


Date: 11/10/2020		AGENDA ITEM		Item: 03	
<input type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution	
<input checked="" type="checkbox"/> Other					
County Goals					
<input type="checkbox"/>	Thriving Communities	<input type="checkbox"/>	Economic & Financial Vitality	<input type="checkbox"/>	Excellence In Government
				<input checked="" type="checkbox"/>	NA
Department: Leadership					
Division: Leadership					
Subject: Participation Agreements for the Supervisor of Elections					
Kevin Captain Proxy for Suzanne Konchan Director Leadership Department Approval				Legal Sebrina Slack Assistant County Attorney	
Kevin Captain Proxy for Suzanne Konchan Director Leadership <i>Kevin G. Captain</i> Division Approval				Approved as to Form and Legality 	
Council Action:					
Modification:					
Account Number(s): NA					
Total Item Budget: NA					
Staff Contact(s):			Phone:		Ext.
Lisa Lewis			386 736 5930		15324
Jeaniene Jennings			386 822 5789		15789
Summary/Highlights:					
Attached are participation agreements that implement the Memorandum of Agreement with the Supervisor of Elections reflecting her status as a county constitutional officer on January 5, 2021. The participation agreements are organized by subject area:					
<ol style="list-style-type: none"> 1. Facilities; 2. Financial and other services; 3. Fleet services; 4. Employee benefits; and 5. Self-insurance program. 					
Recommended Motion: Approval.					

**PARTICIPATION AGREEMENT FOR
FACILITIES MAINTENANCE AND SERVICES**

THIS PARTICIPATION AGREEMENT FOR FACILITIES MAINTENANCE AND SERVICES (hereinafter “Participation Agreement”) is entered into between the VOLUSIA COUNTY SUPERVISOR OF ELECTIONS, (hereinafter “Participant” or “Supervisor of Elections”), and the COUNTY OF VOLUSIA, a body corporate and politic and political subdivision of the State of Florida (hereinafter “County”).

RECITALS

WHEREAS, the County is one of twenty charter counties in Florida and governed by the Volusia County Charter enacted by special act of the Florida Legislature, and adopted by Volusia County voters, in 1970;

WHEREAS, the Charter abolished the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector and transferred those duties to County government;

WHEREAS, Amendment 10 to the Florida Constitution takes effect on January 5, 2021 (“Effective Date”), which will re-establish the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector;

WHEREAS, the Supervisor of Elections currently constitutes a county charter officer as an elected department head of the County, but will transition to an independent county constitutional officer on January 5, 2021;

WHEREAS, the County and Supervisor of Elections are committed to an orderly transition. As such, the County and Supervisor of Elections have previously entered into a Memorandum of Agreement (“MOA”) dated January 28, 2020, in support of the transition of the Supervisor of Elections from a county charter officer to a county constitutional officer;

WHEREAS, such units of local government have authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately as provided in section 163.01, Florida Statutes;

WHEREAS, the County and Supervisor of Elections desire to participate in a facilities maintenance and services agreement for the mutual benefit of each and to provide for the payment of contribution amounts necessary to achieve and preserve adequate levels of funding and reserve balances to budget and appropriate the costs incurred under such agreement; and,

WHEREAS, the County and Supervisor of Elections have successfully worked together to arrive at this Participation Agreement to begin on the Effective Date;

NOW THEREFORE, the County and Supervisor of Elections agree as follows:

I. RETENTION FOR SERVICES.

A. **SERVICES GOAL.** Volusia County Facilities Management (“Facilities Management”) currently provides facilities management services to the Supervisor of Elections as a county charter officer. Facilities Management is committed to providing the same high level of service to the Supervisor of Elections as an independent constitutional officer. Facilities Management is committed to providing safe, secure, accessible, well-maintained, economical, and environmentally friendly county facilities that meet the needs of the Supervisor of Elections and expectations of our citizens.

B. **RETENTION.** Supervisor of Elections retains Facilities Management to provide all management, personnel, materials, supplies, and equipment necessary to manage, operate, and provide services to maintain the facilities of the Supervisor of Elections as provided for in this Participation Agreement. Facilities Management agrees to provide the services set forth in this Participation Agreement.

C. **FACILITIES.** Facilities Management shall perform the agreed upon services set forth in this Participation Agreement at the two (2) facilities occupied by the Supervisor of Elections which are currently located at:

1. **Supervisor of Elections Principal Office – 1750 South Woodland Boulevard, DeLand, Florida (“SOE Headquarters”).**
2. **Voting Machine Warehouse – 2550 West Highway 44, DeLand, Florida (“SOE Warehouse”).**

(Collectively, “SOE Facilities”). In accordance with applicable state laws, SOE Facilities may be changed by the County Council.

D. **BUDGETING FOR SERVICES.** The Memorandum of Agreement assigns the responsibility for all costs associated with maintaining and equipping the SOE Facilities with the Supervisor of Elections. Facilities Management will assist the Supervisor of Elections to budget for these costs by providing timely and accurate cost estimates for the services provided under this Participation Agreement.

II. SERVICES.

A. **AUTHORITY.** Supervisor of Elections retains Facilities Management, subject to the terms and conditions set forth in this Participation Agreement, to manage and maintain the SOE Facilities. Supervisor of Elections delegates to Facilities Management the discretion and authority to determine, implement, and take actions, in the exercise of its expertise in managing and operating local government facilities, to manage said SOE Facilities.

B. **COUNTY RESPONSIBILITIES.** Facilities Management agrees to provide the Supervisor of Elections with facilities management services for the SOE Facilities.

1. **Contract Management.** For the facilities management services provided to the Supervisor of Elections via a third-party contract, Facilities Management shall manage such contracts, by including, but not limited to:

- a) Developing and defining scope of work;
- b) Assisting with bid process;
- c) Negotiating contracts for services;
- d) Facilitating the bid process;
- e) Monitoring performance and compliance by contracting parties;
- f) Processing invoice or contract payments;
- g) Negotiating and implementing any change work orders;
- h) Processing close out and warranty issues under contracts; and
- i) Consulting with Supervisor of Elections regarding scope of work, if appropriate.

2. **Lease Management for Principal Office.** Article VIII, Section 1, of the Florida Constitution provides that in every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers.

- a) For the current lease of the SOE Headquarters, Facilities Management shall manage any buildout projects, and provide maintenance repairs as negotiated in the lease, including, coordinating any major repairs with the lessor. County will negotiate any amendments or modifications to the lease.
- b) For any future leases of the SOE Headquarters, the County shall negotiate the terms of the lease, manage any buildout projects, and provide maintenance repairs as negotiated in the lease, including, coordinating any major repairs with the lessor.

3. **Lease Management for Other Premises.** For leases of any other premises occupied by Supervisor of Elections, Facilities Management will negotiate the terms of the lease, manage any buildout projects, and provide maintenance or repairs of the premises as negotiated in the lease, including coordinating any major repairs with the lessor.

- a) SOE Warehouse is located on County owned property. As to the SOE Warehouse, Facilities Management shall manage any buildout projects, and provide maintenance repairs as appropriate, including,

*Participation Agreement for Facilities Maintenance
Between the Volusia County Supervisor of Elections and County of Volusia*

performing or contracting for any major repairs.

b) For any future leases of other premises, the County shall negotiate the terms of the lease, manage any buildout projects, and provide maintenance repairs as negotiated in the lease, including, coordinating any major repairs with the lessor.

4. **Maintenance Services for Principal Office.** Facilities Management shall provide maintenance services for the SOE Headquarters as required under the terms of the Victoria Square Lease to be performed by the lessee.

a) Facilities Management shall perform including, but not limited to: repairs of the floor coverings, interior partitions, interior doors, interior side of demising walls; repairs to electric, fiber, phone, phone and data cabling; repair of equipment that is installed by or for the Supervisor of Elections for its exclusive use; replacement of interior light bulbs, ballasts, emergency lights, and exit lights; annual certification of fire extinguishers; and preventative maintenance on the generator.

b) Facilities Management shall serve as the first point of contact for any repairs that are the responsibility of the landlord under the Victoria Square Lease, including, but not limited to, repairs to structural elements; repairs to mechanical systems, including HVAC, plumbing, and fire safety; repairs to the common areas, including the sidewalks and parking lot; and repairs to the roof.

5. **Maintenance Services for Warehouse.** Facilities Management shall provide all maintenance services at the SOE Warehouse since it is County-owned property.

a) Maintenance service charges for County facilities are calculated by a formula based on the square footage cost to provide for upkeep, repair, and replacement of minor building structural components, building grounds, parking lots, HVAC systems, electrical systems, and plumbing.

b) The maintenance service charge to the Supervisor of Elections for the SOE Warehouse for Fiscal Year 2021 shall be \$1.47 per square foot to assist the Volusia County Supervisor of Elections in the development of an annual budget. Said service charge shall be invoiced to the Supervisor of Elections on a quarterly basis.

c) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes to the maintenance service charge for the SOE Warehouse for the upcoming fiscal year.

6. **Large Scale Maintenance and Capital Improvements on County Owned Premises.** Facilities Management shall provide all large scale

maintenance projects and capital improvement projects on county owned premises occupied by the Supervisor of Elections.

a) Large scale maintenance projects are non-routine projects that require limited design and are outside the capabilities of Facilities Management's staff. Any large scale maintenance project requested by the Supervisor of Elections shall be made by processing a work order in the County work order tracking system. Facilities Management shall coordinate all large scale maintenance projects with the Supervisor of Elections. When a large scale maintenance project is requested, Facilities Management shall provide the Supervisor of Elections with a quote for the cost of the project requested. Upon approval of the quote by the Supervisor of Elections, Facilities Management shall administer the project and invoice the Supervisor of Elections for the costs of said project.

b) Capital improvement projects are large scale projects typically requiring fully engineered drawings. Any capital improvement project shall be planned and coordinated between Facilities Management and the Supervisor of Elections at least three (3) months prior to the fiscal year in which the project is planned to start. Facilities Management shall assist the Supervisor of Elections with the development of the scope of work for the project; preparing a cost estimate for the project; and developing a preliminary schedule of work for the project. Once the project is awarded, Facilities Management may act as the project manager for the Supervisor of Elections to ensure all contract requirements and specifications are met for the project.

7. **Janitorial Services.** Facilities Management shall provide janitorial services to the SOE Facilities.

a) The janitorial services to be provided to the Supervisor of Elections at SOE Facilities shall be complete building cleanings three (3) times per week to be performed after office hours. A complete building cleaning is understood to include the following janitorial services: sweeping, mopping, vacuuming, dusting, wipe down of common areas, wipe down of high touch surfaces, emptying of trash cans, and cleaning and restocking restrooms. Any janitorial services in excess of normal services provided may be requested by the Supervisor of Elections by processing a work order in the County work order tracking system.

b) For Fiscal Year 2021, Facilities Management will provide janitorial services to the Supervisor of Elections through a third party contract with AJI Services at the rate of \$1,890.21 per month for SOE Headquarters and \$46.48 per month for SOE Warehouse. Said service charge shall be invoiced to the Supervisor of Elections on a quarterly basis.

- c) The County will take reasonable efforts to annually contract for and provide janitorial services; however, the County cannot guarantee that the cost of said services will not change during a fiscal year. If during a fiscal year the costs to provide janitorial services changes, the County will advise the Supervisor of Elections of the change in cost thirty (30) days prior to the next scheduled invoice.
- d) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes to the janitorial service charges.

8. **Flooring Replacement.** Facilities Management shall coordinate the replacement and repairs to damaged flooring as required in the respective leases for the SOE Facilities.

- a) Supervisor of Elections shall notify Facilities Management in writing of any requested flooring replacement due to normal wear and tear or unexpected damage through a work order in the County work order tracking system.
- b) Flooring replacement on a large scale due to lifecycle expiration will be coordinated between the Supervisor of Elections and Facilities Management.
- c) The cost of flooring replacement due to lifecycle expiration shall be a cost of the Supervisor of Elections and shall be budgeted for in advance of the fiscal year in which the flooring replacement occurs. The cost of flooring replacement for any reason, including, normal wear and tear, accident, or negligence, shall be a cost of the Supervisor of Elections and shall be invoiced to the Supervisor of Elections, along with the costs of labor.
- d) Facilities Management shall coordinate with the Supervisor of Elections for any flooring replacement work.

9. **Pest Control.** Facilities Management shall provide pest control services to the SOE Facilities.

- a) Pest control services to be provided to the Supervisor of Elections at SOE Facilities shall be routine spraying. Any pest control services in excess of routine services provided may be requested by the Supervisor of Elections by processing a work order in the County work order tracking system.
- b) For Fiscal Year 2021, Facilities Management will provide pest control services to the Supervisor of Elections through a third party contract at the rate of \$5.00 per month for SOE Headquarters and will be invoiced quarterly. Supervisor of Elections may request pest control services at SOE

Warehouse through the County work order tracking system on an as needed basis.

c) The County will take reasonable efforts to annually contract for and provide pest control services; however, the County cannot guarantee that the cost of said services will not change during a fiscal year. If during a fiscal year the costs to provide pest control services changes, the County will advise the Supervisor of Elections of the change in cost thirty (30) days prior to the next scheduled invoice.

d) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes to the pest control service charges.

10. **Window Cleaning / Pressure Washing.** Facilities Management shall provide window cleaning and pressure washing services to the SOE Facilities.

a) Facilities Management shall provide to the Supervisor of Elections at SOE Facilities window cleaning and pressure washing services. Any window cleaning or pressure washing services must be requested by the Supervisor of Elections by processing a work order in the County work order tracking system.

b) For Fiscal Year 2021, Facilities Management will provide window cleaning services to the Supervisor of Elections through a third party contract on an as needed basis.

c) When pressure washing services or window cleaning services are requested, Facilities Management shall provide the Supervisor of Elections a quote for the cost of the services requested. Upon approval of the quote by the Supervisor of Elections, Facilities Management shall provide the services and invoice the Supervisor of Elections for the costs of said services.

d) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes to the window cleaning or pressure washing service charges.

11. **Printers and Copiers.** Facilities Management shall provide printer and copier services to SOE Facilities.

a) Facilities Management contracts with a third party to provide printer and copier services to the Supervisor of Elections at SOE Facilities. Facilities Management will continue to provide the Supervisor of Elections with the copiers and printers. Facilities Management shall continue to serve as the intermediary between the vendor and the Supervisor of Elections. Supervisor of Elections shall be provided direct contact information for the vendor to conduct routine service or repair service requests.

b) For Fiscal Year 2021, Facilities Management will provide printer and copier services to the Supervisor of Elections through a third party vendor at the rate of \$0.034799 per color print/copy and \$0.018799 per black and white print copy. Facilities Management shall invoice the Supervisor of Elections quarterly for all printing / copying charges.

c) The County will take reasonable efforts to annually contract for and provide printer and copier services; however, the County cannot guarantee that the cost of said services will not change during a fiscal year. If during a fiscal year the costs to provide printer and copier services changes, the County will advise the Supervisor of Elections of the change in cost thirty (30) days prior to the next scheduled invoice.

d) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes to the printer and copier service charges.

e) Supervisor of Elections shall notify Facilities Management in writing of any changes she wishes to make to the copiers or printers provided. Facilities Management will work with its third party vendor to determine the feasibility and cost of meeting any requests. Supervisor of Elections agrees to be responsible for any additional costs associated with meeting any such request.

12. **Vending Services.** Facilities Management shall provide vending services to the Supervisor of Elections.

a) Facilities Management contracts with a third party to provide vending services to the Supervisor of Elections at SOE Facilities. Facilities Management shall continue to serve as the intermediary between the vendor and the Supervisor of Elections. Supervisor of Elections shall be provided direct contact information for the vendor to address any equipment issues.

b) For Fiscal Year 2021, Facilities Management will provide vending services to the Supervisor of Elections through a third party vendor at no charge to the Supervisor of Elections.

c) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes for vending services.

13. **Security Services.** Facilities Management shall provide security services to the SOE Facilities of the Supervisor of Elections.

a) Facilities Management contracts with a third party to provide security services to the Supervisor of Elections at SOE Facilities. Facilities Management shall continue to serve as the intermediary between the vendor and the Supervisor of Elections. Supervisor of Elections shall be provided

direct contact information for the vendor for immediate security issues.

b) For Fiscal Year 2021, Facilities Management will provide security services to the Supervisor of Elections through a third party vendor. Facilities Management shall invoice the Supervisor of Elections quarterly for security service charges.

c) The County will take reasonable efforts to annually contract for and provide security services; however, the County cannot guarantee that the cost of said services will not change during a fiscal year. If during a fiscal year the costs to provide security services changes, the County will advise the Supervisor of Elections of the change in cost thirty (30) days prior to the next scheduled invoice.

d) During the budgeting process for each fiscal year, Facilities Management shall notify the Supervisor of Elections in writing of any changes to any security service charges.

C. SUPERVISOR OF ELECTIONS RESPONSIBILITIES. Supervisor of Elections agrees to cooperate with Facilities Management in the performance of its duties under this Participation Agreement.

1. **Work Orders.** Supervisor of Elections shall notify Facilities Management of any additional work requested related to the maintenance of her Facilities by processing a work order via the County's work order tracking software. The parties agree that this is the exclusive method of requesting such additional work.

2. **Issues with Work.** If the Supervisor of Elections believes there is an issue with any of the work performed by Facilities Management under this Participation Agreement, the Supervisor of Elections shall provide Facilities Management with a written notice describing the issue in detail including the nature of the issue and the dates during which the issue occurred.

3. **Leases.** The Supervisor of Elections has been provided with a copy of any lease for SOE Facilities and agrees to comply with the obligations set forth therein as the organization utilizing the premises. Additionally, the Supervisor of Elections agrees to notify Facilities Management, as soon as possible, of any issues affecting the premises.

4. **Payments.** For any costs to be paid by the Supervisor of Elections pursuant to this Participation Agreement, the County shall invoice for the costs. Invoices shall be due upon receipt, unless the invoice provides otherwise on its face.

5. **Non- Interference.** It is expressly understood and agreed that so long as this Participation Agreement is in force and effect, the Supervisor of Elections shall not interfere with Facilities Management in the day-to-day operations of SOE Facilities and shall at no time give or communicate orders or instructions to employees or sub-contractors of the County or Facilities Management working on-site at SOE Facilities.

III. ADDITIONAL AGREEMENTS.

A. **ADDITIONAL AGREEMENTS.** After this Agreement is executed, the County or Supervisor of Elections may determine that additional agreements or changes to this agreement may be appropriate to implement the intent of the MOA or this agreement. The Supervisor of Elections and County agree to enter into additional agreements or amend this agreement, if appropriate.

B. **CONFLICTS BETWEEN AGREEMENTS.** If there are any conflicts between this Participation Agreement and the MOA, the terms of this Participation Agreement shall prevail. If additional agreements are entered into between the Supervisor of Elections and the County pursuant to the MOA, the later agreement or amendment shall prevail over any prior agreement and the MOA. As to all agreements, more specific provisions shall prevail over general provisions as to the specific subject of the provision. If an agreement is entered into between the Supervisor of Elections and the County regarding a specific subject, the more specific agreement shall apply independently of all other agreements and the MOA as to that specific subject.

IV. TERM, RENEWAL, AND TERMINATION OF AGREEMENT.

A. **TERM.** The Supervisor of Elections and County recognize that the Council prepares its budget based on a fiscal year beginning on October 1 and ending September 30. This Participation Agreement shall be for successive terms of a full fiscal year, except for the first term which shall be less than a full fiscal year beginning on the Effective Date and ending on September 30, 2021.

B. **RENEWAL.** This Participation Agreement shall renew each year on October 1, unless terminated by either party by written notice as provided herein.

C. **NOTICE OF TERMINATION.** The Supervisor of Elections shall continue to utilize and/or participate in the services and programs set forth in this Participation Agreement, unless the Supervisor of Elections provides written notice to the County Manager before 5:00 PM on April 1. The County shall continue to provide to the Supervisor of Elections the services and programs set forth in this Participation Agreement unless the County Manager provides written notice to the Supervisor of Elections before 5:00 PM on April 1.

D. **TERMINATION.** Upon receipt of a timely notice of termination, the services and programs set forth in this Participation Agreement will end on September 30 of the fiscal year in which the notice of termination was given.

V. INTERLOCAL AGREEMENT.

A. **STATUTE.** Pursuant to section 163.01, Florida Statutes, units of local government have the authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately.

B. **INTERLOCAL AGREEMENT.** This Participation Agreement shall be deemed an interlocal agreement for purposes of section 163.01, Florida Statutes, upon the transition of the Supervisor of Elections from a county charter officer to an independent constitutional officer on January 5, 2021.

VI. MISCELLANEOUS.

A. **NON-WAIVER.** Nothing herein shall be construed as waiving any liability limits or other protections or immunities provided by common law or Florida law to any Participant or to any officers or employees of Participant.

B. **MODIFICATIONS.** No provision of this Participation Agreement may be changed, altered, modified, or waived except in writing signed by both parties, which writing shall specifically reference this Participation Agreement and the specific provision which the parties intend to modify or waive.

C. **COMPLETE AGREEMENT.** This Participation Agreement sets forth the entire understanding related to the matters set forth herein between the parties and supersedes any and all prior oral or written agreements, understandings, representations, or warranties between the parties, except as specified herein.

D. **SEVERABILITY AND ENFORCEABILITY.** Should any provision of this Participation Agreement be declared illegal or unenforceable by any court of competent jurisdiction, such that it cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Participation Agreement in full force and effect.

E. **TERMS.** Common nouns and pronouns refer to the singular and plural, identity of the person or persons, firm or corporation as the context requires. Any reference to statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

F. **HEADINGS.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

G. **RECITALS.** The paragraphs outlined in the Recitals above are true and correct

and made a part of this Participation Agreement.

H. **NOTICES.** Notices, consents, and approvals, which any party shall be required or shall desire to make or give under this Participation Agreement shall be in writing and shall be sufficient only when mailed by certified mail, first class postage affixed, addressed as follows:

<p>County:</p> <p>County of Volusia ATTN: County Manager 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613</p> <p>With Copies to: County of Volusia ATTN: County Attorney 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613</p>	<p>Participant:</p> <p>Volusia Supervisor of Elections ATTN: Lisa Lewis 1750 South Woodland Boulevard DeLand, Florida 32720</p>
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IN WITNESS WHEREOF, the parties hereto have executed this PARTICIPATION AGREEMENT FOR FACILITIES MANAGEMENT between the Supervisor of Elections and the County of Volusia as set forth below.

**VOLUSIA COUNTY
SUPERVISOR OF ELECTIONS**

**COUNTY OF VOLUSIA,
FLORIDA**

By: _____
Lisa Lewis
Supervisor of Elections

By: _____
Ed Kelley
County Chair

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

[Printed name and title]

By: _____
George Recktenwald
County Manager

**PARTICIPATION AGREEMENT FOR
FINANCIAL PROCESSES AND OTHER SERVICES**

THIS PARTICIPATION AGREEMENT FOR FINANCIAL PROCESSES AND OTHER SERVICES (hereinafter “Participation Agreement”) is entered into between the VOLUSIA COUNTY SUPERVISOR OF ELECTIONS (hereinafter “Participant” or “Supervisor”), and the COUNTY OF VOLUSIA, a body corporate and politic and political subdivision of the State of Florida (hereinafter “County”).

RECITALS

WHEREAS, the County is one of twenty charter counties in Florida and governed by the Volusia County Charter enacted by special act of the Florida Legislature, and adopted by Volusia County voters, in 1970;

WHEREAS, the Charter abolished the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector and transferred those duties to County government;

WHEREAS, Amendment 10 to the Florida Constitution takes effect on January 5, 2021 (“Effective Date”), which will re-establish the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector;

WHEREAS, the Supervisor currently constitutes a county charter officer as an elected department head of the County, but will transition to an independent county constitutional officer on January 5, 2021;

WHEREAS, the County and Supervisor are committed to an orderly transition. As such, the County and Supervisor have previously entered into a Memorandum of Agreement (“MOA”), dated January 28, 2020, in support of the transition of the Supervisor from a county charter officer to a county constitutional officer;

WHEREAS, such units of local government have authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately as provided in section 163.01, Florida Statute;

WHEREAS, the County and Supervisor desire to participate in this Participation Agreement to provide for the orderly transition of financial matters, including, but not limited to, financial processes, account balances, grant administration, and other financial matters;

WHEREAS, the County and Supervisor desire to participate in this agreement because the Supervisor desires to continue to exclusively utilize the County to provide her office with support services and programs in the same manner that the County provided support services and programs to her office when she was a county charter officer; and,

*Participation Agreement for Financial Processes and Other Services
Between the Volusia County Supervisor of Elections and County of Volusia*

WHEREAS, the County and Supervisor have successfully worked together to arrive at this Participation Agreement to begin on the Effective Date;

NOW THEREFORE, the County and Supervisor agree as follows:

I. FINANCIAL PROCESSES.

A. DIVISION OF FISCAL YEAR 2021.

1. **Fiscal Year.** The fiscal year 2021 for the County commences on October 1, 2020 and ends on September 30, 2021.

2. **Division of the Fiscal Year.** The Supervisor will transition from a county charter officer to a county constitutional officer on January 5, 2021, which will occur in the fourth month of fiscal year 2021. Therefore, for the purposes of this Agreement, the Supervisor shall be considered a county charter officer for 25% of fiscal year 2021 and a county constitutional officer for 75% of fiscal year 2021.

3. **Budget References.** While the Supervisor is a county charter officer for 25% of fiscal year 2021, the Supervisor's budget shall be referred to for convenience as the "County Officer Budget." After the Supervisor becomes a county constitutional officer for the remaining 75% of fiscal year 2021, the Supervisor's budget shall be referred to for convenience as the "Constitutional Officer Budget."

B. VOLUSIA COUNTY GENERAL FUND FOR FISCAL YEAR 2021.

1. **General Fund Budget.** Prior to January 5, 2021, the County will have approved the general fund (County Fund 001) budget for services provided by the Supervisor under the existing charter government.

2. **Division of the General Fund Budget.** A portion of the total Supervisor's approved fiscal year 2021 general fund budget was appropriated in the existing charter officer budgetary structure by the County Council on October 6, 2020, establishing the amount of County Officer Budget. The remainder of the total Supervisor's approved fiscal year 2021 general fund budget was appropriated by the County to the Supervisor's Constitutional Officer Budget which will be paid to the new constitutional office of the Supervisor, after reduction for services the Supervisor retains the County to provide.

C. BUDGETED AMOUNT CALCULATION.

1. **Participation Agreement and Budgeted Amount.** Pursuant to the MOA between the Supervisor and the County, the County shall provide specified services to the Supervisor as detailed in the MOA and participation

agreements. The “total amount budgeted for the office” as it pertains to payments pursuant to section 129.202(1)(a), Florida Statutes, from the County to the Supervisor shall not include amounts for services provided in accordance with the MOA or any participation agreement between the parties. (“County Service Charges”).

2. **Calculation of Budgeted Amount.** The “total amount budgeted for the office,” upon which payments are made to the Supervisor by the County, shall mean the gross amount of the Council approved budget request for the Supervisor reduced by County Service Charges.

3. **Accounting for County Service Charges.** Any County Service Charges, which are not included in the payments from the County to Supervisor, shall be retained by County to pay for costs of services provided to Supervisor by County under the MOA or a participation agreement. However, notwithstanding the foregoing, the total amount of any County Services Charges shall be attributable to the Supervisor in the County’s budget.

D. DISTRIBUTION OF SUPERVISOR BUDGET FOR FISCAL YEAR 2021.

1. **Initial Payment Request.** The County shall pay the Supervisor twenty-five (25%) of the Constitutional Officer Budget in January 2021. Said payment shall be payable by the County to the Supervisor on the Effective Date.

2. **Monthly Payments.** After reduction for the amounts paid to the Supervisor on the Effective Date, the remaining amount of the Constitutional Officer Budget shall be remitted by the County to the Supervisor in equal installments on the following dates: February 1, 2021; March 1, 2021; April 1, 2021; May 3, 2021; June 1, 2021; July 1, 2021; August 2, 2021; and September 1, 2021.

3. **Payment Method.** Said payments will be made by the County to the Supervisor via Automated Clearing House (ACH) transfer.

E. RESPONSIBILITY FOR VENDOR PAYMENTS FISCAL YEAR 2021.

1. **County Officer Budget.** General fund expenditures for vendor provided goods and services to the Supervisor for fiscal year 2021 that are incurred through January 4, 2021 shall be paid by the County from the County Officer Budget.

2. **Constitutional Officer Budget.** Vendor provided goods and services to the Supervisor for fiscal year 2021 that are incurred on or after January 5, 2021 shall be paid by the Supervisor. After January 5, 2021 and for all subsequent fiscal years, the County’s accounting division shall continue to process and pay such invoices for the Supervisor, from the Supervisor’s bank accounts, as the

retained provider of financial services.

3. **Run-Out Period.** A “run-out period” shall be established between January 5, 2021 and April 5, 2021. During the run-out period, any vendor provided services that were rendered or goods that were provided to the Supervisor on or before January 4, 2021, attributable to the general fund shall continue to be paid by the County from the County Officer Budget.

4. **Deadline for Invoices.** The last date for the Supervisor to present invoices for goods provided or services rendered prior to January 5, 2021, to the County for payment to any vendor shall be March 26, 2021. Any invoices received after the deadline shall not be considered by the County or paid from the County Officer Budget, but will be paid by the Supervisor from the Constitutional Officer Budget.

F. **PROCUREMENT CARDS.**

1. **Existing Cards.** The County utilizes a procurement card system, which is currently used by the Supervisor as a charter officer. The County, as the provider of financial services to the Supervisor, shall continue to provide procurement card services to the Supervisor.

2. **Separate Constitutional Procurement Cards.** County shall set up a separate procurement card account in the name of the County to be utilized by the Supervisor to assist in segregating and identifying charges made by the Supervisor after January 5, 2021.

3. **Payment.** Any and all purchases made by the Supervisor using a procurement card as established in paragraph F.2. shall be reimbursed by the Supervisor to the County. The County’s accounting division shall prepare and execute the reimbursement by the Supervisor to the County for such charges, from the Supervisor’s bank accounts, as the retained provider of financial services. Upon request, copies of the Supervisor’s procurement card bills will be provided by the County.

G. **E-PAYABLES.**

1. **Existing Program.** The County utilizes an e-payable payment program, which is currently used by the Supervisor as a charter officer. As the provider of financial services to the Supervisor, the County shall continue to provide e-payable program services to the Supervisor.

2. **Payment.** Any and all payments made on behalf of the Supervisor using the County’s e-payable program shall be reimbursed by the Supervisor to the County. The County’s accounting division shall prepare and execute the reimbursement by the Supervisor to the County for such charges, from the

Supervisor's bank accounts, as the retained provider of financial services.

H. DIVISION OF RESPONSIBILITY FOR PAYROLL.

1. **Supervisor's Employees.** Pursuant to the Memorandum of Agreement, County employees hired by the Volusia County Supervisor's Office ("Supervisor Employees") shall be County employees until 11:59 PM, on January 4, 2021. At 12:00 AM on January 5, 2021, Supervisor Employees shall become employees of the Supervisor and shall cease to be employees of the County.

2. **County Officer Payroll.** The Supervisor Employees shall be paid by the County from the County Officer Budget through January 4, 2021 for actual time worked as a county employee.

3. **Payroll Split.**

a) **Purpose.** The County and Supervisor desire to minimize the impact of the transition experienced by Supervisor Employees. Absent special provisions, the payroll period of December 26, 2020 through January 8, 2021, would be divided into the ten-day period of December 26, 2020 through January 4, 2021 paid by the County and a four-day period January 5, 2021 through January 8, 2021 paid by the Supervisor. The division of payroll checks in such a manner could adversely affect overtime calculations, tax withholding calculations, and direct deposit allocations.

b) **Transition Payroll.** The Supervisor and County agree that the County shall continue to pay Supervisor Employees until the end of the next regularly scheduled County payroll close date immediately following the Effective Date, which closes on January 8, 2021. This Transition Payroll shall be processed in accordance with the existing County payroll policies and procedures. This Transition Payroll will be allocated by the County between the County Officer Budget and County Constitutional Officer Budget.

4. **Constitutional Officer Payroll.** Beginning on January 9, 2021, the Supervisor Employees shall be paid by the Supervisor subject to the rules and policies of the Supervisor. The County's human resources and accounting divisions shall continue to provide payroll services, including check disbursements to employees from the Supervisor's bank accounts, as the retained provider of financial and human resources services.

I. EMPLOYEES RECEIVABLES OWED TO COUNTY.

1. **Employee Receivables.** Some County employees owe repayment of funds to the County, including, but not limited to, the Employee Computer

Purchase Program. These employee receivables are evidenced by agreements between the Employee and the County to repay a certain amount of money through payroll deductions. After January 5, 2021, these County employees will become Supervisor Employees and will no longer be able to repay their receivables via their agreements with the County for payroll deductions.

2. **Transfer Receivables.** County and Supervisor agree that Supervisor shall accept assignments for all County employee receivable agreements from employees who become Supervisor Employees after January 4, 2021.

3. **Assignments.** Prior to January 4, 2021, County will offer to County employees who will become Supervisor Employees the option to pay off any outstanding balances or execute an Employee Receivable Assignment Agreement (“ERAA”) which will assign the receivable to the Supervisor.

4. **Payment of Assignments.** On or before January 6, 2021, the County shall provide the Supervisor a list of all executed ERAs and the related receivable amount for each ERA. Upon receipt of the list, the Supervisor shall pay the County in a lump sum the total face value of all ERAs on or before January 11, 2021. The County, through its accounting department, will prepare and execute the reimbursement by the Supervisor to the County for said assignments, from the Supervisor’s bank account, as the retained provider of financial services.

5. **Tender of Assignments.** Upon receipt of payment from the Supervisor, the County shall deliver to Supervisor all original ERAs which were assigned to her.

6. **Unassigned Receivables.** If a County employee fails or refuses to sign an assignment of his or her receivable, the County shall deduct any remaining balance from the employee’s last paycheck as a County employee and invoice the employee for any remaining balance owed. The Supervisor shall have no responsibility for any unassigned receivables, even if the employee continues as a Supervisor of Elections’ employee.

J. **RESPONSIBILITY FOR BUDGETARY CARRYOVER FISCAL YEAR 2021.**

1. **Budget Carryover.** After final payments of invoices and payroll expenses incurred by the Supervisor are made by the County in accordance with the “run out period” on or before April 5, 2021, any remaining balance of appropriated funds in the County Officer Budget shall be paid to the Supervisor on or before April 30, 2021.

2. **Budget Shortfall.** If there is a negative remaining balance in the County

Officer Budget on April 5, 2021, the Supervisor and the County agree that the County shall reduce the amounts remitted to the Supervisor for the Constitutional Officer Budget distributions scheduled for July 1, 2021; August 2, 2021; and September 1, 2021, by one-third (1/3) of the total amount of the shortfall.

K. DISTRIBUTION OF CONSTITUTIONAL OFFICER BUDGET.

1. **Annual Payment Request.** Beginning in fiscal year 2022 and for each subsequent fiscal year, this Agreement shall serve as a standing annual requisition by the Supervisor to the County pursuant to section 129.202(1)(a), Florida Statutes, to pay twenty-five percent (25%) of the total appropriated budget, as the Constitutional Officer Budget in October of each year. Said payment shall be payable by the County to the Supervisor on the first business day of October each fiscal year.

2. **Monthly Payments.** Beginning in fiscal year 2022 and for each subsequent fiscal year, after reduction for the amounts paid to the Supervisor on the first business day of October, the remaining amount of the Constitutional Officer Budget shall be remitted by the County to the Supervisor in equal installments of one-eleventh of the remaining amount. Said installment payments shall be paid on the first business day of November, December, January, February, March, April, May, June, July, August and September, provided however, that total payments made to the Supervisor shall not exceed the total budgeted for the year for the Office of the Supervisor of Elections, as amended.

3. **Payment Method.** Said payments will be made by the County to the Supervisor via Automated Clearing House (ACH) transfer.

L. UNUSUAL OR UNANTICIPATED EXPENSES.

1. **Statutory Authority.** Pursuant to section 129.202(1)(a), Florida Statutes, the Supervisor can notify the County of unusual or unanticipated expenses, thereby requiring the County to make the necessary transfer to cover the expenses, except that the total amount paid during the year shall not exceed the total budget for the Office of the Supervisor of Elections.

2. **Coordination with County Provided Financial Administration.** The County's finance department and accounting division, as the retained provider of financial services, shall also be permitted to determine when any unusual or unanticipated expenses occur in accordance with section 129.202(1)(a), Florida Statutes. The Council, by execution of this Participation Agreement, agrees to allow the County's Chief Financial Officer or designee to transfer additional amounts from the County to the Supervisor pursuant to determinations of unusual or unanticipated expenses.

3. **Limitations on Transfers.** Additional transfers pursuant to this Section L shall be limited to the total budgeted for the Office of the Supervisor of Elections for the fiscal year, as amended.

M. **UNEXPENDED BALANCES.**

1. **Statutory Annual Report of Unexpended Balances.** Pursuant to section 218.36(4), Florida Statutes, in lieu of a report filed in accordance with section 116.03, Florida Statutes, the Supervisor elects to complete a report in compliance with section 218.36(1), Florida Statutes, to the County on expenses and unexpended balances of the budget no later than October 31 each year. The County will assist the Supervisor in the creation of such report.

2. **Return of Unexpended Balances.** Section 129.202(1)(f), Florida Statutes, provides that all unexpended balances at the end of each fiscal year shall be refunded by the Supervisor to the County and deposited into the county fund or funds from which the payment was originally made.

3. **Payment Method.** The return of any unexpended balances will be made by the Supervisor to the County via Automated Clearing House (ACH) transfer.

N. **PAYMENTS.**

1. **Late or Deficient Payments.** In the event the County fails to remit a payment or a payment is deficient, the Supervisor shall notify the County immediately of the issue in writing. If the County agrees that the payment is late or deficient, the County shall remit any undisputed amounts within two (2) business days of receiving the written notice from the Supervisor. The County shall not be liable for any additional interest or other amounts on any late or deficient payments.

2. **Excess Payments.** In the event the County over pays any amounts due to the Supervisor, the County shall notify the Supervisor in writing immediately of the issue. If the Supervisor agrees that an overpayment has been made, the parties shall agree whether the amount will be credited to the Supervisor against future payments or repaid to the County.

II. **EMERGENCY CITIZEN INFORMATION CENTER.**

During times of declared emergencies, the County operates a citizen call center, the Citizen Information Center (“CIC”) which is staffed by County employees. Supervisor may elect, in her sole discretion, to provide Supervisor Employees to assist at the CIC. If the Supervisor elects to provide any Supervisor Employees to the CIC, the Supervisor shall cover all costs incurred to provide such employees from her existing budget.

III. TRANSFER OF POSTAGE ACCOUNT AND BALANCE.

The County agrees to transfer and the Supervisor agrees to receive ownership of any prepaid postage accounts currently owned and maintained by the Supervisor in her charter officer capacity to the Supervisor as a constitutional officer. The County and Supervisor agree to transfer the postage balance in the account from the County to Supervisor on January 5, 2021. Supervisor will obtain, complete, and file any forms necessary for the transfer of any prepaid postage accounts on or before January 5, 2021.

IV. GRANTS AND FEDERAL PARTICIPATION AGREEMENTS.

A. COUNTY COOPERATION.

1. **Delegation of Authority.** If a grantor agency requires a delegation of authority from the County to the Supervisor for the purposes of a grant, joint participation agreement, or other agreement, the County agrees to not unreasonably withhold such delegation.

2. **Request by Supervisor.** If a grantor requires delegation of authority from the Council to the Supervisor, the Supervisor shall request such delegation in writing and provide the County with the application and all necessary information related to the request for the Council to consider the request.

3. **Authority of Supervisor.** Nothing in this section shall be interpreted to be a restriction on the powers of the Supervisor as granted by the Constitution and laws of the State of Florida and is only intended to address situations where a delegation of authority from the County to the Supervisor is required by a grantor agency for a grant or agreement.

B. COOPERATION TO OBTAIN NEW GRANTS.

1. **Cooperation.** Whenever required by a grantor, the County and Supervisor agree to collaborate to submit grant applications to the Council, make joint presentations to the Council in support of the application, to accept grant awards, and provide for execution of related agreements.

2. **Matching Issue.** Whenever sufficient match is not available in the budget of the Supervisor for a grant, the County and Supervisor agree to collaborate to submit the grant application to the Council for their consideration.

3. **Responsibility.** Whenever allowed by the grantor, any new grants obtained through the cooperation of the County and the Supervisor shall be solely awarded to the Supervisor. Supervisor shall be solely responsible for the administration of any new grants obtained in collaboration with the County, unless the parties expressly agree otherwise.

C. **EXISTING GRANTS AND ASSIGNMENT OF EXISTING GRANTS.**

1. **Existing Grants.** At the time of this Agreement, the County is a party to the following grants for the benefit of the Supervisor as a charter officer:

- a) Helping America Vote Act (MOA # 2014-2015-0001-VOL) (County Unit 4015);
- b) Helping America Vote Act (MOA # 2016-2017-0001-VOL) (County Unit 4017);
- c) Helping America Vote Act (MOA # 2017-2018-0001-VOL) (County Unit 4016);
- d) Helping America Vote Act – Accrued Interest (MOA # 2018-2019-002-VOL) (County Unit 4018);
- e) Helping America Vote Act – Accrued Interest (MOA # 2018-2019-004) (County Unit 4019); and
- f) Helping America Vote Act (MOA # 2019-2020-0001) (County Unit 4020).

2. **Pending Grant Applications.** As of the date of this Participation Agreement, the County is not a party to any pending grant applications for the benefit of the Supervisor as a charter officer. The Supervisor will consult with the County if any grant applications require the County’s involvement prior to January 5, 2021.

3. **Assignments Requested.** The County and Supervisor agree to inform the grantor agencies for any existing and pending grants of the transition of the Supervisor from a charter officer to an independent constitutional officer pursuant to Amendment 10. The parties further agree to cooperate in requesting an amendment or assignment to any existing grant or application so that the grant will be assigned or awarded to the Supervisor.

4. **Assignments Allowed by Grantor.** If the grantor consents to the assignment of a grant or amendment of a grant application, the County and Supervisor agree to execute all documents required by the grantor to assign the grant or amend the application.

5. **Assignments Denied by Grantor.** If the grantor denies an assignment of a grant or an amendment of a grant application, the parties agree to confer as to whether or not they can continue to collaborate under the terms of the grant or they should terminate their participation in the grant. If the parties agree to continue with the grant, the Supervisor shall be solely responsible for compliance with, implementation of, and administration of the grant.

6. **Responsibility of Supervisor.** For all grants which were effective prior to January 5, 2021, the Supervisor shall perform all things required under the grant, including, but not limited to, provide adequate staffing necessary to perform or comply with the grant; coordinate any procurement actions necessary to perform or comply with the grant by utilizing the County procurement process; supervise and monitor any procured contractors to ensure successful delivery of goods or services obtained pursuant to the grant; and prepare any required reports, drawdown requests, or reimbursement requests required by the grantor.

7. **Pending Reimbursements.** The Supervisor agrees to submit invoices for services or goods paid for by the County prior to January 5, 2021, for which the cost of said services or goods are eligible for reimbursement under the terms of a grant. Any monies reimbursed for goods and services paid for by the County shall be paid to the County. If said reimbursement is made to the Supervisor, the Supervisor shall reimburse the County. This provision does not apply to the cost of goods or services which were paid for directly by the Supervisor and are reimbursable to the Supervisor.

V. SINGLE AUDIT.

A. COUNTY AND SINGLE AUDIT.

1. **Purpose.** Volusia County Home Rule Charter and Florida Statutes require that all general-purpose local governments publish a complete set of financial statements presented in conformity with generally accepted accounting principles (GAAP) and audited in accordance with generally accepted auditing standards by a firm of licensed certified public accountants.

2. **Audit Information.** The independent audit of the financial statements of the County is part of a broader federal and state mandated single audit designed to meet the special needs of federal and state grantor agencies. The standards governing Single Audit engagements require the independent auditor to report not only on the fair presentation of the financial statements, but also on the County's internal controls and compliance with legal requirements, with special emphasis on those internal controls and legal requirements involving the administration of federal and state awards.

B. SUPERVISOR AND SINGLE AUDIT.

1. **External Auditor.** Supervisor agrees to provide information necessary for the County or its external auditor to complete the annual federal and state Single Audit. The County's external auditor shall solely determine what information is necessary to complete its audit.

2. **Grant Information.** Each year prior to the Single Audit, the County

must compile a Schedule of Expenditures of Federal Awards and Schedule of State Financial Assistance which includes funds obtained from various grants. The Supervisor shall provide no later than ninety (90) days after the close of any fiscal year, all information necessary to compile said schedules.

VI. INFORMATION TECHNOLOGY SERVICES.

A. **AUTHORITY.** Supervisor retains County, subject to the terms and conditions set forth in this Participation Agreement, to provide Information Technology Services. Supervisor delegates to County Information Technology the discretion and authority to determine, implement and take actions, in the exercise of its expertise in managing and operating communication systems and computer technology to manage said systems for Supervisor.

B. **COUNTY SERVICES.** County agrees to provide the Supervisor with the following Information Technology Services, which will be provided with the same software and equipment used by County:

1. Enterprise Application Systems, including a telephone system (local and long distance), with voice mail, auto attendants, a call center during elections and provision of the physical telephones, switchboard services, an email system (including email, calendaring, public record archives, email anti-spam and anti-malware, technical support), cyber security protection, financial system, human resources system (including employee self-service), Geographic Information System (including data layers for address, jurisdiction, ownership), online map development and sharing platform, purchasing system, budget system, electronic document management system, intranet-servers and site hosting, internet, timekeeping system, and access controls and video surveillance (admin and server support).
2. Department Systems and Interfaces, including VR Systems (Elections-support application, servers, storage), web mapping and web pages/applications developed and provided by IT, online maps (election precincts, state and local jurisdictions, etc.), and online web pages (public record submissions, elections night results, etc.).
3. Physical Infrastructure, including the County's data centers at 119 W. Indiana Avenue, DeLand and 49 Keyton Drive, Daytona (for enterprise and department applications, network and help desk services), equipment and software, including virtual and physical server environment (servers, switches, cabling, racks, etc.), storage, databases, hardware and software maintenance, 24 hour staffing and help desk services, backup systems (disk to disk and disk to tape), secure location, environmental protection for equipment within the data centers (generator, UPS, two PDUs, fire

suppression), disaster recovery site (hot/warm) and offsite tape backup storage, Wide Area Network and Local Area Network, cabling, switches, firewalls, Wi-Fi (access points, Wi-Fi access controller), intrusion detection systems, firewalls, DNS servers and security monitoring, and connectivity for copy/fax/scanner machines (machines provided by Facilities Participation Agreement).

C. **COMPUTER REPLACEMENT PROGRAM.**

1. **Purpose.** The County PC Replacement Program was established to manage the PC (desktop) and laptop inventory in a centralized, uniform, and efficient manner. County Information Technology Division (County IT) is responsible for managing the program. The objective of the program is to ensure employees have access to secure, reliable, properly supported computers; provide predictable and stable replacement costs for organizations; and return value to the County for computers no longer in use.

2. **Ownership and Inventory.** Computers in the PC Replacement Program are assets of the County. The computers in the program are to be recorded as assets of the County for capital asset inventory purposes, if the computer meets the criteria established for capital asset inventory in the fiscal year of purchase. Each year, Supervisor shall assist County IT with the physical inventory of any computers registered to the Supervisor in the PC Replacement Program.

3. **Computer Replacement Fees.** Computer replacement fees shall be as follows:

a) Computers for the Supervisor will have the same lifecycle as all other county computers in the same program, which is currently four (4) years, however, lifecycles are subject to change at the determination of County management.

b) Computers in the program are paid for in advance under a multi-year payment plan. Costs for each computer vary with changes in configuration (CPU, memory, display, etc.).

c) Fee structure:

(1) Add a new computer to the program:

(a) 100% of the cost of the new computer up-front.

(b) Percentage of the cost of the next computer equal to one year out of the lifecycle of the computer.

d) Years subsequent:

(1) Percentage of the cost of the next computer equal to one year

out of the lifecycle of the computer.

e) Replacement:

(1) If the new computer is the same specification as the old computer – no cost.

(2) If the new computer is a higher cost/specification than the old computer – pay the price difference and future charges for replacement are also increased.

f) If the new computer is a lower cost/specification than the old computer – no cost or refund.

4. **Replacement Interview and Ordering.** County Information Technology will conduct interviews with the Supervisor to establish the desired configurations for upcoming computer replacements. During this time, the Supervisor has the opportunity to request configuration alterations based on what requirement changes the new computers may need to accommodate for changing missions and to establish what programs and data files need to be transferred to the new computers. Configuration alterations may result in changes in costs to participate in the program as previously described.

5. **Deployment and Warranty Services.** Information Technology utilizes a contractor to deploy new and replacement computers and provides subsequent warranty services. Supervisor will send requests for service to the IT Support Desk.

6. **Productivity Software.** Common office productivity software (Microsoft Office, Adobe Acrobat Reader, etc.) designated for use by County IT is licensed and installed under the PC Replacement Program.

7. **Computers Retired from the Program.** Computers in the PC Replacement Program are the property of the County and may be redeployed as necessary by Information Technology. Information Technology's contracted PC replacement vendor ("Vendor") is responsible for disposition of all computers not retained by the County. The Vendor will offer the computers for sale to employees under rules developed jointly by the Vendor and county leadership. The computers not purchased by employees will be disposed of in accordance with County rules and regulations, including, auction or other means.

8. **Included Software.** County will provide the Supervisor the services listed above using software of the County's choice. The County will not be required to provide any particular software or equipment that is not currently in use by the County for other applications.

VII. LEGAL SERVICES.

A. This section is intended to supersede and replace references to legal services in the Memorandum of Agreement and provide additional detail.

B. Supervisor may utilize the legal services of the County Attorney. Supervisor acknowledges that the County Attorney also provides legal services to the County. Because their operations are diverse, it is possible that the County and Supervisor may develop adverse interests in matters, such as budgetary disputes, in which the County Attorney represents the County. Supervisor acknowledges she will need to retain separate counsel when she requires legal services in matters adverse to the County. Supervisor maintains the right to obtain independent counsel at her own expense at any time.

C. As a condition of entering into this Participation Agreement, Supervisor agrees that the County Attorney may represent the County in matters adverse to the Supervisor while representing the Supervisor in substantially unrelated matters. For purposes of this section, the County may include any employees, officials, agents, or other persons and entities represented by the County Attorney.

D. Should adverse interests develop in a matter, Supervisor agrees to provide informed consent to the continued representation of the County Attorney in substantially unrelated matters if (1) the County Attorney reasonably believes he will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; and (3) the representation does not involve the assertion of a position adverse to another client when the County Attorney represents both clients in the same proceeding before a tribunal.

E. If the County Attorney concludes that Supervisor should not agree to representation by the County Attorney in a matter due to the County Attorney's representation of the County in a substantially unrelated matter, Supervisor shall retain independent counsel at her own expense.

F. Notwithstanding other provisions of this Participation Agreement, Supervisor or County Attorney may terminate Section VII only pertaining to Legal Services at any time and discontinue legal services upon written notice or decline representation on any matter at any time upon written notice.

VIII. OTHER SERVICES.

A. COUNTY RESPONSIBILITIES.

1. **Continuity of Services.** The County agrees to continue to provide the Supervisor with support services and programs that are currently being provided to her office as a charter officer which have not otherwise been specifically identified in this agreement, including, but not limited to, procurement services, such as the issuing and processing of competitive solicitations and purchase orders; contract management; financial services, such as accounts payable

processing, vendor management, payroll processing, bank and cash management, financial reporting, grant reporting, internal control management, audit support, and customer invoicing and billing; business services, such as cashiering; community information services; and internal audit services. All services provided by the County to the Supervisor in this Participation Agreement and any other agreements between the parties will be provided in accordance with County policies and procedures and applicable statutes and regulations, as they may be amended from time to time.

2. **Services and Programs.** The County is charged with determining the method and manner through which it provides any services or programs under this agreement with input from the Supervisor related to her needs for the continued provision of services and programs.

B. SUPERVISOR OF ELECTION RESPONSIBILITIES.

1. **Services and Programs.** The Supervisor agrees that the services and programs that she is currently receiving from the County as a charter officer are sufficient and acceptable for the operations of her office and that the continued provision of these same services and programs will be sufficient and acceptable for operations of her office as a constitutional officer.

2. **Issues with Work.** If the Supervisor believes there is an issue with any of the work performed by County under this Participation Agreement, the Supervisor shall communicate these to the County designee.

IX. ADDITIONAL AGREEMENTS.

A. **ADDITIONAL AGREEMENTS.** After this Agreement is executed, the County or Supervisor may determine that additional agreements or changes to this agreement may be appropriate to implement the intent of the MOA or this agreement. The Supervisor and County agree to enter into additional agreements or amend this agreement if appropriate.

B. **CONFLICTS BETWEEN AGREEMENTS.** If there are any conflicts between this Participation Agreement and the MOA, the terms of this Participation Agreement shall prevail. If additional agreements are entered into between the Supervisor and the County pursuant to the MOA, the later agreement or amendment shall prevail over any prior agreement and the MOA. As to all agreements, more specific provisions shall prevail over general provisions as to the specific subject of the provision. If an agreement is entered into between the Supervisor and the County regarding a specific subject, the more specific agreement shall apply independently of all other agreements and the MOA as to that specific subject.

X. TERM, RENEWAL AND TERMINATION OF AGREEMENT.

A. **TERM.** The Supervisor and County recognize that the Council prepares its budget

based on a fiscal year beginning on October 1 and ending September 30. This Participation Agreement shall be for successive terms of a full fiscal year, except for the first term which shall be less than a full fiscal year beginning on the Effective Date and ending on September 30, 2021.

B. **RENEWAL.** This Participation Agreement shall renew each year unless terminated by either party as provided in this agreement.

C. **NOTICE OF TERMINATION.** The Supervisor shall continue to utilize and/or participate in all services and programs set forth in this Participation Agreement, unless the Supervisor provides written notice to the County Manager before 5:00 PM on April 1. The County shall continue to provide to the Supervisor the services and programs set forth in this Participation Agreement unless the County Manager provides written notice to the Supervisor before 5:00 PM on April 1.

D. **TERMINATION.** Upon receipt of a timely notice of termination, the services and programs set forth in this Participation Agreement shall terminate on September 30 of the same year in which the notice was given, which will be the last day of that fiscal year.

XI. INTERLOCAL AGREEMENT.

A. **STATUTE.** Pursuant to section 163.01, Florida Statutes, units of local government have the authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately.

B. **INTERLOCAL AGREEMENT.** This Participation Agreement shall be deemed an interlocal agreement for purposes of section 163.01, Florida Statutes, upon the transition of the Supervisor from a county charter officer to an independent constitutional officer on January 5, 2021.

XII. MISCELLANEOUS.

A. **NON-WAIVER.** Nothing herein shall be construed as waiving any liability limits or other protections or immunities provided by common law or Florida law to any Participant or to any officers or employees of Participant.

B. **MODIFICATIONS.** No provision of this Participation Agreement may be changed, altered, modified, or waived except in writing signed by both parties, which writing shall specifically reference this Participation Agreement and the specific provision which the parties intend to modify or waive.

C. **COMPLETE AGREEMENT.** This Participation Agreement sets forth the entire understanding related to the matters set forth herein between the parties and supersedes any and all prior oral or written agreements, understandings, representations, or warranties between the parties, except as specified herein.

D. **SEVERABILITY AND ENFORCEABILITY.** Should any provision of this Agreement, as set forth herein be declared illegal or unenforceable by any court of competent jurisdiction, such that it cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Participation Agreement in full force and effect.

E. **TERMS.** Common nouns and pronouns refer to the singular and plural, identity of the person or persons, firm or corporation as the context requires. Any reference to statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

F. **HEADINGS.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Participation Agreement.

G. **RECITALS.** The paragraphs outlined in the Recitals above are true and correct and made a part of this Participation Agreement.

H. **NOTICES.** Notices, consents, and approvals, which any party shall be required or shall desire to make or give under this Agreement shall be in writing and shall be sufficient only when mailed by certified mail, first class postage affixed, addressed as follows:

County: County of Volusia ATTN: County Manager 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613 With Copies to: County of Volusia ATTN: County Attorney 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613	Participant: Volusia Supervisor of Elections ATTN: Lisa Lewis 1750 South Woodland Boulevard DeLand, Florida 32720
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SIGNATURE BLOCK ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this PARTICIPATION AGREEMENT FOR FINANCIAL PROCESSES AND OTHER SERVICES between the Volusia County Supervisor of Elections and the County of Volusia as set forth below.

**VOLUSIA COUNTY
SUPERVISOR OF ELECTIONS**

COUNTY OF VOLUSIA, FLORIDA

By: _____
Lisa Lewis,
Supervisor of Elections

By: _____
Ed Kelley
County Chair

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

[Printed name and title]

By: _____
George Recktenwald
County Manager

PARTICIPATION AGREEMENT FOR FLEET MAINTENANCE AND SERVICES

THIS PARTICIPATION AGREEMENT FOR FLEET MAINTENANCE AND SERVICES (hereinafter “Participation Agreement”) is entered into between the VOLUSIA COUNTY SUPERVISOR OF ELECTIONS, (hereinafter “Participant” or “Supervisor of Elections”), and the COUNTY OF VOLUSIA, a body corporate and politic and political subdivision of the State of Florida (hereinafter “County”).

RECITALS

WHEREAS, the County is one of twenty charter counties in Florida and governed by the Volusia County Charter enacted by special act of the Florida Legislature, and adopted by Volusia County voters in 1970;

WHEREAS, the Charter abolished the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector and transferred those duties to County government;

WHEREAS, Amendment 10 to the Florida Constitution takes effect on January 5, 2021 (“Effective Date”), which will re-establish the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector;

WHEREAS, the Supervisor of Elections currently constitutes a county charter officer as an elected department head of the County, but will transition to a county constitutional officer on January 5, 2021;

WHEREAS, the County and Supervisor of Elections are committed to an orderly transition. As such, the County and Supervisor of Elections have previously entered into a Memorandum of Agreement (“MOA”) dated January 28, 2020, in support of the transition of the Supervisor of Elections from a county charter officer to a county constitutional officer;

WHEREAS, such units of local government have authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately as provided in section 163.01, Florida Statutes;

WHEREAS, the County and Supervisor of Elections desire to participate in a fleet maintenance and services agreement for the mutual benefit of each and to provide for the payment of contribution amounts necessary to achieve and preserve adequate levels of funding and reserve balances to budget and appropriate the costs incurred under such agreement; and,

WHEREAS, the County and Supervisor of Elections have successfully worked together to arrive at this Participation Agreement to begin on the Effective Date;

NOW THEREFORE, the County and Supervisor of Elections agree as follows:

I. RETENTION FOR SERVICES.

A. **SERVICES GOAL.** Volusia County Fleet Management (“Fleet Management”) currently provides fleet management services to the Supervisor of Elections as a county charter officer. Fleet Management is committed to providing the same high level of service to the Supervisor of Elections as an independent constitutional officer. Fleet Management is committed to providing the Supervisor of Elections with fleet management services, including, but not limited to, motor vehicle replacement, motor vehicle maintenance, fuel services, and generator maintenance.

B. **RETENTION.** Supervisor of Elections retains Fleet Management to provide all management, personnel, materials, supplies, and equipment necessary to properly replace, maintain, and fuel the motor vehicles owned or leased by the Supervisor of Elections as provided in this Participation Agreement. Fleet Management agrees to provide the services as set forth in this Participation Agreement.

C. **BUDGETING FOR FLEET SERVICES.** The Memorandum of Agreement assigns to the Supervisor of Elections the responsibility for all costs associated with replacing, maintaining, and fueling any motor vehicles used by her office. Fleet Management will assist the Supervisor of Elections to budget for fleet maintenance costs by providing her with timely and accurate cost estimates, as available, for the services provided under this Participation Agreement.

II. SERVICES.

A. **AUTHORITY.** Supervisor of Elections retains Fleet Management, subject to the terms and conditions set forth in this Participation Agreement, to manage and maintain the fleet of motor vehicles used by the Supervisor of Elections. Supervisor of Elections delegates to Fleet Management the discretion and authority to determine, implement, and take action to manage the motor vehicle fleet of the Supervisor of Elections through the exercise of its expertise in managing and operating motor vehicle fleets for local government.

B. **COUNTY RESPONSIBILITIES.** Fleet Management agrees to provide the Supervisor of Elections with fleet management services for the Supervisor of Elections’ motor vehicle fleet.

1. **VEHICLE REPLACEMENT PROGRAM (“VRP”).**

a) **Program.** The VRP is a program through which the County collects funds on an annual basis for the future replacement of motor vehicles and to provide for the maintenance of those motor vehicles with the goal of achieving the lowest life cycle costs for each motor vehicle. Fleet Management will work with the Supervisor of Elections to determine her needs and to purchase the most cost effective vehicles. Fleet Management will repair and maintain the Supervisor of Elections vehicles to the highest

level to ensure safe and reliable motor vehicles.

b) **Vehicles.** All motor vehicles used by the Supervisor of Elections as of the date of this Participation Agreement are provided through the Vehicle Replacement Program. After the January 5, 2021, the Supervisor of Elections elects to continue to participate in the Vehicle Replacement Program. A list of motor vehicles currently assigned to the Supervisor of Elections is attached hereto as Exhibit A. Fleet Management shall keep and maintain an up to date list of motor vehicles assigned to the Supervisor of Elections.

c) **Maintenance Costs.** To determine service charges for maintaining each motor vehicle, Fleet Management uses actual expenses from the most recent full fiscal year plus an inflation factor. Actual expenses for each motor vehicle are tracked via a fleet management software program for accuracy and completeness. Fleet Management shall determine the maintenance service charge for each vehicle in the Vehicle Replacement Program which is attributable to the Supervisor of Elections. Fleet Maintenance shall advise the Supervisor of Elections of such service charges for her motor vehicles for inclusion in her annual budget. (object code 4552).

d) **Replacement Costs.** To determine replacement service charges for each motor vehicle, Fleet Management tracks all motor vehicles in the Vehicle Replacement Program on an individual basis. Fleet Management calculates the replacement cost of each individual motor vehicle based on each vehicle's future replacement cost divided by its anticipated life cycle years. Fleet Management shall determine the replacement charge for each motor vehicle used by the Supervisor of Elections and charge said costs to the Supervisor of Elections. The total amount of all annual vehicle replacement charges shall become the VRP service charge. Fleet Management shall determine the VRP service charge for each vehicle in the Vehicle Replacement Program which is attributable to the Supervisor of Elections motor vehicles for inclusion in her annual budget. (object code 4551). Fleet Management collects the VRP service charges over the life cycle of each motor vehicle and shall earmark said funds with the goal of accumulating sufficient funds to replace the motor vehicle at the end of its life cycle.

e) **Cost of Repairs.** Supervisor of Elections shall be responsible for the actual cost to repair any damage to a motor vehicle in the Vehicle Replacement Program which is not covered by insurance. Fleet Management shall solely determine how damages to any motor vehicle will be repaired. Fleet Management shall charge the Supervisor of Elections to repair any damaged motor vehicle by sending an itemized invoice to her for

the repairs.

f) **Replacement of a Motor Vehicle.** Fleet Management will determine when a motor vehicle has reached the end of its life cycle and should be replaced with a new motor vehicle.

g) **Auction of Vehicle.** When the motor vehicle is replaced, the older motor vehicle may be sold at auction. Fleet Management may apply the auction proceeds from the older motor vehicle toward the costs of a future replacement of the new motor vehicle that was assigned to the Supervisor of Elections to replace the auctioned older motor vehicle.

h) **Uncovered Costs.** Participation by the Supervisor of Elections in the Vehicle Replacement Program does not include the costs of fuel, damages caused by an accident, damages caused by neglect of the motor vehicle, damages caused by misuse of the motor vehicle, damages caused by unapproved alterations of the motor vehicle, or insurance coverage.

2. **SUPERVISOR OF ELECTIONS PURCHASED VEHICLES.**

a) **Purchase.** The Supervisor of Elections may purchase any new motor vehicle using her own capital funds and request that Fleet Management include the Supervisor of Elections purchased motor vehicle (“SOE Purchased Vehicle”) in the Vehicle Replacement Program. Fleet Management will not unreasonably refuse to include an SOE Purchased Vehicle, but reserves the right to refuse any motor vehicles it does not deem appropriate for the Vehicle Replacement Program, including, but not limited to, exotic or atypical motor vehicles.

b) **Incorporation into Program.** Any SOE Purchased Vehicle that Fleet Management agrees to incorporate into the Vehicle Replacement Program shall be added to the Program in the next full fiscal year after the motor vehicle was purchased. In order to incorporate the motor vehicle into the Vehicle Replacement Program, Fleet Management and the Supervisor of Elections shall conduct a fixed asset transfer removing the SOE Purchased Vehicle from the Supervisor of Elections fixed asset inventory and adding it to Fleet Management’s Vehicle Replacement Program fixed asset inventory.

c) **Preliminary Life Cycle of Vehicle.** Any SOE Purchased Vehicle incorporated into the Vehicle Replacement Program will be added to the program with a preliminary life cycle based on the anticipated annual usage / mileage with a life cycle target of 100,000 miles. Fleet Management, as it deems appropriate, may extend or shorten any motor vehicle’s life cycle. If a life cycle is changed, any adjustments to the Vehicle Replacement funds to be paid by the Supervisor of Elections would be adjusted annually at the

beginning of the next full fiscal year.

d) **Maintenance of Vehicle.** The Supervisor of Elections will be charged the costs to maintain any SOE Purchased Vehicle incorporated into the Vehicle Replacement Program. To determine the maintenance costs, Fleet Management will utilize an estimated maintenance cost by using the anticipated usage in miles multiplied by the average cost per mile for similar vehicles in similar uses in the existing fleet.

e) **Replacement of Vehicle.** Fleet Management will determine when a SOE Purchased Vehicle has reached the end of its life cycle and should be replaced with a new motor vehicle. The annual Vehicle Replacement funds attributable to an SOE Purchased Vehicle will be based on the actual cost of the motor vehicle plus an annual inflation factor divided by the preliminary life cycle years attributed to the vehicle.

f) **Repair of Vehicle.** The Supervisor of Elections will be charged the costs to repair any SOE Purchased Vehicle incorporated into the Vehicle Replacement Program. Supervisor of Elections shall be responsible for the actual cost to repair any damage to a motor vehicle in the Vehicle Replacement Program which is not covered by insurance. Fleet Management shall solely determine how damages to any motor vehicle will be repaired. Fleet Management shall charge the Supervisor of Elections to repair any damaged vehicle by sending an itemized invoice to her for the repairs.

g) **Auction of Vehicle.** If an SOE Purchased Vehicle is sold at auction, the auction proceeds shall be paid to Fleet Management and may be used to offset any future Vehicle Replacement Program charges to the Supervisor of Elections.

h) **Uncovered Costs.** Incorporation of an SOE Purchased Vehicle by the Supervisor of Elections into the Vehicle Replacement Program does not include the costs of fuel; damages caused by an accident; damages caused by neglect of the motor vehicle; damages caused by misuse of the motor vehicle; damages caused by unapproved alterations of the motor vehicle; or insurance coverage.

i) **Removal of Vehicle.** If an SOE Purchased Vehicle is removed from the Vehicle Replacement Program for any reason that results in funds, such as insurance proceeds or non-auction sale, any funds associated with the removed vehicle shall be distributed over all other motor vehicles that the Supervisor of Elections has in Vehicle Replacement Plan at the time of removal to reduce any future VRP annual costs attributed to the remaining motor vehicles.

3. **FUEL AND MOBILE FUELING SERVICES.**

a) **Fuel Services.** Fleet Management provides fueling sites for county motor vehicles at several locations in Volusia County. The Supervisor of Elections as of the date of this Participation Agreement utilizes Fleet Management's fueling sites for her motor vehicles. After the January 5, 2021, the Supervisor of Elections elects to continue utilizing Fleet Management's fueling sites for her motor vehicles.

b) **Cost of Fuel.** Fleet Management shall determine the cost of fuel per gallon to be charged to the Supervisor of Elections. Fuel pricing shall be the same for the Supervisor of Elections as it is for all County departments and divisions. The cost of fuel is calculated based on the actual cost of the fuel to the County plus a fleet mark up as determined by Fleet Management.

c) **Fuel Cost Tracking.** Fleet Management tracks fuel transactions via a fuel management tracking system. Fleet Management transfers the data from the fuel management tracking system into its fleet management software program. Supervisor of Elections agrees that it will abide by all policies and procedures required by Fleet Management to accurately track all fuel transactions.

d) **Fuel Cost Billing.** Fleet Management shall invoice the Supervisor of Elections monthly for all fuel actually consumed in the prior month.

e) **Budgeting for Fuel Costs.** Fleet Management will provide the Supervisor of Elections with a fuel budget recommendation prior to each fiscal year. Fleet Management will base its fuel budget recommendation on actual consumption of fuel for the most recent full fiscal year multiplied by the estimated cost per gallon of fuel determined by the United States Department of Energy.

4. **GENERATORS.**

a) **Maintenance Only.** Fleet Management does not purchase or replace generators as part of any of its programs. Fleet Management maintains, repairs, and fuels generators when needed for county departments.

b) **SOE Generators.** Supervisor of Elections has two (2) emergency back-up generators ("SOE Generators") that are being maintained and serviced by Fleet Management. Fleet Management agrees to continue servicing these SOE Generators.

c) **Service of Generators.** Fleet Management agrees to fuel and to maintain generators as needed. Fleet Management will provide preventative maintenance and repairs to the generators. Fleet Management will perform

two (2) preventative maintenance services per year, which will include a four (4) hour load test during one (1) of the servicings. The Supervisor of Elections will be charged for the costs of preventative maintenance services and repairs. Fleet Management shall solely determine how any generator will be maintained or repaired, including, use of subcontractors to perform repairs. Fleet Management shall charge the Supervisor of Elections by sending an itemized invoice to her for service, maintenance, and repairs.

d) **Repairs of Generators.** The Supervisor of Elections will be charged for the costs of any major repair to any SOE Generators which is beyond the scope of preventative maintenance. Supervisor of Elections shall be responsible for the actual cost to repair any damage to a generator, which is not covered by insurance. Fleet Management shall solely determine how damages to any generator will be repaired, including, use of subcontractors to perform repairs. Fleet Management shall charge the Supervisor of Elections to repair any damaged generator by sending an itemized invoice to her for the repairs.

e) **Fueling for Generators.** Fleet Management maintains emergency generators on a “keep full” year round policy. Supervisor of Elections agrees that Fleet Management shall maintain her generators under the “keep full” year round policy. Supervisor of Elections shall be responsible for the costs of any fuel required by her generators.

f) **Budgeting for Cost of Services.** Fleet Management shall budget and bill the costs of any generator services or repairs to the Supervisor of Elections. To determine the generator service charges, Fleet Management will use actual expenses from the most recent full fiscal year, including mechanic labor, parts, and subcontracted repairs. Actual expenses for generator related expenses are tracked via a fleet management software program for accuracy and completeness. Fleet Management shall determine the generator maintenance charges which are attributable to the Supervisor of Elections’ generators for inclusion in her annual budget.

g) **New Generators.** Any new or replacement generators would be purchased by the Supervisor of Elections from her budget and be a capital asset of the Supervisor of Elections. Upon request, Fleet Management may assist in the purchase of any new generators, including, but not limited to, advising the Supervisor of Elections or recommending a generator to the Supervisor of Elections.

C. **SUPERVISOR OF ELECTIONS RESPONSIBILITIES.** Supervisor of Elections agrees to cooperate with Fleet Management in the performance of its duties under this Participation Agreement.

1. **Vehicles.** Supervisor of Elections agrees to only allow employees with a

valid driver's license to operate any motor vehicles from the Vehicle Replacement Program. Supervisor of Elections agrees to establish and implement policies and procedures for her employees that establish appropriate uses of the motor vehicles and ensures that motor vehicles are properly maintained by Fleet Management.

2. **Scheduled Maintenance.** Supervisor of Elections agrees to timely submit all motor vehicles for scheduled maintenance. Supervisor of Elections agrees to immediately notify Fleet Management in writing of any issues with a motor vehicle, including, but not limited to, any warning lights, unusual noises, or operating issues with a motor vehicle.

3. **Maintenance or Repair Request.** Supervisor of Elections shall notify Fleet Management of any additional work requested related to the maintenance, modification, or repair of her motor vehicles by processing a work order via the County's work order tracking software. The parties agree that this is the exclusive method of requesting such additional work.

4. **Issues with Work.** If the Supervisor of Elections believes there is an issue with any of the work performed by Fleet Management under this Participation Agreement, the Supervisor of Elections shall provide Fleet Management with a written notice describing the issue in detail including the nature of the issue and the dates during which the issue occurred.

5. **Payments.** For any costs to be paid by the Supervisor of Elections pursuant to this Participation Agreement, the County shall invoice for the costs. Invoices shall be due upon receipt, unless provided otherwise on the face of the invoice.

6. **Non- Interference.** It is expressly understood and agreed that so long as this Participation Agreement is in force and effect, the Supervisor of Elections shall not interfere with Fleet Management in its day-to-day operations and shall at no time give or communicate orders or instructions to employees or sub-contractors of the County.

III. ADDITIONAL AGREEMENTS.

A. **ADDITIONAL AGREEMENTS.** After this Agreement is executed, the County or Supervisor of Elections may determine that additional agreements or changes to this agreement may be appropriate to implement the intent of the MOA or this agreement. The Supervisor of Elections and County agree to enter into additional agreements or amend this agreement, if appropriate.

B. **CONFLICTS BETWEEN AGREEMENTS.** If there are any conflicts between this Participation Agreement and the MOA, the terms of this Participation Agreement shall

prevail. If additional agreements are entered into between the Supervisor of Elections and the County pursuant to the MOA, the later agreement or amendment shall prevail over any prior agreement and the MOA. As to all agreements, more specific provisions shall prevail over general provisions as to the specific subject of the provision. If an agreement is entered into between the Supervisor of Elections and the County regarding a specific subject, the more specific agreement shall apply independently of all other agreements and the MOA as to that specific subject.

IV. TERM, RENEWAL, AND TERMINATION OF AGREEMENT.

A. **TERM.** The Supervisor of Elections and County recognize that the Council prepares its budget based on a fiscal year beginning on October 1 and ending September 30. This Participation Agreement shall be for successive terms of a full fiscal year, except for the first term which shall be less than a full fiscal year beginning on the Effective Date and ending on September 30, 2021.

B. **RENEWAL.** This Participation Agreement shall renew each year on October 1, unless terminated by either party as provided herein.

C. **NOTICE OF TERMINATION.** The Supervisor of Elections shall continue to utilize and/or participate in the services and programs set forth in this Participation Agreement, unless the Supervisor of Elections provides written notice to the County Manager before 5:00 PM on April 1. The County shall continue to provide to the Supervisor of Elections the services and programs set forth in this Participation Agreement unless the County Manager provides written notice to the Supervisor of Elections before 5:00 PM on April 1.

D. **TERMINATION.** Upon receipt of a timely notice of termination, the services and programs set forth in this Participation Agreement will end on September 30 of the fiscal year in which the notice of termination was given.

V. INTERLOCAL AGREEMENT.

A. **STATUTE.** Pursuant to section 163.01, Florida Statutes, units of local government have the authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately.

B. **INTERLOCAL AGREEMENT.** This Participation Agreement shall be deemed an interlocal agreement for purposes of section 163.01, Florida Statutes, upon the transition of the Supervisor of Elections from a county charter officer to an independent constitutional officer on January 5, 2021.

VI. MISCELLANEOUS.

A. **NON-WAIVER.** Nothing herein shall be construed as waiving any liability

limits or other protections or immunities provided by common law or Florida law to any Participant or to any officers or employees of Participant.

B. MODIFICATIONS. No provision of this Participation Agreement may be changed, altered, modified, or waived except in writing signed by both parties, which writing shall specifically reference this Participation Agreement and the specific provision which the parties intend to modify or waive.

C. COMPLETE AGREEMENT. This Participation Agreement sets forth the entire understanding related to the matters set forth herein between the parties and supersedes any and all prior oral or written agreements, understandings, representations, or warranties between the parties, except as specified herein.

D. SEVERABILITY AND ENFORCEABILITY. Should any provision of this Participation Agreement be declared illegal or unenforceable by any court of competent jurisdiction, such that it cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Participation Agreement in full force and effect.

E. TERMS. Common nouns and pronouns refer to the singular and plural, identity of the person or persons, firm or corporation as the context requires. Any reference to statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

F. HEADINGS. All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Participation Agreement.

G. RECITALS. The paragraphs outlined in the Recitals above are true and correct and made a part of this Participation Agreement.

H. NOTICES. Notices, consents, and approvals, which any party shall be required or shall desire to make or give under this Participation Agreement shall be in writing and shall be sufficient only when mailed by certified mail, first class postage affixed, addressed as follows:

County: County of Volusia ATTN: County Manager 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613	Participant: Volusia Supervisor of Elections ATTN: Lisa Lewis 1750 South Woodland Boulevard DeLand, Florida 32720
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With Copies to: County of Volusia ATTN: County Attorney 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613	
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IN WITNESS WHEREOF, the parties hereto have executed this PARTICIPATION AGREEMENT FOR FLEET MAINTENANCE between the Supervisor of Elections and the County of Volusia as set forth below.

**VOLUSIA COUNTY
SUPERVISOR OF ELECTIONS**

**COUNTY OF VOLUSIA,
FLORIDA**

By: _____
 Lisa Lewis
 Supervisor of Elections

By: _____
 Ed Kelley
 County Chair

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

 [Printed name and title]

By: _____
 George Recktenwald
 County Manager

EXHIBIT A

EQUIPMENT MASTER LIST BY DEPARTMENT

This report displays meter information for the fuel meter only.

EQUIPMENT	EQ DESCRIPTION	SERIAL NUMBER	LICENSE	EMPLOYEE	DEPT	CLASS	TYPE	METER READING	ACQ DATE
DEPARTMENT:	EL2000 - 0010402000 ELECTIONS								
170270	2008 CUMMINS DSHAF-5962189	L070142305	Elect. Del		EL2000	R05DZAGZZ-	H	757	03/06/2008
201606	2019 CAT D200P4	CAT00C71WVG300635	...		EL2000	R05DZAGZZ-	H	13	04/06/2020

Distinct Count of Equipment: 2

EXHIBIT A

EQUIPMENT MASTER LIST BY DEPARTMENT

This report displays meter information for the fuel meter only.

EQUIPMENT	EQ DESCRIPTION	SERIAL NUMBER	LICENSE	EMPLOYEE	DEPT	CLASS	TYPE	METER READING	ACQ DATE
DEPARTMENT: EL2000 - 0010402000 ELECTIONS									
195502	2017 Toyota SIENNA	5TDZZ3DCOHS868270	TF6274		EL2000	C2DGZAG43-	M	17,887	07/25/2017
195559	2017 DODGE CARAVA PAS	2C4RDGBG1HR655882	TB6958		EL2000	C2DGZAG43-	M	6,534	09/15/2017
197225	2018 Chevy VAN CARGO	1GCWGAFF6J1335629	TG6606		EL2000	C30GZAF43-	M	10,175	09/14/2018

Distinct Count of Equipment: 3

vehicles in the vehicle replacement program

**PARTICIPATION AGREEMENT FOR
EMPLOYEE BENEFITS PROGRAMS**

THIS PARTICIPATION AGREEMENT FOR EMPLOYEE BENEFITS PROGRAMS (hereinafter “Participation Agreement”) is entered into between the VOLUSIA COUNTY SUPERVISOR OF ELECTIONS, (hereinafter “Participant” or “Supervisor of Elections”), and the COUNTY OF VOLUSIA, a body corporate and politic and political subdivision of the State of Florida (hereinafter “County”).

RECITALS

WHEREAS, the County is one of twenty charter counties in Florida and governed by the Volusia County Charter enacted by special act of the Florida Legislature, and adopted by Volusia County voters, in 1970;

WHEREAS, the Charter abolished the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector and transferred those duties to County government;

WHEREAS, Amendment 10 to the Florida Constitution takes effect on January 5, 2021 (“Effective Date”), which will re-establish the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector;

WHEREAS, the Supervisor of Elections currently constitutes a county charter officer as an elected department head of the County, but will transition to an independent county constitutional officer on January 5, 2021;

WHEREAS, the County and Supervisor of Elections are committed to an orderly transition. As such, the County and Supervisor of Elections have previously entered into a Memorandum of Agreement (“MOA”) dated January 28, 2020, in support of the transition of the Supervisor of Elections from a county charter officer to a county constitutional officer;

WHEREAS, pursuant to section 112.08, Florida Statutes, counties, municipalities, constitutional officers, and special districts of the State of Florida have authority to self-insure any plan for health, accident, and hospitalization coverage or enter into a risk management consortium to provide such coverage, subject to approval of the Florida Office of Insurance Regulation;

WHEREAS, pursuant to section 768.28(16), Florida Statutes, the state, its agencies, and subdivisions are authorized to be self-insured, to enter into risk management programs, or to purchase liability insurance for whatever coverage they may choose, or to have any combination thereof, in anticipation of any claim, judgment, and claims bill which they may be liable to pay pursuant to section 768.28, Florida Statutes;

WHEREAS, such units of local government have authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority

which they share in common and which each might exercise separately as provided in section 163.01, Florida Statutes;

WHEREAS, the County and Supervisor of Elections desire to participate in a self-funded program for risk management (“Self-Insurance Program”), and health plan coverage and other employee benefits plans (“Employee Benefits Program”), for the mutual benefit of each and to provide for the payment of contribution amounts necessary to achieve and preserve adequate levels of funding and reserve balances to enable payment of the benefits and administrative costs incurred under such programs; and,

WHEREAS, the County and Supervisor of Elections have successfully worked together to arrive at this Participation Agreement to begin on the Effective Date to further implement the MOA;

NOW THEREFORE, the County and Supervisor of Elections agree as follows:

I. EMPLOYEE BENEFITS PROGRAM.

A. **PROGRAM.** The County Council by resolution shall establish the Employee Benefits Program and all procedures for the program. The County, in its sole discretion, shall determine the method and manner through which it provides the Employee Benefits Program under this agreement.

B. **PURPOSE.** By this Participation Agreement, the parties intend to participate in the Employee Benefits Program for Employees of Participant, as well as certain eligible Dependents, retirees, and COBRA beneficiaries, all as set forth in the Plan Document, as such term is defined herein. The parties intend to bind themselves to the terms and conditions of this Participation Agreement in accordance with and to the fullest extent allowed by Florida law. The parties intend to establish this Employee Benefits Program for immediate participation by each of them as of the Effective Date.

C. **DEFINITIONS APPLICABLE TO EMPLOYEE BENEFITS PROGRAM.** Unless the context otherwise requires, words and phrases attached hereto and incorporated herein as Exhibit A shall have the meanings set forth therein.

D. **SCOPE OF COVERAGE.** This Participation Agreement shall govern the payment, reporting, and administrative obligations of the County and Participant relating to the Employee Benefits Program. This Participation Agreement also establishes a Benefits Review Team and outlines the program membership. Services for the self-funded health plan will be supplied through an "administrative services only" contract with an insurance company or a third party administrator in which such company will perform administrative services including, but not limited to: claims adjudication and payment; customer service; plan administration; provider network; disease management; claims fiduciary responsibility; and reporting. For other

employee benefit programs, coverage will be supplied through insurance carriers, specific to the program being offered, through a fully insured contract.

E. WITHDRAWAL AND REENTRY OF PARTICIPANT FROM THE EMPLOYEE BENEFITS PROGRAM.

1. Once admitted to participate in the Employee Benefits Program, Participant may not withdraw from the Self-Insurance Program without the consent of the County Council, unless provided otherwise herein.

2. Participant may petition County Council to re-enter the Self-Insurance Program two (2) years from the date of her removal from the Program. County Council retains the sole discretion to allow reentry and establishment of any terms and conditions upon reentry. Participant shall only be allowed to re-enter the Employee Benefits Program beginning 12:00 a.m., midnight January 1 and ending 11:59 p.m. December 31 of the reentry year. Should Participant desire to re-enter the Employee Benefits Program, Participant shall provide written notice of her request to the County Manager no later than 12 months in advance of her desired reentry date. Participant shall, upon request of County, timely provide all data requested for an actuarial study to determine the financial impact on the Employee Benefits Program and reimburse the County for any actuarial study and all related costs.

F. TERM AND RENEWAL. The initial term of this Employee Benefits Program begins at 12:00 a.m. midnight on January 5, 2021, and lasts through 11:59 p.m. on December 31, 2021. Each Plan Year thereafter shall begin at 12:00 a.m. midnight on January 1st through 11:59 p.m. on December 31st. Except as provided for herein, participation in this Employee Benefits Program shall be automatically renewed each subsequent Plan Year so long as this Participation Agreement remains in effect.

G. MEMBERSHIP. County shall be a participant as well as serve as the Plan Administrator for the Employee Benefits Program. In addition to the County, participants in this Program for the initial Plan Year are the Volusia County Sheriff, the Volusia County Supervisor of Elections, and the Volusia County Property Appraiser. The Volusia County Tax Collector may also become a participant. The County may, at its option, add other participants. Changes in membership for subsequent terms shall not invalidate the Employee Benefits Program portion of this Participation Agreement for participants remaining or joining the Employee Benefits Program. Participants remaining in the Employee Benefits Program for subsequent terms shall not be required to enter into a new agreement as a result of such change in membership.

H. REQUIRED PROGRAM CONTRIBUTIONS AND PREMIUMS. County shall deduct required contributions from each Employee's payroll for the Employee's chosen benefits plans. Participant will pay the annual budgetary amount per budgeted (filled and unfilled) position as well as employee and dependent calculated premiums

for Employee's pay cycle, retiree, and COBRA monthly premiums as set by the County.

I. EMPLOYEE ASSISTANCE PROGRAM (EAP) - FITNESS FOR DUTY (MANAGEMENT REFERRALS).

1. Participant will contact the County's Human Resources Director to initiate a fitness for duty through the Employee Assistance Program (EAP) or the Occupational Health Clinic (OHC). Human Resources will initiate the fitness for duty on behalf of the Participant after being provided with all the information concerning the employee. A fit for duty evaluation is utilized when concerns about an employee's competence and/or safety on the job is questioned. It is used to evaluate an employee's ability to perform essential job functions and assess employee's imminent risk of violence to self or to others in the workplace. The fitness for duty evaluation helps the employer:

- a) Gain access to clinical information regarding an employee whose ability to function safely and productively in the work environment is in question;
- b) Obtain information on which to base critical workplace decisions; and,
- c) Provides a narrative report that addresses the County and Participant's questions about the employee's competence and/or safety on the job.

2. The cost of the fitness for duty evaluation for the EAP and/or the OHC will be charged back to the Participant, at its current rates, which are:

- (1) EAP:
 - (a) \$3,300.00 - *Psychological evaluation*
 - (b) \$3,600.00 - *Psychiatric evaluation, and*
 - (c) \$4,600.00 - *Neurological evaluation*

- (2) OHC - \$415.00 - Physical examination

3. The cost of the fitness for duty evaluation charged by the EAP and/or OHC are subject to change and will be charged at the current rate at the time of the evaluation to the Participant.

J. ANNUAL OPEN BENEFITS ENROLLMENT.

1. The County shall provide an annual benefits open enrollment for Participant's employees.

a) **No Change to Benefits.** (*Enrollment roll over*). If employee wishes to keep all of his/her benefits the same for the following plan year, he/she does not have to do anything and the current benefit selections will roll forward into the next plan year. This is inclusive of flexible spending accounts, which will be effective for the next plan year starting January 1 of each year. The Wellness Incentive Dollars and Dependent Health Care Subsidy will not roll over; employees will have to re-elect these selections each year.

b) **Change to Benefits.**

(1) If employee wants to make additions, deletions, or changes to enrollment in the medical, dental, vision, flexible spending account plans, and/or accident off the job insurances, he/she will have to log into the Employee Self Service (ESS). If Participant elects to not participate in the County payroll system, Participant will define how their participating employees will make additions, deletions, or changes in the medical, dental, vision, flexible spending account plans and/or accident off the job insurances.

(2) After the County conducts an annual open enrollment, if Participant is not utilizing the County's payroll system, Participant shall enter her employee's additions, deletions, or enrollments to the benefits vendors and enter the elected benefits enrollment employee information into her payroll system.

K. REQUIRED ELIGIBILITY INFORMATION.

1. If Participant is utilizing the County's payroll system, Participant will be required to provide Human Resources with the following eligibility information:

a) Names of Employees and names of their Dependents, each County employee ID number, social security numbers, addresses, dates of birth, gender, beneficiaries, coverage options, and tiers elected. Eligibility information is gathered at new employee orientations, qualifying events, terminations from employment, and during the annual open enrollment. This information is required to complete benefit selections at a new employee orientation, when a qualifying event is reported (birth, marriage, divorce, death, etc.), when a termination of employment takes place, after the annual open enrollment, and when an employee retires.

b) Any time an Employee adds a Dependent to a benefits plan a

marriage certificate for spouse, a birth certificate for child, and a social security card for the Dependent must be sent to Human Resources.

2. If Participant is not utilizing the County's payroll system, Participant is to submit the required eligibility information as outlined in subparagraph II.K.1. above directly to the applicable insurance companies of the County's benefits plans and the County's applicable administrative companies. Anytime an Employee adds a Dependent to a benefits plan, a marriage certificate, a birth certificate, and a social security card for Dependent must be sent to the Participant, if Participant is not utilizing the County's payroll system.

3. Each Participant shall utilize the County's applicable administrative vendors, which includes COBRA, retiree billing administrator, and Flexible Spending Account (FSA) administrator(s) used by the County and shall comply with all requirements of such COBRA, retiree, and FSA administrator(s).

L. **FUNDING.** County shall develop premiums and budgetary amounts, and any plan changes for all employee benefits plan options. County will annually determine scheduled premium charges based, including, but not limited to, on claims experiences, program structure, coverage levels, administrative expenses, Claims Reserves requirements, and other relevant factors. Subsequent to approval by the County, premiums, budgetary amounts, and benefit plan design shall be transmitted to Participant in July of each Plan Year as outlined herein.

M. **CONTRIBUTIONS.**

1. The County will pay the annual budgetary amount per budgeted (filled and unfilled) position, Employee and Dependent calculated premiums for Employee's pay cycle, retiree, and COBRA monthly premiums as set by the County for Participant, if Participant is on the County payroll system. If Participant is utilizing the County's payroll system, Participant does not have to perform audits of Employee's premiums for Employee's elected benefits.

2. If Participant is not utilizing the County's payroll system, Participant will have to pay the annual budgetary amount per (filled and unfilled) budgeted position, Employee and Dependent calculated premiums for Employee's pay cycle, retiree, and COBRA monthly premiums as set by the County and enter the premiums into their payroll system. If Participant is not utilizing the County's payroll system, Participant will also have to perform audits of Employee premiums for Employee elected benefits and is not entitled to any surplus or reserve in the Medical Benefits Fund nor responsible for funding any deficits.

N. **CLAIMS RESERVE.** County shall be responsible for maintaining the self-funded health plan Claims Reserves required by state laws and regulations and based on sound actuarial and accounting principles. The County may purchase stop loss insurance to protect against catastrophic claims of individuals enrolled in the Employee Benefits Program.

O. **DEFERRED COMPENSATION (457 PLAN).**

1. Employees of the Participant may participate in the County's deferred compensation plan ("457 Plan"), the 457 Plan is a retirement plan offered to public employees to set aside money from each paycheck toward retirement. The County does not match or provide any contributions into the 457 Plan.

2. The County retains a third party vendor to manage its retirement investments, including the 457 Plan. The County shall provide Participant's employees with the information regarding the vendor managing its 457 Plan.

3. Participants utilizing the County's payroll system will go through Human Resources for plan elections, terminations, and changes to an employee's deferred compensation account in the County's payroll system.

4. If Participant is not utilizing the County's payroll system, she will have to enter plan elections, terminations, and changes to an employee's deferred compensation account in to her own payroll system.

P. **PRE-TAX PREMIUM PLAN (IRS §125).**

1. The County has established a Pre-Tax Premium Plan ("IRS § 125 Plan"). Under the IRS § 125 Plan, premium expenses for Participant's enrolled employees and all enrolled eligible dependents will be paid with pre-tax dollars. The documents required for the IRS § 125 Plan that govern the pre-tax benefits will include the Participant's agency name.

2. IRS Code §125 establishes what benefits are eligible for pre-tax plans. Currently, eligible pre-tax benefits include: Medical, Dental, Vision, and flexible spending accounts. All other insurances will be paid after taxes, including, but not limited to, short term disability, supplemental life insurance, off-the-job accident, cancer, critical illness, and heart stroke.

3. Once an employee elects to participate in the IRS § 125 Plan, they cannot add, drop, or change coverages until the Annual Open Enrollment unless there is a Change in Status (qualifying event) such as marriage, divorce, death, birth, etc. In the case of a Change in Status, the Participant's employee will have thirty-one (31) days from the date of the event to make any changes.

Q. ACCOUNTING.

1. Accounting of the operations of the Employee Benefits Program shall be performed in accordance with generally accepted governmental accounting principles and Florida law.
2. The County will perform or cause to be performed a health plan claims audit of the ASO Contract Provider on an annual basis.
3. Human Resources shall prepare, or cause to be prepared, the annual self-funded health plan report required by section 112.08, Florida Statutes, within three (3) months of the end of each Plan Year, with the required actuarial statement prepared by an independent actuarial firm.

R. BENEFITS REVIEW TEAM.

1. The Benefits Review Team is comprised of representatives from the County Human Resources Department, who will serve as the Team Coordinator, and representatives from Participant and other participating Constitutional Officers of the County.
2. The Benefits Review Team will meet regularly to receive Employee Benefits Program updates, information on current and new benefit initiatives, annual costs of premiums and contributions, and benefits renewals. The County shall determine the schedule for these meetings.

S. ASO CONTRACT PROVIDER. The daily operations of the County's self-funded health plan will be conducted by the ASO Contract Provider in accordance with the terms of the administrative services contract in effect with the County. The ASO Contract Provider will process claims covered by this Agreement and provide other administrative services which may include: claims adjudication and payment; customer service; plan administration; provider network; disease management; claims fiduciary responsibility; and claims reporting services. Health plan claims approved by the ASO Contract Provider shall be paid from the Medical Benefits Fund in accordance with the Plan Document.

T. TERMINATION WITHDRAWAL AND REMOVAL.

1. This Agreement may be terminated or the membership of any Participant, other than County, may be terminated as follows:
 - a) **Termination.** This Agreement may be terminated by the County. The County will provide notice of any such termination by June 1 of the then existing Plan Year. The effective date of such termination shall be 11:59 p.m. December 31 of the following Plan Year. (i.e. termination

notice provided on June 1, 2021 would be effective at 11:59 p.m., December 31, 2022).

b) **Withdrawal.** Participant withdraw from the Program and from this Participation Agreement. Written notice of withdrawal must be provided to the County on or before June 1 of the then existing Plan Year. The effective date of such withdrawal shall be effective 12:00 a.m. on January 1st of the following Plan Year. (i.e. notice of withdraw provided June 1, 2021 would be effective at 12:00 a.m. on January 1, 2022). Health plan claims incurred beyond this date by Participant's employees, in the event of withdrawal, shall not be paid from the Medical Benefits Fund. In the event of withdrawal, Participant shall remain liable for any contributions due on or prior to the effective date of withdrawal. Subsequent to withdrawal, Participant will receive no services of the Program.

c) **Removal.** Participant may be removed from the Program upon the action of the County Council. Reasons for removal including, without limitation, failure to timely remit contributions to the Medical Benefits Fund; failure to remit required premiums and/or applicable Program administrative fees; failure to timely submit required reports; or engagement in activities which adversely affect the operation of the Program. Prior to County Council action, notice of proposed removal shall be delivered to the Participant in writing. The notice shall state the reasons for the proposed removal and provide a time period within which these may be corrected. Removal shall take effect on the first day of the next ensuing month following County Council action on the removal. Claims incurred beyond this date by expelled Participant shall not be paid from the Medical Benefits Fund. Following removal, Participant shall remain liable for any contributions due on or prior to the effective date of removal. Subsequent to removal, Participant will receive no services of the Program.

d) **Participant Reinstatement in Program.** If Participant withdraws from the Program, Participant will not be eligible to rejoin for a minimum of two (2) years from the date of withdrawal. If Participant is removed from the Program, Participant must petition the County Council for permission to rejoin the Program by August 31. Reinstatements will occur on January 1 of the Plan Year.

II. ADDITIONAL AGREEMENTS.

A. **ADDITIONAL AGREEMENTS.** After this Agreement is executed, the County or Supervisor of Elections may determine that additional agreements or changes to this

agreement may be appropriate to implement the intent of the MOA or this agreement. The Supervisor of Elections and County agree to enter into additional agreements or amend this agreement if appropriate.

B. **CONFLICTS BETWEEN AGREEMENTS.** If there are any conflicts between this Participation Agreement and the MOA, this Participation Agreement shall prevail. If additional agreements are entered into between the Supervisor of Elections and the County pursuant to the MOA, the later agreement or amendment shall prevail over any prior agreement and the MOA. As to all agreements, more specific provisions shall prevail over general provisions as to the specific subject of the provision. If an agreement is entered into between the Supervisor of Elections and the County regarding a specific subject, the more specific agreement shall apply independently of all other agreements and the MOA as to that specific subject.

III. **TERM AND RENEWAL.**

A. **TERM.** The Supervisor of Elections and County recognize that the Council prepares its budget based on a fiscal year beginning on October 1 and ending September 30. This Participation Agreement shall be for successive terms of a full fiscal year, except for the first term which shall be less than a full fiscal year beginning on the Effective Date and ending on September 30, 2021.

B. **RENEWAL.** This Participation Agreement shall renew each year on October 1, unless terminated by either party as provided herein.

IV. **INTERLOCAL AGREEMENT.**

A. **STATUTE.** Pursuant to section 163.01, Florida Statutes, units of local government have the authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately.

B. **INTERLOCAL AGREEMENT.** This Participation Agreement shall be deemed an interlocal agreement for purposes of section 163.01, Florida Statutes, upon the transition of the Supervisor of Elections from a county charter officer to an independent constitutional officer on January 5, 2021.

V. **MISCELLANEOUS.**

A. **NON-WAIVER.** Nothing herein shall be construed as waiving any liability limits or other protections or immunities provided by common law or Florida law to any Participant or to any officers or employees of Participant.

B. **MODIFICATIONS.** No provision of this Participation Agreement may be changed, altered, modified, or waived except in writing signed by both parties, which writing shall specifically reference this Participation Agreement and the specific provision which the parties intend to modify or waive.

C. **COMPLETE AGREEMENT.** This Participation Agreement sets forth the entire understanding related to the matters set forth herein between the parties and supersedes any and all prior oral or written agreements, understandings, representations, or warranties between the parties, except as specified herein.

D. **SEVERABILITY AND ENFORCEABILITY.** Should any provision of this Agreement, as set forth herein be declared illegal or unenforceable by any court of competent jurisdiction, such that it cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Participation Agreement in full force and effect.

E. **TERMS.** Common nouns and pronouns refer to the singular and plural, identity of the person or persons, firm or corporation as the context requires. Any reference to statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

F. **HEADINGS.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

G. **RECITALS.** The paragraphs outlined in the Recitals above are true and correct and made a part of this Participation Agreement.

H. **NOTICES.** Notices, consents, and approvals, which any party shall be required or shall desire to make or give under this Agreement shall be in writing and shall be sufficient only when mailed by certified mail, first class postage affixed, addressed as follows:

County: County of Volusia ATTN: County Manager 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613	Participant: Volusia Supervisor of Elections ATTN: Lisa Lewis 1750 South Woodland Boulevard DeLand, Florida 32720
With Copies to: County of Volusia ATTN: County Attorney 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613	

SIGNATURE BLOCK ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this PARTICIPATION AGREEMENT EMPLOYEE BENEFITS PROGRAMS between the Supervisor of Elections and the County of Volusia as set forth below.

**VOLUSIA COUNTY
SUPERVISOR OF ELECTIONS**

**COUNTY OF VOLUSIA,
FLORIDA**

By: _____
Lisa Lewis
Supervisor of Elections

By: _____
Ed Kelley
County Chair

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

[Printed name and title]

By: _____
George Recktenwald
County Manager

EXHIBIT A
EMPLOYEE BENEFITS PROGRAM
DEFINITIONS

- (a) *ASO Contract Provider*: Cigna Health and Life Insurance Company, or any subsequent insurance company, or health plan third party administrator, selected by the County, which shall function as the administrative entity for this Agreement and Program, and whose related expense will be provided accordingly as approved by the County.
- (b) *Benefits Review Team*: means a group comprised of representatives from the County Human Resources Department, who will serve as the Team Coordinator, and representatives from Participant and other Participating Independent Constitutional Officers of the County. The Benefits Review Team will meet regularly to receive: Program updates; information on current and new benefit initiatives; annual costs of premiums and contributions; and benefit renewals.
- (c) *Claims Reserve*: amount of funds set aside in a reserve account to meet the Florida Department of Financial Services actuarial requirements for approval of the Program, for catastrophic large claims protection, for unexpected claims trends, for County health promotion programs, and for funds to help stabilize future premiums.
- (d) *COBRA*: meaning ascribed to such term in the Plan Document.
- (e) *County*: County of Volusia (a body corporate and politic and a subdivision of the State of Florida) including its districts, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents, volunteers, and any party with whom the County has agreed by contract to provide additional insured status.
- (f) *Dependent*: meaning ascribed to such term in the Plan Document
- (g) *Employee*: meaning ascribed to such term in the Plan Document.
- (h) *Employee Benefit Program*:
 - a. The County's self-funded program for medical/prescription drug plan coverage; and,
 - b. Other Employee benefit plans including but not limited to:
 - i. County paid plans:
 - a. Basic Life and AD&D Insurance (1 times annual salary)
 - b. Long Term Disability (LTD)
 - c. Employee Assistance Program (EAP)

- d. Dependent Health Care Subsidy
- e. Wellness Incentive Program
- f. Retirement Supplement Program
- ii. Employee paid (voluntary) plans:
 - a. Dental
 - b. Vision
 - c. Supplemental Life Insurance
 - d. Short Term Disability
 - e. Critical Illness, Cancer, Heart/Stroke, Accident Insurance
 - f. Flexible Spending Accounts
 - g. Deferred Compensation Plan (457)
- (i) *Fiscal Year*: each budget year of the County, which begins on October 1 and ends September 30 of each year.
- (j) *Human Resources*: benefits office of the County.
- (k) *Medical Benefits Fund*: County fund used to account for the total amount of premium contributions by all participants in the self-funded health plan, pharmacy rebates received, all health plan reserves, any other funds pertaining to the self-funded health plan, and the investment earnings on all such monies and constitutes the source of money for all expenses of the self-funded health plan, including, without limitation, the payment of claims, plan management expenses, and administrative expenses subject to annual review by the County.
- (l) *Plan Administrator*: the County.
- (m) *Plan Document*: summary plan document setting forth the terms and conditions of health plan coverage and eligibility requirements. The term is also used for the benefit documents for other employee benefit plans setting forth the terms and conditions of benefit coverage and eligibility requirements.
- (n) *Plan Year*: the calendar year term of the Employee Benefits Program and any subsequent calendar year term.
- (o) *Employee Benefits Program*: County Employee Benefit Program.
- (p) *Retiree*: meaning ascribed to such term in the Plan Document.

**PARTICIPATION AGREEMENT FOR
SELF-INSURANCE PROGRAMS**

THIS PARTICIPATION AGREEMENT FOR SELF-INSURANCE PROGRAMS (hereinafter “Participation Agreement”) is entered into between the VOLUSIA COUNTY SUPERVISOR OF ELECTIONS, (hereinafter “Participant” or “Supervisor of Elections”), and the COUNTY OF VOLUSIA, a body corporate and politic and political subdivision of the State of Florida (hereinafter “County”).

RECITALS

WHEREAS, the County is one of twenty charter counties in Florida and governed by the Volusia County Charter enacted by special act of the Florida Legislature, and adopted by Volusia County voters, in 1970;

WHEREAS, the Charter abolished the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector and transferred those duties to County government;

WHEREAS, Amendment 10 to the Florida Constitution takes effect on January 5, 2021 (“Effective Date”), which will re-establish the constitutional offices of property appraiser, sheriff, supervisor of elections, and tax collector;

WHEREAS, the Supervisor of Elections currently constitutes a county charter officer as an elected department head of the County, but will transition to an independent county constitutional officer on January 5, 2021;

WHEREAS, the County and Supervisor of Elections are committed to an orderly transition. As such, the County and Supervisor of Elections have previously entered into a Memorandum of Agreement (“MOA”) dated January 28, 2020, in support of the transition of the Supervisor of Elections from a county charter officer to a county constitutional officer;

WHEREAS, pursuant to section 112.08, Florida Statutes, counties, municipalities, constitutional officers, and special districts of the State of Florida have authority to self-insure any plan for health, accident, and hospitalization coverage or enter into a risk management consortium to provide such coverage, subject to approval of the Florida Office of Insurance Regulation;

WHEREAS, pursuant to section 768.28(16), Florida Statutes, the state, its agencies, and subdivisions are authorized to be self-insured, to enter into risk management programs, or to purchase liability insurance for whatever coverage they may choose, or to have any combination thereof, in anticipation of any claim, judgment, and claims bill which they may be liable to pay pursuant to section 768.28, Florida Statutes;

WHEREAS, such units of local government have authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority

which they share in common and which each might exercise separately as provided in section 163.01, Florida Statutes;

WHEREAS, the County and Supervisor of Elections desire to participate in a self-funded program for risk management (“Self-Insurance Program”), for the mutual benefit of each and to provide for the payment of contribution amounts necessary to achieve and preserve adequate levels of funding and reserve balances to enable payment of the benefits and administrative costs incurred under such programs; and,

WHEREAS, the County and Supervisor of Elections have successfully worked together to arrive at this Participation Agreement to begin on the Effective Date to further implement the MOA;

NOW THEREFORE, the County and Supervisor of Elections agree as follows:

I. SELF-INSURANCE PROGRAM.

A. **PROGRAM.** The County Council by resolution shall establish the Self-Insurance Program and all procedures for the program. The County, in its sole discretion, shall determine the method and manner through which it provides the Self-Insurance Program under this agreement.

B. **COVERAGES PROVIDED.** The Self-Insurance Program consists of self-insurance, administration, and insurance policies to appropriately absorb or transfer risk from County and Participant operations. The purpose of the Self-Insurance Program is generally to manage the risks associated with the County’s operations and Participant’s operations; provide uniform and centralized self-insurance for Automobile Liability, General Liability, Workers' Compensation, Employment-Related Practices Liability, Professional Liability, and to provide insurance coverage for such other risks as may from time to time be added, amended, or removed by the County’s Risk Manager or County’s designee.

C. **DEFINITIONS APPLICABLE TO SELF-INSURANCE PROGRAM.** Unless the context otherwise requires, words and phrases used in this Participation Agreement are defined in Exhibit A, attached hereto and incorporated herein.

D. SCOPE OF COVERAGE.

1. **In General.** The Self-Insurance Program shall cover all officials, officers, employees, and volunteers of the Participant while acting within the course and scope of their duties. It is intended that the Self-Insurance Program shall only cover such officials, officers, employees, and volunteers of the Participant while acting in the scope and course of their employment while acting in good faith and in the best interests of the Participant. By participating in the Self-Insurance Program, Participant does not intend to waive sovereign

immunity. The County reserves the right to assert sovereign immunity to the extent allowed by law and to assert restrictions, conditions, and limitations on the settlement of Claims and payments of judgments, as set forth in applicable state or federal law.

2. Self-Insurance Program.

a) *Specimen Policies.* The County will assemble, maintain and distribute to the Participant, copies of Specimen Policies for Automobile Liability, General Liability, Workers' Compensation, Professional Liability, and Employment-Related Practices Liability. Unless the context otherwise requires, words and phrases used in the Specimen Policies shall be defined within the Specimen Policies. To the extent that there is any conflict between the definitions contained in Exhibit A and the definitions contained in the Specimen Policies, the definitions contained in the Specimen Policies shall control.

b) *Modification of Specimen Policies.* Periodically, the County may modify the Specimen Policies by adding, removing, or amending the forms and endorsements attached. When such modifications are made, Participant will be provided with copies of the revised Specimen Policies and all attached forms at least sixty (60) days prior to the effective date of any change.

c) *Specimen Policies Reservation.* The County utilizes insurance industry forms and standards in its Specimen Policies which are specifically identified in this Agreement which may be amended or replaced from time to time in the sole discretion of the Risk Manager or County's designee. County reserves the right to utilize any source of form or standard for its Specimen Policies. If changes are made, Participant shall be provided with copies of any changed Specimen Policies and all attached forms at least sixty (60) days prior to the effective date of any changes.

d) *Automobile Liability.* The Specimen Policy for Automobile Liability will be based upon the liability coverage section of the most recent version of the Business Auto Coverage Form, Form CA 00 01, as issued by the Insurance Services Office, Inc., and with Symbol 1 ("any auto") selected. The Specimen Policy for Automobile Liability will also include designated endorsements as selected by the County. Where possible, such endorsements modifying the Specimen Policy for Automobile Liability may be selected from the forms and endorsements issued by the Insurance Services Offices, Inc., and approved for use by insurance companies in the State of Florida.

e) *General Liability.* The Specimen Policy for General Liability will be based upon the most recent version of the Commercial General Liability Coverage Form, Form CG 00 01, as issued by the Insurance Services Office, Inc. The Specimen Policy for General Liability will also include designated endorsements as selected by the County. Where possible, such endorsements modifying the Specimen Policy for General Liability may be selected from the forms and endorsements issued by the Insurance Services Offices, Inc., and approved for use by insurance companies in the State of Florida.

f) *Workers' Compensation.* The Specimen Policy for Workers' Compensation will cover all liabilities of Participant arising under Chapter 440, Florida Statutes, and will be based upon the most recent version of the Workers Compensation and Employer's Liability Insurance Policy Form, Form WC 00 00 00 C, as issued by the National Council on Compensation Insurance. The Specimen Policy for Workers' Compensation will also include designated endorsements as selected by the County. Where possible, such endorsements modifying the Specimen Policy for Workers' Compensation may be selected from the forms and endorsements issued by the National Council on Compensation Insurance and approved for use by insurance companies in the State of Florida.

g) *Professional Liability.* The Specimen Policy for Professional Liability will be based upon the most recent version of the Professional Liability Coverage Form, Form MI 00 01, as issued by the Insurance Services Office, Inc. The Specimen Policy for Professional Liability will also include designated endorsements as selected by the County. Where possible, such endorsements modifying the Specimen Policy for Professional Liability may be selected from the forms and endorsements issued by the Insurance Services Offices, Inc., and approved for use by insurance companies in the State of Florida.

h) *Employment-Related Practices Liability.* The Specimen Policy for Employment-Related Practices Liability will be based upon the most recent version of the Employment-Related Practices Liability Coverage Form, Form EP 00 01, as issued by the Insurance Services Office, Inc. The Specimen Policy for Employment-Related Practices Liability will also include designated endorsements as selected by the County. Where possible, such endorsements modifying the Specimen Policy for Employment-Related Practices Liability may be selected from the forms and endorsements issued by the Insurance Services Office, Inc., and approved for use by insurance companies in the State of Florida.

i) *Claim Costs and Administrative Expenses.* The Self-Insurance Program covers all Claim costs and administrative expenses, which are covered by the Automobile Liability, General Liability, Workers' Compensation, Professional Liability, and Employment-Related Practices for the Participant.

3. **Policies of Insurance Issued by Carriers.** The scope of coverage for insurance policies issued by insurance companies shall be governed by the terms and conditions of the specific insurance policies.

E. **UTILIZATION OF COUNTY ATTORNEY.**

1. This section is intended to supersede and replace references to legal services in the MOA and to provide additional detail.

2. The Self-Insurance Program utilizes the legal services of the County Attorney to provide uniform and centralized self-insurance to the County and the Participating Independent Constitutional Officers. Participant acknowledges that the County Attorney provides additional legal services to the County. Because their operations are diverse, it is possible that the County and Participant may develop adverse interests in matters, such as budgetary disputes, in which the County Attorney represents the County. Participant acknowledges she will need to retain separate legal counsel if she requires legal services in matters adverse to the County. Participant maintains the right to retain independent counsel at her own expense at any time.

3. As a condition of participating in the Self-Insurance Program, Participant agrees that the County Attorney may represent the County in matters adverse to the Participant while representing Participant in substantially unrelated matters. For purposes of this section, "the County" may include any employees, officials, agents, or other persons and entities represented by the County Attorney.

4. Should adverse interests develop in a matter, Participant agrees to provide informed consent to the continued representation of the County Attorney in all substantially unrelated Self-Insurance Program matters if (1) the County Attorney reasonably believes he or she will be able to provide competent and diligent representation to each affected participant in the Self-Insurance Program; (2) the representation is not prohibited by law; and (3) the representation does not involve the assertion of a position adverse to another participant in the Self-Insurance Program when the County Attorney represents both participants in the same proceeding before a tribunal.

5. If the County Attorney concludes that Participant should not agree to representation by the County Attorney in a Self-Insurance Program matter due to the County Attorney's representation of the County in a substantially

unrelated matter, the County shall select appropriate conflict counsel to represent Participant at the expense of the Self-Insurance Program. If Participant does not consent to the representation offered by the County, Participant may receive the benefits of the Self-Insurance Program if it retains a mutually agreeable conflict counsel at her own expense.

F. WITHDRAWAL AND REENTRY OF PARTICIPANT FROM THE SELF-INSURANCE PROGRAM.

1. Once admitted to participate in the Self-Insurance Program, Participant may not withdraw from the Self-Insurance Program without the consent of the County Council, unless otherwise provided herein.

2. Participant may petition County Council to re-enter the Self-Insurance Program two (2) years from the date of her removal from the Program. County Council retains the sole discretion to allow reentry and establishment of any terms and conditions upon reentry. Participant shall only be allowed to re-enter the Self-Insurance Program on October 1 of each Fiscal Year. Should Participant desire to re-enter the Self-Insurance Program, Participant shall provide written notice of her request to the County Manager no later than twelve (12) months in advance of desired reentry date. Participant shall, upon request of County, timely provide all data requested for an actuarial study to determine the financial impact on the Self-Insurance Program and reimburse County for the actuarial study and all related costs.

G. SELF-INSURANCE PROGRAM FUNDING.

1. Annually, the County's budget office shall determine the Annual Self-Insurance Premium Amount for Participant for the ensuing Fiscal Year no later than the end of the first full business week in April.

2. County shall notify the Participant in writing of the Annual Self-Insurance Premium Amount.

H. SETTLEMENT AND SPECIAL COUNSEL.

1. Settlement of Claims.

a) Claims arising from any of the risks covered by the Self-Insurance Program shall be settled in accordance with all ordinances and County Council resolutions governing the Self-Insurance Program.

b) County is authorized to settle all Claims on behalf of Participant covered under the Self-Insurance Program.

2. Notwithstanding anything in the County Code of Ordinances or County Council Self-Insurance Resolutions, the County Attorney is authorized to employ outside counsel and special counsel, from time to time, to perform legal services in connection with Claims asserted against the Self-Insurance Program and Participant.

3. Subject to the right of review of the County Manager, all strategic decisions related to the settlement and administration of Claims covered by the Self-Insurance Program, not otherwise provided for herein, including but not limited to, decisions related to the expenditure of costs and decisions to appeal shall be made by the County, including, but not limited to, by the County Risk Manager after consultation, as appropriate, with the County Attorney's office.

I. **SUBROGATION RIGHTS.** In all instances where the Self-Insurance Program makes any payments on behalf of Participant in relation to any Claim, the County shall be subrogated to all rights of the Participant against any third parties that are potentially liable or responsible for the Occurrence that gave rise to the Claim. The Participant shall do nothing after the Occurrence has transpired to impede such rights of the County.

J. **ADMINISTRATION AND PURCHASE OF INSURANCE POLICIES.** The County is authorized to purchase insurance to protect the Participant and County against property and casualty risks for which the County has determined that a need has arisen for the purchase of such insurance coverages so as to transfer some or all of the risks to third parties. The County is authorized to effectuate and contractually bind coverage on behalf of the Participant.

K. **INSURANCE POLICY PREMIUMS.** All premiums paid by the County for the purchase of insurance policies outside of the Self-Insurance Program shall be chargeable to Participant, other participating constitutional officers of the County, departments, divisions, agencies, offices, and organizational units of the County covered under said insurance policies. Any surplus of funds chargeable to various departments, divisions, agencies, offices, and organizational units of the County for insurance premiums shall be retained by the County in County reserve fund. Any surplus of funds chargeable to the Participant or other participating constitutional officer of the County for insurance premiums shall likewise be retained by the County.

L. **INSURANCE POLICY DEDUCTIBLES AND SELF-INSURED RETENTIONS.** The insurance policies purchased by the County may be subject to deductibles and self-insured retentions. To the extent that it can be reasonably segregated and the County pays any deductible or self-insured retention on behalf of Participant, the County shall be authorized to charge the cost of payment to the Participant.

M. PARTICIPANT INSURANCE REQUESTS.

1. The County may elect to purchase insurance policies upon written request of a Participant related to the Participant's operations not otherwise covered by the Self-Insurance Program and at the discretion of the County that includes coverage for Participant.
2. The Participant shall be responsible for the portion of the premium attributable to its inclusion in those insurance policies. Any surplus of funds chargeable to Participant shall be retained by the County.
3. The County shall charge the cost of payment back to the Participant to the extent the County pays any deductible or self-insured retention on behalf of the Participant.
4. If Participant elects to withdraw from her participation in an insurance policy that was obtained for the Participant at her request and the Participant is the only named insured on the policy, Participant shall give notice of such intent to withdraw from that policy, in writing, no later than 120 days prior to the expiration of the insurance policy at issue. Once notice has been given, it cannot be rescinded during that policy period.

N. INSURANCE CLAIMS, SETTLEMENTS, AND PROCEEDS.

1. The County shall be authorized to make and settle Claims on behalf of the County and any Participant covered under a policy of insurance obtained by or through the County.
2. The County shall be authorized to receive payment of insurance proceeds from the insurance companies in settlement of Claims on behalf of all parties covered under a policy of insurance obtained by or through the County. The County shall be entitled to deduct any costs incurred in adjudicating such Claim, including deductible and self-insured retention payments, from such proceeds before forwarding such proceeds to Participant for the suffered Loss.

O. SALVAGE AND RECOVERY RIGHTS. The County shall have the right to release, on behalf of Participant, all rights of salvage and recovery to any insurance company that pays a covered Claim. To the extent the County incurs costs in the adjudication of an insured Claim against Participant's property, including costs incurred satisfying a deductible or self-insured retention, the County shall be entitled to assume the rights of salvage and recovery of the Participant's property so that the County may recover such incurred costs.

P. RECOVERIES.

1. The County is authorized to pursue, collect, and retain Participant Recoveries and General Recoveries from third parties in relation to the payment of any Claims.

2. The Participant shall cooperate with the County to pursue and collect, Participant Recoveries and General Recoveries from third parties in relation to the payment of any Claims.

Q. PARTICIPANT RECOVERIES. Participant Recoveries shall be credited against the Participant's Claim that generated the recovery of funds.

R. COUNTY INSURANCE AND INDEMNIFICATION STANDARDS.

1. **Insurance and Contract Reviews.** The County shall be responsible for reviewing and approving all proposed insurance and indemnity provisions, including any limitation on liability provisions in favor of a third party, in:

- a) All Participant contracts, including, but not limited to, construction contracts, vendor agreements, leases, easements, license and use agreements, permits, applications, grants, and all other agreements;
- b) All Participant bid and procurement documents; and,
- c) Any Participant personnel or related policies that have the potential of expanding or creating Workers' Compensation benefits not provided under Chapter 440 of the Florida Statutes.

2. **Review before Execution.** Drafts of Participant proposed contracts, procurement documents, and any other document with an insurance or indemnity provision shall be provided to the County for review and approval not less than thirty (30) days prior to the execution, release, or submission for execution of such documents.

S. STANDARD INSURANCE AND INDEMNIFICATION REQUIREMENTS.

The County is authorized, subject to the concurrence of the County Attorney, to develop standard insurance and indemnification requirement terms and conditions to be used in all Participant contracts, agreements, leases, use agreements, and procurement documents. Any limitation on any liability provision in favor of a third party contained in a Participant contract, agreement, use agreement, or procurement document, shall be subject to the County's review and approval.

T. PARTICIPANT-PRODUCED EVENTS.

1. The County shall be responsible for the establishment, review, and approval of the insurance and indemnification provisions to be required of all vendors and participants in Participant-Produced Events.
2. Participant agrees to submit all Participant-Produced Events to the County Risk Manager for approval at least thirty (30) days prior to the scheduled date on which the event will begin or occur.

II. TERM, RENEWAL, AND TERMINATION OF AGREEMENT.

A. **TERM.** The Supervisor of Elections and County recognize that the Council prepares its budget based on a fiscal year beginning on October 1 and ending September 30. The initial term of this Self Insurance Program shall begin at 12:00 a.m. on January 5, 2021 and last through 11:59 p.m. on September 30, 2021.

B. **RENEWAL.** Except as provided for herein as to specific insurance policies, participation in this Self-Insurance Program shall be automatically renewed each subsequent October 1st for a full fiscal year, so long as this Participation Agreement remains in effect.

C. **NOTICE OF TERMINATION.** The Supervisor of Elections shall continue to utilize and/or participate in the Self-Insurance Program as set forth in this Participation Agreement, unless the Supervisor of Elections provides written notice to the County Manager before 5:00 p.m. on April 1. The County shall continue to provide to the Supervisor of Elections the services and programs set forth in this Participation Agreement unless the County Manager provides written notice to the Supervisor of Elections before 5:00 p.m. on April 1.

D. **TERMINATION.** Upon receipt of a timely notice of termination and approval of the County Council, the services and programs set forth in this Participation Agreement will end on September 30 of the fiscal year in which the notice of termination was given.

III. INTERLOCAL AGREEMENT.

A. **STATUTE.** Pursuant to section 163.01, Florida Statutes, units of local government have the authority to enter interlocal agreements and exercise jointly with any other public agency of the state any power, privilege, or authority which they share in common and which each might exercise separately.

B. **INTERLOCAL AGREEMENT.** This Participation Agreement shall be deemed an interlocal agreement for purposes of section 163.01, Florida Statutes, upon the transition of the Supervisor of Elections from a county charter officer to an independent constitutional officer on January 5, 2021.

IV. ADDITIONAL AGREEMENTS.

A. **Additional Agreements.** After this Agreement is executed, the County or Supervisor of Elections may determine that additional agreements or changes to this agreement may be appropriate to implement the intent of the MOA or this agreement. The Supervisor of Elections and County agree to enter into additional agreements or amend this agreement if appropriate.

B. **Conflicts between Agreements.** If there are any conflicts between this Participation Agreement and the MOA, the terms of this Participation Agreement shall prevail. If additional agreements are entered into between the Supervisor of Elections and the County pursuant to the MOA, the later agreement or amendment shall prevail over any prior agreement and the MOA. As to all agreements, more specific provisions shall prevail over general provisions as to the specific subject of the provision. If an agreement is entered into between the Supervisor of Elections and the County regarding a specific subject, the more specific agreement shall apply independently of all other agreements and the MOA as to that specific subject.

V. MISCELLANEOUS.

A. **NON-WAIVER.** Nothing herein shall be construed as waiving any liability limits or other protections or immunities provided by common law or Florida law to any Participant or to any officers or employees of Participant.

B. **MODIFICATIONS.** No provision of this Participation Agreement may be changed, altered, modified, or waived except in writing signed by both parties, which writing shall specifically reference this Participation Agreement and the specific provision which the parties intend to modify or waive.

C. **COMPLETE AGREEMENT.** This Participation Agreement sets forth the entire understanding related to the matters set forth herein between the parties and supersedes any and all prior oral or written agreements, understandings, representations, or warranties between the parties, except as specified herein.

D. **SEVERABILITY AND ENFORCEABILITY.** Should any provision of this Agreement, as set forth herein be declared illegal or unenforceable by any court of competent jurisdiction, such that it cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Participation Agreement in full force and effect.

E. **TERMS.** Common nouns and pronouns refer to the singular and plural, identity of the person or persons, firm or corporation as the context requires. Any reference to statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

F. **HEADINGS.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Participation Agreement.

G. **RECITALS.** The paragraphs outlined in the Recitals above are true and correct and made a part of this Participation Agreement.

H. **NOTICES.** Notices, consents, and approvals, which any party shall be required or shall desire to make or give under this Participation Agreement shall be in writing and shall be sufficient only when mailed by certified mail, first class postage affixed, addressed as follows:

<p>County: County of Volusia ATTN: County Manager 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613</p> <p>With Copies to: County of Volusia ATTN: County Attorney 123 West Indiana Avenue, Room 301 DeLand, Florida 32720-4613</p>	<p>Participant: Volusia Supervisor of Elections ATTN: Lisa Lewis 1750 South Woodland Boulevard DeLand, Florida 32720</p>
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IN WITNESS WHEREOF, the parties hereto have executed this PARTICIPATION AGREEMENT SELF-INSURANCE PROGRAMS between the Supervisor of Elections and the County of Volusia as set forth below.

**VOLUSIA COUNTY
 SUPERVISOR OF ELECTIONS**

**COUNTY OF VOLUSIA,
 FLORIDA**

By: _____
 Lisa Lewis
 Supervisor of Elections

By: _____
 Ed Kelley
 County Chair

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

 [Printed name and title]

By: _____
 George Recktenwald
 County Manager

EXHIBIT A

SELF-INSURANCE PROGRAM DEFINITIONS

- (a) *Annual Self-Insurance Premium Amount*: the amount that Participant is required to pay into the Self-Insurance Program for the purpose of coverage for the ensuing fiscal year.
- (b) *Automobile Liability*: that which is deemed payable under the terms and conditions of the most recent edition of the Specimen Policy for Automobile Liability as kept on file with the County.
- (c) *Claim*: a demand by an individual or entity, made against Participant, to recover money as a result of a loss that is covered by either the Self-Insurance Program or by a policy maintained in the Miscellaneous Insurance Program.
- (d) *General Liability*: that which is deemed payable under the terms and conditions of the most recent edition of the Specimen Policy for General Liability as kept on file with the County Risk Management Office.
- (e) *General Recoveries*: those amounts which are recovered from third parties as a result of Occurrences of property damage or other losses suffered by the County.
- (f) *Loss*: a monetary liability resulting from an Occurrence against Participant under the coverages provided by this Agreement.
- (g) *Occurrence*: an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- (h) *Participant Produced Event*: any event organized and managed by Participant.
- (i) *Participating Independent Constitutional Officers*: Volusia County Property Appraiser, Volusia County Supervisor of Elections, Volusia Sheriffs Office, and Volusia County Tax Collector.
- (j) *Risk Manager*: the person employed by the County as the risk manager.
- (k) *Self-Insurance Program*: collectively, the Self-Insurance Program established by County ordinance or County Council resolution, and all property & casualty related insurance policies maintained by or through the County and any related activities and responsibilities delegated to the County's Risk Division.
- (l) *Specimen Policy or Policies*: the insurance form that shall be used to determine whether the Self-Insurance Program will be responsible for administering, adjusting and paying any Claim or Occurrence which is submitted to the Self-Insurance Program by Participant.
- (m) *Workers' Compensation*: that which is deemed payable under the terms and conditions of the most recent edition of the Specimen Policy for Workers' Compensation as kept on file with the County.