

## **AGREEMENT FOR MUNICIPAL ELECTIONS**

This Agreement for Municipal Elections is made and entered by and between Peter Antonacci, the Supervisor of Elections of Broward County (“Supervisor”), and the City of Pompano Beach, a municipality in the State of Florida (“City”) (the Supervisor and the City are referred to collectively as the “Parties”).

### RECITALS

A. Peter Antonacci is the Supervisor of Elections of Broward County, Florida, pursuant to the provisions of Article VIII, Section 1(d) of the Florida Constitution, and serves in that capacity as a Constitutional Officer and under the State of Florida Election Code.

B. The Supervisor has specific duties, functions, and responsibilities described in the State of Florida Election Code contained in Chapters 97 through 106 of the Florida Statutes, as amended from time to time.

C. Among the duties and functions of the Supervisor is the engagement, training, and assigning poll workers, including Voting Systems Technicians (VST) in connection with federal, state, county, and certain municipal and district elections described in Chapter 102, Florida Statutes, including the appointment of election boards consisting of an inspector and a clerk who shall perform their duties and functions as provided for in the State of Florida Election Code.

D. Chapter 75-350, Laws of Florida (Special Acts 1975), as amended, provides for a uniform filing and election date for all municipal elections conducted in Broward County, Florida, in addition to setting forth the requirements for qualification to office, the conducting of elections and other matters affecting all municipalities within Broward County, Florida.

E. In municipal elections, the individual municipality is ultimately responsible for the procurement and payment of poll workers for its municipal elections. For convenience, consistency, and the proper and efficient conduct of municipal elections, the City requests that the Supervisor select, train, and work directly with the poll workers for the applicable municipal elections; however, the City acknowledges that all payment due municipal election day poll workers remains the ultimate responsibility of the City.

F. The Supervisor possesses the requisite legal authority, expertise, personnel, and equipment to assist the City in selecting and training poll workers and conducting the City’s municipal election(s). The City desires to delegate to the Supervisor the power, duty, and authority to select and train poll workers and conduct the City’s municipal election(s) pursuant to the terms, conditions, and provisions of this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

## **ARTICLE 1**

### **Recitals**

1.1 The above Recitals are true and correct and are incorporated herein as if set forth in full hereunder.

## **ARTICLE 2**

### **Duties of Supervisor**

2.1 The Supervisor shall conduct the municipal election to be held by the City of Pompano Beach on the 17th day of March, 2020, in accordance with the State of Florida Election Code, as amended from time to time. The Parties may identify additional municipal election(s) that shall be deemed included within the scope of this Section 2.1 upon written approval of both the Supervisor and the City Manager/Mayor.

2.2 At the request of the City, the Supervisor shall select, assign, and train an appropriate number of poll workers for the aforesaid election.

2.3 Provided the City complies with its obligations under Section 3.2, the Supervisor will utilize the polling places selected by the City and identify the applicable location for the electors in the Supervisor's records as well as in any notices the Supervisor is otherwise legally required to provide to electors for the applicable municipal elections.

2.4 The Supervisor's decisions regarding the number of poll workers and their assignments to precincts and polling places shall be determined by the Supervisor in his or her sole and absolute discretion.

2.5 The Supervisor or his or her staff, on behalf of the City, shall properly and timely pay poll workers as required by law, with such payment issued directly by the Supervisor to the poll workers. All amounts paid to poll workers and any and all additional expenses associated with the Supervisor's payroll function will be included in the invoice that will be sent by the Supervisor to the City after the election.

2.6 The Supervisor shall, on behalf of the City, assign and place poll deputies for each of the precincts or polling places for the applicable election. Poll deputies should be considered poll workers for purposes of payment only. The Supervisor will also be responsible for directly paying for each of these deputies. Any and all fees associated with this function will be included in the invoice that will be sent to the City after the election.

2.7 The Supervisor, on behalf of the City, shall set the rate of pay for poll workers and poll deputies and any other costs and expenses associated with conducting the municipal election(s) described in Section 2.1. The Supervisor will advise the City of the current pay scale and provide an estimate of costs and expenses.

**ARTICLE 3**  
**City's Obligations**

3.1 The City hereby engages the Supervisor to perform the services described in Article 2. The City will reimburse the Supervisor for all costs and expenses associated with the Supervisor conducting the municipal election(s) described in Section 2.1, including all amounts paid or due to poll workers and poll deputies. The City shall timely pay all invoices submitted by the Supervisor of Elections within thirty (30) days from the date of invoice. Payment shall be made at the address of the Supervisor stated in Section 5.1.

3.2 No later than sixty (60) days prior to the date of the applicable municipal election, the City shall advise the Supervisor in writing of the proposed polling places to be utilized for the election, which locations shall be subject to review and approval by the Supervisor, and provide copies of the rental agreements or other documentation for the utilization of the polling places consistent with the provisions of this section. The City is responsible for: (a) ensuring the location(s) fully comply with the Supervisor's then-existing security standards for polling places; (b) entering into written use or other rental agreements for the sites utilizing a form provided by the Supervisor or otherwise approved in advance by the Supervisor; and (c) ensuring the locations comply with all applicable laws, including, but not limited to, the American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

3.3 The City shall promptly provide any and all documents, information, and cooperation reasonably requested by the Supervisor in performance of his or her duties under this Agreement.

**ARTICLE 4**  
**Indemnification**

4.1 To the extent permitted by law, the City shall indemnify, hold harmless, and defend the Supervisor and all of the Supervisor's past, present, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of the City, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). In the event any Claim is brought against an Indemnified Party, the City shall, upon written notice from the Supervisor: (a) defend each Indemnified Party against each such Claim by counsel approved by the Supervisor and County Attorney, with such approval not being unreasonably withheld, or (b) at the Supervisor's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered

necessary by the Supervisor, any sums due the City under this Agreement may be retained by the Supervisor until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by the Supervisor. City's indemnification of Supervisor pursuant to this Agreement shall not constitute a waiver of City's rights and the limitations of liability contained in Section 768.28, Florida Statutes.

## **ARTICLE 5 Notices and Public Records**

5.1 In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

For the Supervisor:

Peter Antonacci, Supervisor of Elections  
115 South Andrews Avenue, Room 102  
Fort Lauderdale, FL 33301  
Telephone No.: (954) 357-7061  
E-mail: pantonacci@browardsoe.org

*With a copy to:*

Broward County Attorney's Office  
Attn: Andrew Meyers  
Governmental Center, Room 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Email addresses: ameyers@broward.org and rharrod@broward.org

For the City:

Asceleta Hammond  
Office of the City Clerk  
100 West Atlantic Boulevard, Suite 253  
Pompano Beach, FL 33060  
Email address: Asceleta.Hammond@copbfl.com

*With a copy to:*

Mark Berman, City Attorney's Office  
100 West Atlantic Boulevard, Suite 467  
Pompano Beach, FL 33060  
E-mail: Mark.Berman@copbfl.com

When requested by either party, the other shall furnish receipts, paid bills or documents to reasonably verify facts or representations made or pursuant to the requirements of this Agreement.

5.2 Public Records. Both Parties are subject to subject to Chapter 119, Florida Statutes. To the extent that Section 119.0701 applies to the relationship between the Parties created by this Agreement, that section is deemed incorporated into this Agreement as if fully stated herein. If either of the Parties has questions regarding the application of Chapter 119 or receives a request for public records relating to this Agreement, the party with a question or who received the records request shall provide written notice of the question or request to the other in the manner provided in Section 5.1 of this Agreement.

## **ARTICLE 6**

### **Disputes**

6.1 Should a dispute arise regarding the interpretation of this Agreement or the performance of either party, the Parties shall complete dispute resolution proceedings pursuant to Chapter 164, Florida Statutes, prior to commencing a legal action. In the event a court action is commenced, each party shall bear its own attorneys' fees and costs at both the trial and appellate levels. Any litigation arising from or relating to this Agreement shall be prosecuted exclusively in the courts of Broward County, Florida.

## **ARTICLE 7**

### **Term; Termination**

7.1 The term of this Agreement shall be from the date of full execution (the "Effective Date") for a period of one (1) year, unless earlier terminated pursuant to this provision of this Agreement. The Agreement may be extended for up to four (4) additional one-year extension terms upon the written approval of both the Supervisor and the City Manager/Mayor prior to the termination of the then-current term.

7.2 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within thirty (30) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience upon written notice by either party, effective on the termination date stated in the written notice provided such termination date shall be not less than thirty (30) days after the date of such written notice. In the event this Agreement is terminated, Supervisor shall be paid for any services performed through the effective date of termination.

**ARTICLE 8**  
**Miscellaneous**

8.1 Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by the City or the Supervisor, nor shall anything included herein be construed as consent by the City or the Supervisor to be sued by third parties in any matter arising out of this Agreement. The City and the Supervisor are municipal corporations or constitutional officers of political subdivisions as defined in Section 768.28, Florida Statutes, and each shall be responsible for the negligent or wrongful acts or omissions of its own employees pursuant to Section 768.28, Florida Statutes.

8.2 This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. No modification, amendment, or alteration in the terms and conditions of this Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

8.3 Neither the Supervisor nor the City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

8.4 This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either party. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

8.5 The terms, provisions, covenants, and conditions of this Agreement shall be construed solely in accordance with the laws of the State of Florida.

8.6 This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of each of the Parties hereto.

(The remainder of this page is intentionally blank.)

**AGREEMENT FOR MUNICIPAL ELECTIONS**

**SUPERVISOR OF ELECTIONS**

WITNESS:

Supervisor of Elections of Broward County,  
Florida

\_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
Peter Antonacci, Supervisor of Elections

\_\_\_\_\_  
(Print Name of Witness)

\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name of Witness)

NAK  
2020 Pompano Municipal Elections Agreement with SOE – Special.docx  
10/23/2019  
#473329v1

**AGREEMENT FOR MUNICIPAL ELECTIONS**

ATTEST:

CITY OF POMPANO BEACH

\_\_\_\_\_  
CITY CLERK

By: \_\_\_\_\_  
City Manager/City Mayor

\_\_\_\_\_  
Print Name

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

I HEREBY CERTIFY that I have approved  
this Agreement as to form and legal  
sufficiency subject to execution by the parties:

\_\_\_\_\_  
City Attorney