONFIDENTIALITY.** Subscriber agrees:

**a.** To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

**b.** To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

**c.** To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

**d.** That, without limiting section 1 of this Subscriber Amendment, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

**e.** That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

**6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS.**

Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

**7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS.** During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

**a. Court Data Services Programs.** Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

**b. Court Data Services Databases.** Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

**c. Marks.** Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks “MNCIS” and “Odyssey.”

**d. Restrictions on Duplication, Disclosure, and Use.** Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its licensors and Subscriber will advise its bona fide personnel who are permitted access to

any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

**e. Proprietary Notices.** Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

**f. Title; Return.** The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

**8. INJUNCTIVE RELIEF.** Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

**9. LIABILITY.** Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be

governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

**10. AVAILABILITY.** Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

**11.** [reserved]

**12. ADDITIONAL USER OBLIGATIONS.** The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

**a. Judicial Policy Statement.** Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

**b. Access and Use; Log.** Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

**c. Personnel.** Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

**d. Minnesota Data Practices Act Applicability.** If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn.

Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the BCA systems and tools under this Subscriber Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

**13. FEES; INVOICES.** Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Subscriber Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Subscriber Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Subscriber Amendment for the current fiscal year, if applicable.

**14. MODIFICATION OF FEES.** Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Subscriber Amendment as provided in section 1 hereof.

**15. WARRANTY DISCLAIMERS.**

**a. WARRANTY EXCLUSIONS.** EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

**b. ACCURACY AND COMPLETENESS OF INFORMATION.** WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

**16. RELATIONSHIP OF THE PARTIES.** Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA

shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

**17. NOTICE.** Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

**18. NON-WAIVER.** The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

**19. FORCE MAJEURE.** Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

**20. SEVERABILITY.** Every provision of this Subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

**21. ASSIGNMENT AND BINDING EFFECT.** Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

**22. GOVERNING LAW.** This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

**23. VENUE AND JURISDICTION.** Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

**24. INTEGRATION.** This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

**1. SUBSCRIBER (AGENCY)**

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**2. DEPARTMENT OF PUBLIC SAFETY,  
BUREAU OF CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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

**4. COURTS**

Authority granted to Bureau of Criminal Apprehension

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with authorized authority)

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

**STATE OF MINNESOTA  
JOINT POWERS AGREEMENT  
AUTHORIZED AGENCY**

This agreement is between the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension ("BCA") and the County of Swift on behalf of its Sheriff's Office ("Agency").

**Recitals**

Under Minn. Stat. § 471.59, the BCA and the Agency are empowered to engage in those agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46 the BCA must provide a criminal justice data communications network to benefit authorized agencies in Minnesota. The Agency is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized agencies in performing their duties. Agency wants to access these data in support of its official duties.

The purpose of this Agreement is to create a method by which the Agency has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

**Agreement**

**1 Term of Agreement**

- 1.1 Effective date:** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 Expiration date:** This Agreement expires five years from the date it is effective.

**2 Agreement between the Parties**

**2.1 General access.** BCA agrees to provide Agency with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Agency is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

**2.2 Methods of access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

- A. Direct access** occurs when individual users at the Agency use Agency's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.
- B. Indirect access** occurs when individual users at the Agency go to another Agency to obtain data and information from BCA's systems and tools. This method of access generally results in the Agency with indirect access obtaining the needed data and information in a physical format like a paper report.
- C. Computer-to-computer system interface** occurs when Agency's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Agency employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Agency will select a method of access and can change the methodology following the process in Clause 2.10.

**2.3 Federal systems access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Agency with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.

**2.4 Agency policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Agency has created its own policies to ensure that Agency's employees and contractors comply with all applicable requirements. Agency ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://bcanextest.x.state.mn.us/launchpad/>.

**2.5 Agency resources.** To assist Agency in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://dps.mn.gov/divisions/bca/bca-divisions/mnjis/Documents/BCA-Policy-on-Appropriate-Use-of-Systems-and-Data.pdf>.

**2.6 Access granted.**

A. Agency is granted permission to use all current and future BCA systems and tools for which Agency is eligible. Eligibility is dependent on Agency (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Agency's written request for use of a specific system or tool.

B. To facilitate changes in systems and tools, Agency grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Agency needs to meet its criminal justice obligations and for which Agency is eligible.

**2.7 Future access.** On written request by Agency, BCA also may provide Agency with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Agency agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.

**2.8 Limitations on access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Agency agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.

**2.9 Supersedes prior agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Agency regarding access to and use of systems and tools provided by BCA.

**2.10 Requirement to update information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving a city as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, [BCA.ServiceDesk@state.mn.us](mailto:BCA.ServiceDesk@state.mn.us).

**2.11 Transaction record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Agency conducted a particular transaction.

If Agency uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Agency's method of access is a computer to computer interface as described in Clause 2.2C, the Agency must

keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If an Agency accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Agency must have a transaction record of all subsequent access to the data that are kept by the Agency. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

**2.12 Court information access.** Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by Agency under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Agency's access to and/or submission of the Court Records delivered through the BCA systems and tools.

**2.13 Vendor personnel screening.** The BCA will conduct all vendor personnel screening on behalf of Agency as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Agency.

### **3 Payment**

The Agency agrees to pay BCA for access to the criminal justice data communications network described in Minn. Stat. § 299C.46 as specified in this Agreement. The bills are sent quarterly for the amount of Two Hundred Seventy Dollars (\$270.00) or a total annual cost of One Thousand Eighty Dollars (\$1,080.00).

Agency will identify its contact person for billing purposes, and will provide updated information to BCA's Authorized Representative within ten business days when this information changes.

If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

### **4 Authorized Representatives**

The BCA's Authorized Representative is Dana Gotz, Department of Public Safety, Bureau of Criminal Apprehension, Minnesota Justice Information Services, 1430 Maryland Avenue, St. Paul, MN 55106, 651-793-1007, or her successor.

The Agency's Authorized Representative is Sheriff John Holtz, 301 14<sup>th</sup> Street N, Suite 4, Benson, MN 56215, (320) 843-3133, or his/her successor.

### **5 Assignment, Amendments, Waiver, and Contract Complete**

**5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.

**5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.

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

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

## 6 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466, governs the Agency's liability.

## 7 Audits

**7.1** Under Minn. Stat. § 16C.05, subd. 5, the Agency's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement. Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

**7.2** Under applicable state and federal law, the Agency's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.

**7.3** If Agency accesses federal databases, the Agency's records are subject to examination by the FBI and Agency will cooperate with FBI examiners and make any requested data available for review and audit.

**7.4** To facilitate the audits required by state and federal law, Agency is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

## 8 Government Data Practices

**8.1 BCA and Agency.** The Agency and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Agency under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Agency or the BCA.

**8.2 Court Records.** If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Agency comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

## 9 Investigation of alleged violations; sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Agency.

**9.1 Investigation.** Agency and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Agency and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Agency of the suspected violation, subject to any restrictions in applicable law. When Agency becomes aware that a violation has occurred, Agency will inform BCA subject to any restrictions in applicable law.

### 9.2 Sanctions Involving Only BCA Systems and Tools.

The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber

Amendment. None of these provisions alter the Agency's internal discipline processes, including those governed by a collective bargaining agreement.

**9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Agency must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Agency must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Agency and BCA's determination controls.

**9.2.2** If BCA determines that Agency has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Agency's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.

### **9.3 Sanctions Involving Only Court Data Services**

The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Agency. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Agency. The agreement further provides that only the Court has the authority to reinstate access and use.

**9.3.1** Agency understands that if it has signed the Court Data Services Subscriber Amendment and if Agency's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Agency also understands that reinstatement is only at the direction of the Court.

**9.3.2** Agency further agrees that if Agency believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

## **10 Venue**

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

## **11 Termination**

**11.1 Termination.** The BCA or the Agency may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

**11.2 Termination for Insufficient Funding.** Either party 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 notice to the other party's authorized representative. The Agency is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will 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. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

## **12 Continuing obligations**

The following clauses survive the expiration or cancellation of this Agreement: 6. Liability; 7. Audits; 8. Government Data Practices; 9. Investigation of alleged violations; sanctions; and 10. Venue.

*The parties indicate their agreement and authority to execute this Agreement by signing below.*

**1. AGENCY**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF  
CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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

**STATE OF MINNESOTA  
JOINT POWERS AGREEMENT  
AUTHORIZED AGENCY**

This agreement is between the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension ("BCA") and Swift County Housing and Redevelopment Authority ("Agency").

**Recitals**

Under Minn. Stat. § 471.59, the BCA and the Agency are empowered to engage in those agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46 the BCA must provide a criminal justice data communications network to benefit authorized agencies in Minnesota. The Agency is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized agencies in performing their duties. Agency wants to access these data in support of its official duties.

The purpose of this Agreement is to create a method by which the Agency has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

**Agreement**

**1 Term of Agreement**

- 1.1 Effective date:** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 Expiration date:** This Agreement expires five years from the date it is effective.

**2 Agreement between the Parties**

**2.1 General access.** BCA agrees to provide Agency with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Agency is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

**2.2 Methods of access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

- A. Direct access** occurs when individual users at the Agency use Agency's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.
- B. Indirect access** occurs when individual users at the Agency go to another Agency to obtain data and information from BCA's systems and tools. This method of access generally results in the Agency with indirect access obtaining the needed data and information in a physical format like a paper report.
- C. Computer-to-computer system interface** occurs when Agency's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Agency employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Agency will select a method of access and can change the methodology following the process in Clause 2.10.

**2.3 Federal systems access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Agency with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.

**2.4 Agency policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Agency has created its own policies to ensure that Agency's employees and contractors comply with all applicable requirements. Agency ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://bcanextest.x.state.mn.us/launchpad/>.

**2.5 Agency resources.** To assist Agency in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://dps.mn.gov/divisions/bca/bca-divisions/mnjis/Documents/BCA-Policy-on-Appropriate-Use-of-Systems-and-Data.pdf>.

**2.6 Access granted.**

A. Agency is granted permission to use all current and future BCA systems and tools for which Agency is eligible. Eligibility is dependent on Agency (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Agency's written request for use of a specific system or tool.

B. To facilitate changes in systems and tools, Agency grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Agency needs to meet its criminal justice obligations and for which Agency is eligible.

**2.7 Future access.** On written request by Agency, BCA also may provide Agency with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Agency agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.

**2.8 Limitations on access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Agency agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.

**2.9 Supersedes prior agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Agency regarding access to and use of systems and tools provided by BCA.

**2.10 Requirement to update information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving a city as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, [BCA.ServiceDesk@state.mn.us](mailto:BCA.ServiceDesk@state.mn.us).

**2.11 Transaction record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Agency conducted a particular transaction.

If Agency uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Agency's method of access is a computer to computer interface as described in Clause 2.2C, the Agency must

keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If an Agency accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Agency must have a transaction record of all subsequent access to the data that are kept by the Agency. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

**2.12 Court information access.** Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by Agency under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Agency's access to and/or submission of the Court Records delivered through the BCA systems and tools.

**2.13 Vendor personnel screening.** The BCA will conduct all vendor personnel screening on behalf of Agency as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Agency.

### 3 Payment

The Agency currently accesses the criminal justice data communications network described in Minn. Stat. §299C.46. No charges will be assessed to the agency as a condition of this agreement.

If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

### 4 Authorized Representatives

The BCA's Authorized Representative is Dana Gotz, Department of Public Safety, Bureau of Criminal Apprehension, Minnesota Justice Information Services, 1430 Maryland Avenue, St. Paul, MN 55106, 651-793-1007, or her successor.

The Agency's Authorized Representative is Victoria Syverson, Director, Courthouse basement, 301 14<sup>th</sup> Street N, PO Box 207, Benson, MN 56215, (320) 843-4676, or his/her successor.

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

**5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.

**5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.

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

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

### 6 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat.

Ch. 466, governs the Agency's liability.

## 7 Audits

**7.1** Under Minn. Stat. § 16C.05, subd. 5, the Agency's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement. Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

**7.2** Under applicable state and federal law, the Agency's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.

**7.3** If Agency accesses federal databases, the Agency's records are subject to examination by the FBI and Agency will cooperate with FBI examiners and make any requested data available for review and audit.

**7.4** To facilitate the audits required by state and federal law, Agency is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

## 8 Government Data Practices

**8.1 BCA and Agency.** The Agency and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Agency under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Agency or the BCA.

**8.2 Court Records.** If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Agency comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

## 9 Investigation of alleged violations; sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Agency.

**9.1 Investigation.** Agency and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Agency and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Agency of the suspected violation, subject to any restrictions in applicable law. When Agency becomes aware that a violation has occurred, Agency will inform BCA subject to any restrictions in applicable law.

### 9.2 Sanctions Involving Only BCA Systems and Tools.

The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber Amendment. None of these provisions alter the Agency's internal discipline processes, including those governed by a collective bargaining agreement.

**9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Agency

must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Agency must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Agency and BCA's determination controls.

**9.2.2** If BCA determines that Agency has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Agency's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.

### **9.3 Sanctions Involving Only Court Data Services**

The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Agency. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Agency. The agreement further provides that only the Court has the authority to reinstate access and use.

**9.3.1** Agency understands that if it has signed the Court Data Services Subscriber Amendment and if Agency's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Agency also understands that reinstatement is only at the direction of the Court.

**9.3.2** Agency further agrees that if Agency believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

## **10 Venue**

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

## **11 Termination**

**11.1 Termination.** The BCA or the Agency may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

**11.2 Termination for Insufficient Funding.** Either party 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 notice to the other party's authorized representative. The Agency is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will 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. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

## **12 Continuing obligations**

The following clauses survive the expiration or cancellation of this Agreement: 6. Liability; 7. Audits; 8. Government Data Practices; 9. Investigation of alleged violations; sanctions; and 10. Venue.

*The parties indicate their agreement and authority to execute this Agreement by signing below.*

**1. AGENCY**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF  
CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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



# Request for Board Action

BOARD MEETING DATE:  
July 3, 2018

## Commissioner's Report

### Department Information

ORIGINATING DEPARTMENT: Highway	REQUESTOR: Andrew Sander	REQUESTOR PHONE: (320) 842-5251
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### Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST Board Approval to award S.A.P. 076-598-012 and S.A.P. 076-599-041 bridge replacement project on CR 85 and 100 Street SW pending State approval and allow the chairman to sign the contract.	
AGENDA YOU ARE REQUESTING TIME ON: July 3, 2018	ARE YOU SEEKING APPROVAL OF A CONTRACT? yes
IS THIS MANDATED? no	EXPLANATION OF MANDATE:
BACKGROUND/JUSTIFICATION: Swift County Highway Department is two structures with the following projects S.A.P. 076-598-012 and 076-599-041 in the summer of 2018 and is requesting board approval.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?	none

### Budget Information

FUNDING:	State, Federal & County
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### Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS:	RECOMMENDATIONS:
COMMENTS: Click here to enter text.	COMMENTS: Click here to enter text.

# Swift County Highway Department

**BID TABULATIONS: S.A.P. 076-598-012, S.A.P. 076-599-041**

June 27,2018

Replacing: Timber structures CR 85 section 32 Kildare Township and 100th St SW section 21 West Bank Township

<b>CONTRACTOR</b>	<b>BID</b>
Riley Bros. Const. Inc.	\$491,436.00
Landwehr Const. Inc	\$499,999.99
Midwest Contracting	\$549,350.00
Central Specialties	\$637,714.60

**ENGINEER'S ESTIMATE**

**\$549,201.00**



# Request for Board Action

BOARD MEETING DATE:  
July 3, 2018

## Commissioner's Report

### Department Information

ORIGINATING DEPARTMENT: Highway	REQUESTOR: Andrew Sander	REQUESTOR PHONE: (320) 842-5251
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### Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST Board Approval to award S.A.P. 076-606-046, S.A.P. 076-618-008 and S.A.P. 076-635-028 bituminous milling, reclaiming and paving project on CSAH 6, CSAH 18 and CSAH 35 pending State approval and allow the chairman to sign the contract.	
AGENDA YOU ARE REQUESTING TIME ON: July 3, 2018	ARE YOU SEEKING APPROVAL OF A CONTRACT? yes
IS THIS MANDATED? no	EXPLANATION OF MANDATE:
BACKGROUND/JUSTIFICATION: Swift County Highway Department is constructing or mill and paving on the following projects S.A.P. 076-606-046, 076-618-008 and 076-635-028 in the summer of 2018 and is requesting board approval.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?	none

### Budget Information

FUNDING:	State, Federal & County
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### Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR:
RECOMMENDATIONS: XXX	RECOMMENDATIONS: XXX
COMMENTS: XXX	COMMENTS: XXX

### Board Action

Motions ___ J Fox   ___ G Hendrickx   ___ E Pederson   ___ P Peterson   ___ E Rudningen	
Action	Vote

# Swift County Highway Department

**BID TABULATIONS: S.A.P. 076-606-046, S.A.P. 076-618-008 and 076-635-028 (CSAH 6, 18 & 35)**

June 27,2018

**Milling, Reclaiming and Paving on CSAH 6, 18, 35)**

<b>CONTRACTOR</b>	<b>BID</b>
Central Specialties	\$1,488,522.80
Duininck	\$1,588,841.57
Knife River Corp.	\$1,607,271.92

**ENGINEER'S ESTIMATE**

**\$1,471,205.00**



# Request for Board Action

BOARD MEETING DATE:  
July 3, 2018

## Commissioner's Report

### Department Information

ORIGINATING DEPARTMENT: Auditor	REQUESTOR: Kim Saterbak	REQUESTOR PHONE: 320-843-6108
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### Agenda Item Details

BRIEF DESCRIPTION OF YOUR REQUEST: Consider signing the joint powers agreement (JPA) for Counties Providing Technology	
AGENDA YOU ARE REQUESTING TIME ON: Agenda	ARE YOU SEEKING APPROVAL OF A CONTRACT? yes
IS THIS MANDATED? Yes	EXPLANATION OF MANDATE: Resolution by the Board of Commissions is required for entering into a contract
BACKGROUND/JUSTIFICATION: Several counties are forming a joint power agreement to purchase CPUI, Inc. CPUI, Inc. is the company that currently manages the software programs used by our departments for property tax, payroll, human resources, and highway costing. If Swift County agrees to join as a member of the joint power agreement, we would continue to have representation on the board and influence decisions that are made by that board. If we choose not to participate in the JPA, we have contracted for services with CPUI, Inc. through 2020, which will remain in place.	
PREVIOUS ACTION ON REQUEST / OTHER PARTIES INVOLVED?	

### Budget Information

FUNDING: n/a
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### Review/Recommendation

COUNTY ATTORNEY: Danielle Olson	COUNTY ADMINISTRATOR: Kelsey Baker
RECOMMENDATIONS: Was submitted for review prior to the meeting	RECOMMENDATIONS:
COMMENTS: n/a	COMMENTS: None

**COUNTIES PROVIDING TECHNOLOGY  
JOINT POWERS AGREEMENT**

**June 2018**

## **COUNTIES PROVIDING TECHNOLOGY JOINT POWERS AGREEMENT**

THIS AGREEMENT is made by and between Governmental Units as defined in subdivision 1, Section 471.59, hereafter collectively referred to as “Members” and individually as “Member,” which are signatories to this “Agreement.”

### **ARTICLE I**

#### **ENABLING AUTHORITY AND PURPOSE**

- 1.1 Minnesota Statutes section 471.59 provides that two or more governmental units may by agreement jointly exercise any power common to the contracting parties.
- 1.2 The general purpose of this Agreement is to provide for a Joint Powers Organization (JPO) through which the parties may jointly and cooperatively provide for the development, operation and maintenance of technology applications and systems, and the support and management of such systems for the use and benefit of the parties and other governmental units.
- 1.3 Counties Providing Technology is established as a governmental unit under the above-referenced authority and requirements of Minnesota law to jointly exercise the powers common to the signatories for the general purposes described herein.

### **ARTICLE II**

#### **DEFINITION OF TERMS**

For the purposes of this Agreement, the terms defined in this article shall have the meanings given them.

- 2.1 “Counties Providing Technology” or “CPT” means the Joint Powers Organization created pursuant to this Agreement, hereafter referred to as CPT.
- 2.2 “Organization” or “JPO” refers to CPT, unless specifically qualified to refer to another organization.
- 2.3 “Member” means a governmental unit that is a signatory to this Agreement and has not given notice to withdraw pursuant to Article VIII.

- 2.4. “Associate Participant” means a governmental unit that is not a signatory to this agreement and does not have voting privileges, which receives services from CPT pursuant to a separate agreement.
- 2.8. “Director” means the primary representative designated by the governing body of the Member of CPT. Alternate means the secondary representative designated by the governing body of the Member of CPT to represent and act in the absence of the Director.
- 2.9. “Board” means the governing body of CPT, consisting of one Director from each Member.
- 2.10. “Governmental Unit” is defined by Subdivision 1, Section 471.59 of Minnesota Statutes, as amended.
- 2.11. Day or days shall refer to calendar days. Fiscal Year shall be the calendar year.

### **ARTICLE III**

#### **JOINT POWERS BOARD**

- 3.1 The Joint Powers Board (“Board”) shall take such action as it deems necessary and proper to accomplish the purposes of CPT and any other action necessary and incidental to the implementation of said purpose or action. The Board is hereby authorized to exercise such authority and powers common to the Members as are necessary and proper to fulfill its purposes and perform its duties. Such authority shall include the specific powers enumerated in this Agreement and/or in the Bylaws.
- 3.2 Members, by executing this Agreement, recognize the Board as the governing authority of CPT.
- 3.3 The Board shall be made up of one Director (or alternate) appointed by the governing board of each Member Governmental Unit. The Director shall be a board member of the governing body of the Member. Any Director or Alternate shall be subject to removal by the appointing governing board at any time, with or without cause. A vacancy of a Director or Alternate shall be filled by the governing body of the Member who appointed the Director or Alternate.
- 3.4 Directors and Alternates shall serve without compensation from CPT, but this shall not prevent a Member from providing compensation for its Director or Alternates, if such compensation is authorized by such Governmental Unit and by law.

## ARTICLE IV

### **POWERS AND DUTIES OF THE BOARD**

- 4.1 The Board shall take such action as it deems necessary and appropriate to accomplish the general purposes of CPT including the establishment of data processing and information systems, engaging in the development and implementation of necessary programs, purchasing any necessary supplies, equipment and machinery, employing any necessary personnel and operating and maintaining any systems for the handling of data processing and management information for the Members and for others. Any of the foregoing activities, or any other activities authorized by this Agreement, may be accomplished by entering into contracts, leases or other agreements with others, whenever the Board shall deem this to be advisable.
- 4.2 The Board shall have the power to make contracts as it deems necessary to make effective any power to be exercised by CPT pursuant to this Agreement; to provide for the prosecution and defense or other participation in actions or proceedings at law in which it may have an interest; to employ such persons as it deems necessary to accomplish its duties and powers on a full-time, part-time or consulting basis; to conduct such research and investigation as it deems necessary on any matter related to or affecting the general purposes of CPT; to acquire, hold and dispose of property both real and personal as the Board deems necessary; and to contract for space, materials, supplies and personnel either with a Member or with a number of Members or elsewhere.
- 4.3 The Board may establish and collect fees for its services to Members and to others.
- 4.4 The Board may accept gifts, apply for and use grants or loans of money or other property from the state, or any other governmental units or organizations and may enter into agreements required in connection therewith and may hold, use and dispose of such monies or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.
- 4.5 The Board shall cause a regular, periodic independent audit of the books to be made and shall make a regular, periodic financial accounting and report in writing to the Members. Its books and records shall be available for and open to examination by its Members at all reasonable times.
- 4.6 The Board shall establish the annual budget for CPT as provided in this Agreement.

- 4.7 The Board shall adopt and follow such bylaws as may be appropriate and consistent with this agreement and law. Bylaws shall be adopted by and amended by a two-thirds (2/3) majority of the Board.
- 4.8 The Board shall create an Executive Committee, and a Software Administration Committee as standing committees, and may delegate authority to other appointed committees, between Board meetings as the Board shall see fit.
  - 4.8.1 The Executive Committee shall be comprised of the Chair, Vice Chair, and CPT Executive Director.
  - 4.8.2 The Software Administration Committee shall be comprised of the County Auditors (or equivalent) of two Members and the County Administrators/Coordinators of two Members, who shall be selected by the Board at its annual meeting.
- 4.9 The Board may accumulate and maintain reasonable working capital reserves and may invest and reinvest funds not currently needed for the purposes of CPT. Such investment and reinvestment shall be in accordance with and subject to the laws applicable to the investment of county funds.
- 4.10 The Board shall make its data processing and management information systems available to its Members, according to such fee schedules as the Board shall periodically set.
- 4.11 The Board may pay reasonable and necessary expenses of officers, Directors and Alternates incurred in connection with their duties as such.
- 4.12 The Board shall provide for its employees to be members of the Public Employees Retirement Association and may make any required employer contributions to that organization and any other employer contributions which counties are authorized or required by law to make.
- 4.13 The Board shall purchase public liability insurance and such other bonds or insurance as it may deem necessary.
- 4.14 The Board may develop additional rules concerning the financing of CPT and the disbursement of funds may be adopted by the Board provided they are not inconsistent with the provisions contained in this Agreement or state statutes.
- 4.15 The Board may exercise any power necessary and incidental to the implementation of its powers and duties.

## ARTICLE V

### **FINANCING AND DISBURSEMENT OF FUNDS**

- 5.1 Board shall have exclusive control over all monies credited to any CPT fund in accordance with state and federal laws and rules. Expenditures shall be made in accordance with the approved budget, contractual obligations of the JPO and the approval of the Board or the Executive Committee with respect to those matters under the jurisdiction of the Executive Committee.
- 5.2 The Board shall adopt an annual operating budget.
- 5.3 The adopted budget, which shall describe projected income and expenditures, shall be filed with the County Auditors of the Members and applicable Minnesota state agencies.
- 5.4 CPT will ensure strict accountability for all funds of the organization and will report on all receipts and disbursements made to, or on behalf of CPT.
- 5.5 The initial operating capital contributed by each Member shall be repaid from any excess in the fund balance at the end of the fiscal year in proportion to the initial contribution. The capital contribution of Members shall be equalized. Signatories to this Agreement that contribute higher initial capital contributions shall be repaid the difference between their contribution and the equalized contribution of other Members before CPT begins repayment of the equalized capital contribution.

## ARTICLE VI

### **PROCEDURE TO JOIN**

- 6.1 If a Governing Unit wishes to join CPT as a Member, it may make written application to the Board. The application shall consist of the governing body of a Governmental Unit adopting a resolution containing language to indicate full acceptance (without deviation) of the contents of this Joint Powers Agreement.

The Governmental Unit shall formally submit the adopted resolution under cover to the Chair of the CPT Joint Board. Upon a two-thirds (2/3) approval of the Board Members representing the Members who have not given a notice to withdraw, the request will be approved, subject to the provisions of Section 7.3. The Board shall notify all Members in writing of its decision.

- 6.2 All Members agree to abide by the terms and conditions of this Joint Powers Agreement, the Bylaws and the Policies or Procedures adopted by the Board.

- 6.3 At the time of application, CPT shall notify the applying Governmental Unit of the amount of initial operating capital the Governmental Unit will be required to contribute upon becoming a Member. Approval of membership by the Board shall be contingent upon agreement of the Governmental Unit to contribute its proportionate share of operating capital.

## **ARTICLE VII**

### **ASSOCIATE (NON-VOTING) PARTICIPANT**

- 7.1 Eligibility for Associate Participant: Governmental Units may wish to use or participate in the services and activities of CPT without becoming Members.
- 7.2 A Governmental Unit desiring to become an Associate Participant may do so by making application to CPT or by having a valid agreement for services. The Board shall establish charges to be paid by Associate Participants based upon the services agreed. The Board may charge Associate Participants higher fees than Members for services.
- 7.3 Associate Participants may apply for membership pursuant to Article VI.

## **ARTICLE VIII**

### **RIGHT TO WITHDRAW**

- 8.1 A Member may withdraw from this Agreement by adopting a resolution which specifically contains language of its "Notice to Withdraw." The approved Member governing body's resolution shall be submitted under cover letter and sent via certified mail to each party to this Agreement and to Board Chair of CPT. The Notice must be received by July 1 to be effective December 31 providing at least eighteen (18) months for the withdrawal process.
- 8.2 Withdrawal may occur at an earlier time by mutual agreement of a two-thirds (2/3) majority vote of the non-withdrawing Members of the Board and the withdrawing Governmental Unit.
- 8.3 If any party exercises its right to withdraw, this Agreement shall remain in full force and effect between the remaining parties.
- 8.4 A Member withdrawing from CPT at a time when such withdrawal does not result in dissolution of CPT (for a two-year period), shall forfeit its claim to any assets of CPT.

8.5 A Member withdrawing from Membership at a time when such withdrawal results in dissolution of CPT within a two-year period, shall retain both its obligations and its claims to any assets of CPT, except that it shall not have access to any Software developed or maintained during the period between its withdrawal and the dissolution of CPT.

## ARTICLE IX

### DISSOLUTION

9.1. CPT shall be dissolved:

- a. Whenever a sufficient number of Members withdraws from CPT to reduce the total number of Members to less than two (2); or
- b. Two-thirds (2/3) of the governing boards of the Members who have not given a notice to withdraw vote to dissolve.

A Member which has given notice of withdrawal shall not be counted under this subsection.

9.2. Upon dissolution, the remaining assets of CPT, after payment of all obligations, shall be distributed among the then existing Members and those former Members who had been members within the previous two-year period in proportion to their contributions as determined by the Board (subject to Section 8.5).

9.3. In the event of dissolution, the following provisions shall govern the distribution of computer Software and licenses owned by CPT:

All such Software and licenses shall be an asset of CPT. As such it may be sold. Members agree to abide by any existing licensing provisions, including, but not limited to, any licensing provisions identified in a separate existing or future agreement, or any conditions placed on such sale by the Board.

9.4. Winding-up and Distribution. Upon termination of this Agreement, CPT shall be dissolved. The Board shall continue to exist after dissolution as long as is necessary to wind-up and conclude the affairs subject to this Agreement.

## ARTICLE X

### **DATA PRACTICES AND PROCEDURES**

- 10.1 All Members agree to comply with state and federal statutes and rules regulating data, particularly the collection, creation, receipt, maintenance, or dissemination of private data, nonpublic and confidential data, as defined and regulated by the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and or any other applicable state or federal laws.

## ARTICLE XI

### **AMENDMENTS**

- 11.1 Amendments to this Agreement may be proposed either by the Board or by governing boards of Members. Some changes may be mandated by law. Notice of proposed changes shall be served on the governing boards of Members by certified mail not later than 60 days prior to the proposed change unless an earlier date is mandated by a change in law.
- 11.2 Amendments to this Agreement must be approved by a two-thirds (2/3) vote of governing boards of Members who have not given a notice to withdraw, and shall be approved by the governing boards of Members at least 30 days prior to the effective date.
- 11.3 Adopted amendments shall remain in full force and effect, subject to the terms stated herein, until such time as this Agreement is terminated.

## ARTICLE XII

### **INDEMNIFICATION AND HOLD HARMLESS**

- 12.1 CPT shall be considered a separate and distinct public entity to which the Members have transferred all responsibility and control for actions taken pursuant to this Agreement. CPT shall comply with all laws and rules that govern a public entity in the State of Minnesota and shall be entitled to the protections of Minnesota Statutes Chapter 466.
- 12.2 CPT shall fully defend, indemnify and hold harmless the signatory Members and Board Members against all claims, losses, liability, suits, judgments, costs and expenses by reason of the action or inaction of the employees or agents of CPT. This agreement to indemnify and hold harmless does not constitute a waiver by

any Party/Member of limitations on liability under Minnesota Statutes section 466.04.

- 12.3 To the full extent permitted by law, actions by the Parties/Members pursuant to this Agreement are intended to be and shall be construed as a “cooperative activity” and it is the intent of the Members that they shall be deemed a “single governmental unit” for the purposes of liability, all as set forth in Minnesota Statutes section 471.59, subdivision 1a(a); provided further that for purposes of that statute, each Member party to this Agreement expressly declines responsibility for the acts or omissions of the other party.
- 12.4 The Parties/Members to this Agreement are not liable for the acts or omissions of the other Parties/Members to this Agreement except to the extent to which they have agreed in writing to be responsible for acts or omissions of the other Parties/Members.

### **ARTICLE XIII**

#### **GOVERNING LAW, FINALITY, SEVERABILITY**

- 13.1 Governing Law. This Agreement shall be governed by and construed according to the laws of the State of Minnesota. Any legal proceedings taken arising out of the terms and conditions of the Agreement shall be venued in the district courts of the State of Minnesota.
- 13.2 Severability. The provisions of this Agreement are severable. If any section, paragraph, subdivision, sentence, clause or phrase of the Agreement is held to be contrary to law, rule, or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.
- 13.3 Final Agreement. It is understood and agreed that the entire agreement of the parties is contained here and that this contract supersedes all oral or written agreements and negotiations between the parties relating to this subject matter. All items referred to in this Agreement are incorporated or attached and deemed to be part of the Agreement. This Agreement may be executed in multiple parts.

### **ARTICLE XV**

#### **DURATION**

This Agreement shall continue in effect indefinitely, unless terminated in accordance with its terms, or superseded by a subsequent joint powers agreement specifically related to the purposes of this Agreement.

IN WITNESS WHEREOF, the undersigned Governmental Unit has caused this agreement to be signed and delivered on its behalf. In the process of:

\_\_\_\_\_  
*Swift County*

By \_\_\_\_\_

Title: Board Chair

Dated 07-03-2018

\_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

Title: Clerk of Board

Dated 07-03-2018

\_\_\_\_\_

\_\_\_\_\_

Approved as to form and execution:

\_\_\_\_\_  
*(Attorney)*

\_\_\_\_\_  
*Dated*

Accepted and approved by:

\_\_\_\_\_  
*(CPT Chair)*

\_\_\_\_\_  
*Dated*

RRM: #295521