City of Stuart Elections Agreement

This Agreement is entered into by and between the **Martin County Supervisor of Elections** (hereinafter "SOE") and the **City of Stuart** (hereinafter "Municipality").

The following is a summary of selected election activities and notations of the jurisdiction responsible for the same. All election activities may not be included below. The Municipal Clerk is responsible for the conduct of elections and for insuring compliance with Chapters 97 to 106 Florida Statutes, which constitute the Florida Election Code and apply to municipalities where expressly stated.

1. **PURPOSE:** The purpose of this Agreement is to set forth the terms and conditions under which services will be provided by the SOE and staff to the Municipality for municipal elections and to set forth the responsibilities of both parties so there is a clear understanding of the rights and responsibilities of all parties.

2. **DATE OF GENERAL MUNICIPAL ELECTION:** The date of the City of Stuart Primary Election is August 17, 2021.

   This Agreement covers the General, Run-Off, and Recount elections, as necessary, as well as the Post Election Audit for the election cycle commencing in 2021.

   Either party to the Agreement may elect to withdraw from the Agreement upon written notice providing at least 30 days' notice.

3. **ELECTION FEES FOR MUNICIPAL ELECTIONS:** Fees are incorporated within this Agreement; however, should additional expenses arise commensurate with this election cycle, payments and reimbursements shall be due and payable no later than 30 (thirty) days after the receipt of billing by SOE.

4. **RESPONSIBILITIES OF BOTH THE MUNICIPALITY AND THE SOE FOR MUNICIPAL ELECTIONS:**

   A. Notice and Advertisement – English and Spanish

   (1) Municipality

   (a) Properly call and advertise the election according to statutes, charter, ordinance or resolution, at its own expense.

   (b) The municipality's Canvassing Board will be responsible for noticing canvassing of the election, when the election is not held in conjunction with county or state elections.

   (c) The Municipal Clerk, at the time of qualifying, shall give written notice of the time and location of the public Logic & Accuracy test to each candidate qualifying with the Municipality and obtain a signed receipt that the notice has been given according to Sec. 101.5612(2), Florida Statutes.

   (d) Publish legal notices for Logic & Accuracy testing, vote by mail ballot canvassing, Post-Election Audit and news releases on book closing in a newspaper of general circulation in the county as required by Florida Statutes.

   (2) SOE

   None

B. Qualifying Candidates

(1) Municipality

(a) Provide qualifying packets to candidates.

(b) Accept and process all qualifying papers and fees.

(c) Submit Candidate Oaths (302NP) to the SOE no later than 5 p.m. on the closing day of qualifying.

(d) Respond to all candidate inquiries and questions.

(e) Respond to all legal inquiries and questions.

(f) Respond to all media inquiries.

(2) SOE

(a) Supply requested voter data to candidates.

C. Ballots

(1) Municipality

(a) Review, amend (if necessary) and approve ballot proof prepared by SOE within 24 hours after receipt of the proposed ballot from SOE.

(b) Pay ballot printer directly for the costs incurred.

(2) SOE

(a) Layout, proof, and test ballots.

(b) Deliver pdfs and ballot order to printer

(c) Receive, account for and secure ballots

D. Equipment Testing

(1) Municipality

(a) Canvassing Board to be present during the Logic and Accuracy testing in accordance with Florida Statute 101.5612.

(2) SOE

(a) Create a test deck to be used in public Logic & Accuracy test.

(b) Conduct public Logic & Accuracy test.

(c) Seal equipment immediately following public Logic & Accuracy test.

E. Early Voting - The SOE is not required to conduct early voting for Municipal Elections that are not held in conjunction with state and federal elections (Florida Statute 101.657 (e)). Early Voting shall be conducted in accordance with Florida Statutes unless waived by Ordinance. If Ordinance is not adopted

H. Poll Workers

(1) Municipality

(a) Pay poll workers directly.

(2) SOE

(a) Recruit poll workers.

(b) Schedule and notify poll workers of training classes.

(c) Train poll workers.

(d) Provide printed training material for poll workers.

I. Poll Watchers

(1) Municipality

(a) Designations for poll watchers must be submitted to the Municipal Clerk on form DS-DE 125 by noon of the second Tuesday prior to the election. If designations are submitted, the poll watchers must be approved by the Municipal Clerk on or before the Tuesday prior to the election.

(b) Must provide a name ID badge to each poll watcher.

(2) SOE

None

J. Election Day Support

(1) Municipality

(a) Reimburse SOE for overtime accrued by support personnel.

(2) SOE

(a) Provide technical support personnel, as needed.

K. Ballot Tabulation/Counting of Election Results

(1) Municipality

(a) Record and retain minutes approved by Canvassing Board.

(b) Canvassing Board compiles election results (i.e. early voting, vote by mail and Election Day).

(2) SOE

(a) Tabulate vote by mail ballots through the DS 850 high speed tabulator

L. Post Election Day

(1) Municipality

(a) Canvassing Board will certify election results.

(b) Store all necessary election records and ballots until the expiration of retention period prescribed by Florida Statutes.

(c) Contact Division of Elections for permission to destroy any unused election materials.

(2) SOE

(a) Record voting history for each voter.

M. Audit

(1) Municipality

(a) Responsible for the administration of required audit in accordance with Florida Statutes and Administrative Rules.

(b) Post public notice of Audit, including posting on City's website, as required by Florida Statutes.

(c) Record and retain minutes approved by Canvassing Board.

(d) Provide staff to assist with manual audit.

(2) SOE

None

N. Recount

(1) Municipality - Applies only when the election is not held in conjunction with county or state elections.

(a) Responsible for the administration of Recount, if required, in accordance with Florida Statutes and Administrative Rules.

(b) Notify candidates of time and date of Recount.

(c) Post public notice(s) of Recount with time and location.

(d) Record and retain minutes approved by Canvassing Board.

(e) Review with Canvassing Board and counting teams the applicable statutes and rules of the Division of Elections, specifically Rule 1S-2.031. Recount Procedures; and Rule 1S-2.027. Standards for Determining Voter Choice on a Ballot.

(f) Canvassing Board certifies results.

(2) SOE

(a) Program and test tabulating equipment as required by Sec. 101.5612, *Florida Statutes.*

O. Cancellation of Election

(1) Municipality

If a scheduled election is cancelled prior to Election Day, the municipality is responsible for any SOE costs stipulated in this Agreement through the date the SOE is notified in writing of the election cancellation.

(2) SOE

Provide Municipality with an itemized accounting of costs incurred by SOE through the date of notification of election cancellation and request for reimbursement.

5. **HOLD HARMLESS COVENANT:** To the extent allowed by law, each party shall indemnify and hold the other harmless from all claims brought during the term of this Agreement by third parties, including reasonable attorneys' fees, court costs and expenses, which may arise out of or be attributed to the negligence of the indemnitor's employees in the performance of any of the covenants, agreements, terms, or conditions to be performed or complied with under this Agreement. Neither party's liability to the other shall include punitive damages or interest for the period before judgment. Nothing contained herein shall be construed as a waiver of any immunity from, or limitation of, liability either party has under the Doctrine of Sovereign Immunity of Section 768.28 Florida Statutes. Additionally, neither party shall be liable pursuant to this indemnity to pay a claim or a judgment by any one person or any claim or judgment, or portions thereof, which when totaled with all other claims or judgments paid arising out of the same incident or occurrence, which exceeds the limits of liability as set forth in Section 768.28(5) Florida Statutes, provided that the payment of said claim(s) shall be further limited to the actual amount of insurance proceeds paid for such claim(s) covered by this indemnification. This indemnity specifically excludes any requirement for one party to indemnify the other party for the other party's negligence or to assume any liability for the other party's negligence as provided in Section 768.28 (19) Florida Statutes.

6. **CHANGE IN LAW:** In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

7. **NOTICES:** Mail notices affecting the provisions of this Agreement may be delivered in person or be sent by certified mail, or by a recognized overnight courier such as FedEx, to the individual designated below, until such time as either party furnishes the other party written instruction to contact another individual.

For the SOE:	For the Municipality:
Vicki Davis Supervisor of Elections 135 SE Martin Luther King, Jr. Blvd Stuart, Florida 34994	City of Stuart 121 SW Flagler Ave Stuart, FL 34994 Attention: Mary Kindel, City Clerk

8. **SEVERABILITY:** If any clause, section, or provision of this Agreement shall be declared to be unconstitutional, invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

9. **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.

10. **NO MODIFICATION EXCEPT IN WRITING:** This is the complete and final agreement between the parties. No representation other than those set forth herein shall be binding upon the parties. No modification of this Agreement shall be effective unless submitted in writing and signed by both parties, and their duly authorized representatives.

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.

As to the SOE:

WITNESSES:

Supervisor of Elections
Martin County

Vicki Davis, Supervisor of Elections

Date: 3/31/2021

As to the Municipality:

ATTEST:

City of Stuart

Town Clerk

Mayor

Date: _____