

RESOLUTION NO. 18-02-20

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING AN AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTIONS SERVICES WITH THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2009, the Palm Beach County League of Cities, through its Ad Hoc Committee on Municipal Elections, negotiated an agreement with the Palm Beach County Supervisor of Elections to detail and allocate the duties, responsibilities and fees associated with conducting municipal elections commencing with the 2010 municipal election; and

WHEREAS, the Supervisor of Elections has presented the Town with an Agreement for Vote Processing Equipment Use and Election Services for the March 17, 2020, and the Town Commission has determined that the approval of the Agreement is in the best interests of the residents and citizens of the Town of Lake Park.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA as follows:

Section 1. The foregoing recitals are hereby ratified and incorporated herein.

Section 2. The Town Commission hereby approves the Agreement for Vote Processing Equipment Use and Elections Services by and between the Palm Beach County Supervisor of Elections and the Town of Lake Park, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, and authorizes and directs the Mayor and Town Clerk to execute the Agreement on behalf of the Town.

Section 3. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Vice-Mayor Glas-Castro, who moved its adoption. The motion was seconded by Commissioner Flaherty and upon being put to a roll call vote, the vote was as follows:


	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	___
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	___
COMMISSIONER ERIN FLAHERTY	<u>/</u>	___
COMMISSIONER JOHN LINDEN	<u>/</u>	___
COMMISSIONER ROGER MICHAUD	<u>/</u>	___

The Town Commission thereupon declared the foregoing Resolution No. 18-02-20 duly passed and adopted this 19 day of February, 2020.


TOWN OF LAKE PARK, FLORIDA

BY: 
MICHAEL O'ROURKE
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK

Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY





Wendy Sartory Link

Palm Beach County Supervisor of Elections

**2020 MUNICIPAL ELECTIONS
VOTE PROCESSING EQUIPMENT USE
AND ELECTIONS SERVICES AGREEMENT**

This Vote Processing Equipment Use and Elections Services Agreement (hereinafter referred to as the "Agreement") is hereby entered into by and between the **Palm Beach County Supervisor of Elections Office** (hereinafter referred to as "SOE") and the City of Lake Park, Florida (hereinafter referred to as "MUNICIPALITY").

WITNESSETH:

WHEREAS, pursuant to Section 101.34, Florida Statutes, SOE is the legal custodian of certified vote processing equipment owned by Palm Beach County, Florida, and is hereby charged with the responsibility for custody and maintenance of said equipment; and,

WHEREAS, MUNICIPALITY desires, or is otherwise statutorily obligated, to conduct an election that requires the use of vote processing equipment to count ballots; and,

WHEREAS, all vote processing equipment requires specially trained and knowledgeable individuals to program, operate and maintain said equipment; and,

WHEREAS, the Palm Beach County Board of County Commissioners has authorized SOE to provide any necessary terms and conditions for the use of such voting equipment; and,

WHEREAS, SOE can provide the necessary personnel to program, operate and maintain said equipment; and,

WHEREAS, MUNICIPALITY hereby acknowledges full responsibility for all applicable requirements under the Florida Election Code and any provision of the City Charter or municipal ordinances which may not be addressed or included in this Agreement.

NOW THEREFORE, in consideration of the premises and of the mutual promises, terms and conditions stated herein, SOE and MUNICIPALITY agree as follows:

ARTICLE 1 – RECITALS

The above recitals are true and correct and incorporated herein.

ARTICLE 2 – AGREEMENT

SOE shall provide MUNICIPALITY such necessary vote processing equipment and election services according to the terms and conditions stated in this Agreement, for the purposes of conducting a Uniform Municipal Election in conjunction with the Presidential Preference Primary Election to be held on March 17, 2020, and a Run-Off Election, if necessary, to be held on March 31, 2020, along with the necessary vote processing equipment and election services to facilitate any early voting sites, polling locations and polling places as may be necessary and agreed upon by the parties.

ARTICLE 3 – OPERATION AND PROGRAMMING SERVICES

3.1 Municipal Services. For each election, MUNICIPALITY shall pay SOE for election operations (Exhibit “A”).

3.2 Vote-By-Mail Ballots. For each election, MUNICIPALITY shall pay SOE for each Vote-By-Mail ballot request processed plus actual postage costs, including Return Postage. MUNICIPALITY shall also pay SOE for each Vote-By-Mail ballot signature verified (Exhibit “A”).

3.3 Repairs. For any election, all maintenance, repairs or other troubleshooting services for vote processing equipment, including any processors or tablets, will be performed exclusively by SOE and such services are included in all stated charges. However, SOE does reserve the right to seek reimbursement from MUNICIPALITY for any repairs or maintenance caused by any neglect or unauthorized acts by any employee or representative of MUNICIPALITY.

ARTICLE 4 – OTHER ELECTION CHARGES

4.1 Precinct Services. For each election, MUNICIPALITY shall pay SOE for precinct preparation and poll worker training (Exhibit “A”).

4.2 Fee Schedule. For each election, MUNICIPALITY shall pay SOE for any other goods or services not specifically provided for in this Agreement but that may be described or listed in the latest Municipal Fee Schedule as distributed to MUNICIPALITY. Where MUNICIPALITY holds elections in conjunction with the Presidential Preference Primary, the Fee Schedule in Exhibit “A” controls. In all other situations, Run-Off Election and Stand-Alone Election Fee Schedules control (Exhibit “B”). MUNICIPALITY agrees that the Municipal Fee Schedule and the prices contained therein are subject to change (Exhibits “A” and “B”).

4.3 Other. For each election and upon proper notice to MUNICIPALITY, MUNICIPALITY shall pay SOE for any other election services not contemplated herein which may be needed to conduct an orderly election.

ARTICLE 5 – TERM

For each election, the terms of this Agreement begin with ballot layout and conclude when ballots have been processed, election results have been certified, all vote processing equipment has been returned to the SOE’s warehouse and an audit, if applicable, has been completed. In the event of an election contest or challenge, SOE agrees to cooperate in providing any public records which the SOE maintains or otherwise controls.

ARTICLE 6 – APPLICABLE REQUIREMENTS OF FLORIDA’S ELECTION CODE

MUNICIPALITY shall properly call the election in accordance with any Florida Statutes, applicable charter provisions or city ordinances. MUNICIPALITY agrees that the Municipal Clerk is responsible for the conduct of the city’s elections and for ensuring compliance with all applicable Florida Statutes, including the Florida Election Code and any municipal charter provisions and ordinances. Any obligations or duties not set forth in this Agreement shall be the sole responsibility of MUNICIPALITY.

ARTICLE 7 – NOTICE AND ADVERTISEMENT OF ELECTIONS

7.1 Uniform Municipal Election in Conjunction with Presidential Preference Primary Elections. SOE shall prepare and arrange for publication of all legal advertising required by state and federal statutes, municipal charter and municipal ordinances, provided that MUNICIPALITY shall make SOE aware of all publications required by MUNICIPALITY’S charter or ordinances. SOE agrees that all advertisements of elections conducted in Palm Beach County shall be published in both English and Spanish and that SOE shall be responsible for the accurate and complete translation of any such notices.

7.2 Run-Off Election. In the event of a run-off election, MUNICIPALITY shall prepare and arrange for publication of all legal advertising required by state and federal statutes, city charter and city ordinances. MUNICIPALITY agrees that all advertisements of elections conducted in Palm Beach County shall be published in both English and Spanish and that MUNICIPALITY shall be responsible for the accurate and complete translation of any such notices. SOE shall, if available, provide samples of required advertising upon request.

ARTICLE 8 – QUALIFYING OF CANDIDATES

MUNICIPALITY may provide qualifying packets to candidates. MUNICIPALITY shall accept and process all qualifying papers and fees. For audio ballots, MUNICIPALITY shall collect pronunciation guides from candidates at the time of qualifying and shall submit them to SOE at the close of qualifying.

If petitions are part of qualifying process, MUNICIPALITY shall pay SOE Ten Cents (\$.10) per name, or such other amount as determined per Florida Statutes or the Florida Administrative Code, checked to verify any signatures on qualifying petitions. SOE agrees to verify any signatures for any qualifying petitions timely submitted by MUNICIPALITY in the order such petitions are received.

In no event shall SOE issue any recommendations or make any legal determinations as to the qualifications of eligibility of any candidate for municipal office.

ARTICLE 9 – PRINTING OF BALLOTS AND BALLOT SERVICES**9.1 Uniform Municipal Election in Conjunction with Presidential Preference Primary Election.**

SOE shall place an order for sufficient quantity of Election Day ballots with a third-party printer as selected exclusively by SOE. MUNICIPALITY shall reimburse SOE for payment to printer. MUNICIPALITY shall pay SOE a per-ballot fee for each Vote-By-Mail ballot printed that is not otherwise being printed by SOE for the Presidential Preference Primary, including any additional pages required for MUNICIPALITY’S races or questions.

MUNICIPALITY shall furnish, immediately upon the conclusion of the qualifying period, all ballot information in English, Spanish and Creole, including the name of the candidates as they are to appear on the ballot, the name of the Municipality, the name of the election, the title of office or referendum title, explanation, and questions.

SOE agrees to provide the layout of the ballot(s) based on the information furnished by MUNICIPALITY and deliver ballot layout to the approved printer. Both SOE and MUNICIPALITY must sign off on ballot proof(s).

MUNICIPALITY shall be responsible for providing all necessary translations of ballots, in accordance with Section 203 of the Voting Rights Act, as well as Creole translations for the Express Vote machine.

Once test ballots are received from the printer, SOE will test all vote processing equipment in accordance with the standards established by the Florida Division of Elections and any applicable Florida Statutes. Upon receipt of the printed ballots from the printer, SOE shall receive, securely store and account for all ballots until disbursed to poll workers. SOE shall also control and limit all access to un-voted ballots while in possession of SOE.

9.2 Run-Off Election.

In the event of a run-off election, MUNICIPALITY will be responsible for providing all information stated in 9.1. MUNICIPALITY will again be responsible for providing any additional translations and must again approve ballot content and layout prior to printing.

MUNICIPALITY will be responsible for reimbursing SOE for any and all costs incurred (Exhibit "B").

ARTICLE 10 – POLL WORKERS

10.1 Selection and Training of Poll Workers. SOE will select poll workers from a group of trained poll workers. SOE will assign standby poll workers to be available on Election Day. SOE will train all poll workers in accordance with the Florida Election Code and other guidelines, procedures or regulations as followed or adopted for the conduct of elections in Palm Beach County. The clerk for MUNICIPALITY, or a representative, shall be in attendance for poll worker training sessions. Poll workers shall undergo job specific training and complete required number of training hours as specified by SOE poll worker department management. All necessary supplies and ballots will be provided by SOE and stored in precinct cabinets or transported in poll worker clerk bags.

10.2 Uniform Municipal Election in Conjunction with Presidential Preference Primary Election. SOE shall pay poll workers directly for their services.

10.3 Run-Off Election. In the event of a run-off election, MUNICIPALITY shall pay poll workers directly for their services (Exhibit "B").

ARTICLE 11 – SELECTION OF POLLING PLACES

SOE shall provide a list of Polling Place(s) intended for use as a voting location. Each location shall meet necessary Americans with Disabilities Act (ADA) requirements. In the event of a run-off election, MUNICIPALITY shall provide ADA compliant Polling Places.

ARTICLE 12 – SAMPLE BALLOTS**12.1 Uniform Municipal Election in Conjunction with Presidential Preference Primary Election.**

SOE shall determine, check and deliver sample ballot layout to third-party vendor for distribution to registered voters. MUNICIPALITY shall review the sample ballot(s) and confirm the accuracy of the election date, office, candidate name(s), polling locations, polling places and all other information contained therein. SOE shall coordinate the mailing of the sample ballots to all registered voters in the municipality prior to the election, including accurate polling place information (Exhibit “A”).

12.2 Run-Off Election.

In the event of a run-off election, SOE *shall not* create or mail sample ballots.

ARTICLE 13 – VOTE-BY-MAIL BALLOTS

MUNICIPALITY shall refer all requests for Vote-By-Mail ballots to SOE. Unless MUNICIPALITY or the Clerk for MUNICIPALITY provides written direction to the contrary, SOE agrees to accept all requests for Vote-By-Mail ballots by telephone, mail, email or in person. SOE also agrees to mail Vote-By-Mail and overseas ballots as requested by registered voters, receive and securely store any voted Vote-By-Mail ballots, verify the signatures on any returned voted Vote-By-Mail ballot certificates, and account for all Vote-By-Mail ballots.

SOE may begin processing Vote-By-Mail ballots prior to Election evening, pursuant to Florida Statute 101.68.

In the event of a run-off election for which the SOE is not a member of the canvassing board, a member of the municipality canvassing board must be present for openings, duplications and tabulations.

ARTICLE 14 – TRANSPORTATION OF ELECTIONS EQUIPMENT AND SUPPLIES**14.1 Uniform Municipal Election in Conjunction with Presidential Preference Primary Election.**

SOE will be responsible for delivery and pick up of any vote processing equipment. Election equipment will be delivered by SOE, or a third party representative of SOE on an agreed upon date, up to eight (8) days prior to the election. SOE, or a third party representative of SOE, will pick up voting equipment on an agreed upon date. SOE shall have full discretion and authority to hire and employ any outside third parties to assist with or perform delivery and pick up of voting equipment (Exhibit “A”).

14.2 Run-Off Election.

SOE will maintain responsibility for transportation of equipment and supplies as stated in 14.1. MUNICIPALITY shall reimburse SOE for any and all costs incurred for equipment delivery and pickup (Exhibit “B”).

14.3 MUNICIPALITY is not permitted to deliver any election equipment.

ARTICLE 15 – LOCATION AND STORAGE OF VOTING EQUIPMENT

All voting equipment shall be stored, maintained and located in a well-protected, secure, temperature-controlled, indoor room or facility. Once the voting equipment is delivered to a voting site, no equipment shall be relocated without the prior written approval of SOE.

ARTICLE 16 – CANVASSING OF ELECTION RESULTS**16.1 Uniform Municipal Election in Conjunction with Presidential Preference Primary Election.**

SOE shall schedule and coordinate the date on which the Canvassing Board is to assemble to canvass the results of the election. SOE shall notice and advertise, as needed, the dates of any canvassing board meetings. SOE shall convene the Canvassing Board to determine which voted Vote-By-Mail ballots are to be tabulated. SOE shall provide for collection of results from each precinct.

16.2 Run-Off Election. In the event of a run-off election, MUNICIPALITY shall schedule and coordinate the date on which MUNICIPALITY’S Canvassing Board is to assemble to canvass the results of the election. If applicable, MUNICIPALITY shall coordinate for the use of SOE facilities to conduct the Canvassing Board activities. MUNICIPALITY shall notice and advertise in both English and Spanish, as needed, the dates of any Canvassing Board meetings. MUNICIPALITY shall convene the Canvassing Board to determine which voted Vote-By-Mail ballots are to be tabulated. MUNICIPALITY shall provide for collection of results from each precinct (See Exhibit “B”).

ARTICLE 17 – AUDITS

MUNICIPALITY agrees to pay SOE for any additional costs as may be necessary, including overtime expenses, for conducting the audit.

ARTICLE 18 – POST-ELECTION RECORDS RETENTION

SOE shall process affirmation forms and sort, inventory, and pack all election materials for pickup by SOE for retention and disposition. SOE shall store or cause to be stored all necessary election records and ballots until expiration of retention period as prescribed by applicable Florida Statutes and Rules.

ARTICLE 19 – VOTER HISTORY

MUNICIPALITY and SOE will make mutually acceptable arrangements for recording voter history. The date selected for undertaking this activity may occur subsequent to the conclusion of all election dates and outside of the terms of this Agreement but both parties agree to work toward recording voter history in a timely manner.

ARTICLE 20 – OTHER NECESSARY COSTS

Any additional costs or fees that may be incurred by SOE in compliance with the Florida Election Code and as a direct result of a municipal election, that are not specified in this Agreement, shall be paid for by MUNICIPALITY at rates and fees as established by SOE. Examples of such additional costs or reimbursements include, but are not limited to, the following:

A. Recounts. Any expenditure for conducting a recount, including any overtime expenses for reprogramming voting equipment, and other expenses as may be necessary to conduct a recount; and,

B. Attorneys' Fees and Costs. Actual attorneys' fees and costs incurred by SOE for research or representation on any election-related matter shall be invoiced by SOE for reimbursement by MUNICIPALITY.

ARTICLE 21 – HOLD HARMLESS COVENANT

To the extent permitted by law and without waiving the provisions of § 768.28, F.S., MUNICIPALITY shall indemnify, hold harmless and at the SOE's option defend or pay for an attorney selected by SOE to defend, its officers, agents and employees against any and all claims, damages, injuries, losses, liabilities and expenditures of any kind, including attorneys' fees, court costs and expenses arising out of or resulting from any or all acts of omission or commission of or by the MUNICIPALITY, elected or appointed officials or employees with respect to issues pertaining to municipal elections conducted pursuant to this Agreement. MUNICIPALITY also agrees to indemnify SOE against any administrative challenges, civil suits or other legal challenges or appeals that may arise pertaining to MUNICIPALITY'S acts or omission, including all attorneys' fees and costs, from the contest of election results or the validation of any candidate qualifications.

Parties recognize that SOE is a state agency or subdivision as defined in Section 768.29, Florida Statutes and that nothing herein is intended to serve as a waiver of sovereign immunity by SOE for acts or omissions to which sovereign immunity applies. Furthermore, noting herein shall be construed as consent by SOE, constitutional office of Palm Beach County to be sued by third-parties in any matter arising out of any contract.

ARTICLE 22 – ENTIRETY AND AMENDMENTS

The Agreement embodies this entire agreement between SOE and MUNICIPALITY and supersedes all prior agreements and understandings relating to the conduct of elections. No modification, amendment or alteration to this Agreement shall be effective of binding unless submitted in writing and executed by the duly authorized representatives of both SOE and MUNICIPALITY.

ARTICLE 23 – EFFECTIVE DATE

The effective date of this Agreement shall be the latest date of execution by duly authorized representatives of SOE and MUNICIPALITY as shown on the signature page hereto.

IN WITNESS WHEREOF, we, the undersigned, do hereby state that we have the authority to bind and obligate as promised herein, SOE and MUNICIPALITY for purposes of executing this agreement on the dates set forth below.

Wendy Sartory Link
Signature

Wendy Sartory Link
Name (Printed or Typed)

Palm Beach County Supervisor of Elections
Title

3/20/2020
Date

Ashley Houlihan
Witness Signature

Ashley Houlihan
Witness Name (Printed or Typed)

[Handwritten Signature]

Signature

Michael O'Rourke
Name (Printed or Typed)

Mayor
Title

February 19, 2020
Date

Vivian Mendez
Witness Signature

Vivian Mendez - Town Clerk
Witness Name (Printed or Typed)

EXHIBIT “A”

Palm Beach County Supervisor of Elections
Schedule of Municipal Election Fees
Presidential Preference Primary and Municipal Elections
Tuesday, March 17, 2020

Standard Operation and Programming	
Polling Place Operations	
Ballot Preparation and Printing	
Vote-By-Mail (VBM) Ballot Requests and Postage	
Post-Election Reporting and Audit	
Service Center Operations and Tabulation	
Total	\$500.00
VBM Services Other Than Required for PPP	
VBM Ballot Services	\$5.04/Ballot
VBM Ballot Return Postage Fees	TBD
Unanticipated Costs	TBD

EXHIBIT “B”

Palm Beach County Supervisor of Elections
Schedule of Municipal Run-Off Election Fees
Presidential Preference Primary and Municipal Elections
Tuesday, March 31, 2020

General Municipal Run-Off Election Services	Estimated Costs
Vote-by-Mail Ballot Services	\$5.04/Ballot
Run-Off Election Day Services	\$3,550.46
Precinct Services	\$139.46
Delivery and Pickup of Equipment	TBD
Ballot Printing	TBD
Poll Worker Salaries	TBD
Translation and Recording of Audio Ballot	TBD
VBM Return Postage Fees	TBD

*Itemized invoices will be provided in the event of a run-off election.