

Resolution No. 2022-XXX N.C.S. of the City of Petaluma, California

APPROVING AN AGREEMENT WITH THE COUNTY OF SONOMA FOR THE PURPOSE OF CONDUCTING CONSOLIDATED MUNICIPAL ELECTIONS

WHEREAS, the current contract with the County of Sonoma to conduct elections for the City of Petaluma expires December 31, 2022, and the City wishes to continue contracting with the County for these services; and,

WHEREAS, to do so will require a new agreement with the County of Sonoma for the purpose of conducting municipal elections for the City of Petaluma.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Petaluma hereby authorizes and directs the City Manager to execute the attached Agreement (Exhibit A) with the County of Sonoma for the purpose of conducting elections for the City of Petaluma.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 19th day of December 2022, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor

EXHIBIT A

CITY OF PETALUMA AGREEMENT FOR ELECTION SERVICES

This agreement (“Agreement”) is made and entered into on January 1, 2023 (“Effective Date”), by and between the County of Sonoma, a political subdivision of the State of California (hereinafter “County”), and the City of Petaluma, a municipal corporation (hereinafter “City”). The parties mutually agree as follows:

1. This Agreement is made and entered into pursuant to Government Code Section 51300 et seq. and is subject to all the provisions thereof.
2. At the City’s request, the County shall render the following services to the City:
 - a. Conduct, manage, and supervise all municipal elections held within the City during this period pursuant to all applicable state and federal laws governing the conduct of municipal elections;
 - b. Conduct, manage, and supervise all district elections held within the City, on behalf of the Petaluma Joint Union High School District, during this period pursuant to all applicable state and federal laws governing the conduct of school district elections;
 - c. Procure and furnish all supplies and equipment to be used in said elections, including those supplies required to meet the federal Help America Vote Act (HAVA);
 - d. Perform all related services and functions necessary to the accomplishment of this Agreement including any additional language requirements that may be imposed as a result of the federal Voting Rights Act during the term of this Agreement.
3. This Agreement shall be in effect once signed by both parties, beginning January 1, 2023 and shall continue in force and effect until notice of termination is given or December 31, 2023, whichever occurs first.
4. For the purposes of conducting said elections, the Sonoma County Clerk-Recorder-Assessor (“County Elections Official”) shall exercise such powers and duties conferred by law upon the clerk of the City with respect to elections, as agreed to by both parties. Such duties shall include, but not be limited to, those powers and duties set forth in Division 3, commencing with Section 3000; Division 10, Part 2, commencing with Section 10100, excluding the issuance and filing of nomination documents for City Council candidates unless specifically agreed upon in writing by the County Elections Official and the City Clerk not less than 180 days prior to the date of the municipal election; Division 13, commencing with Section 13000; and Division 15, commencing with Section 15000, of the California Elections Code.
5. The City shall designate within its resolution or ordinance calling the election and requesting the consolidation with the general election, the procedure to follow if the qualified nominees do not exceed the number of seats to be filled at that election. If the resolution does not specify the City elects to follow the procedure set forth in the Elections Code 10229, subdivision (a)(1)-(2), the County shall be entitled to proceed with an election in accordance with subdivision (a)(3) as reasonably necessary to comply with printing deadlines, and in all such cases the City shall pay all applicable costs.
6. The County shall not be obligated to conduct any election, the procedures for the administration of which are not specified in state law; nor any election which employs any method of tabulation of votes other than a “one vote equals one vote” manner, including, but not limited to, those methods referred to as choice voting, cumulative voting, distributive voting, instant run-off voting, ranked choice voting, limited voting, or preferential voting. Adoption by the City of an alternative method of voting terminates this contract, unless both parties agree in writing to amend the Agreement to provide for administration of the alternative voting method.

7. Upon the completion of the official canvass of the votes cast, and upon proper demand by the County, the City shall forthwith reimburse the County for any and all expenses incurred by the County in connection with said election as follows:
 - a. EQUIPMENT AND SUPPLIES:
 - i. The County shall procure all equipment and supplies in the name of, and on behalf of, the City.
 - ii. The amount, source and nature of said equipment and supplies will be determined in accordance with applicable laws. The County will have complete discretion in making determinations in procurement of equipment and supplies.
 - iii. Expenses incurred by the County in the accomplishment of this Section 6 of the Agreement shall, at the option of the County, either be paid directly by the City upon confirmation by the County, or shall be paid to the County upon proper demand.
 - b. POSTAGE: Postage shall, upon request of the County, either be prepaid by the City by warrant in the requested amount payable to the U.S. Postal Service or be paid to the County upon proper demand.
 - c. VOTING LOCATIONS AND ELECTION OFFICIALS: The City shall, upon proper demand, pay its pro-rata share of vote center expenses and compensation of election officials attributable to the conduct of such election, including the cost of insurance if necessary.
 - d. COUNTY STAFF SERVICES AND SUPPLIES: The City shall pay its pro-rata share of expenses incurred by the County for staff services and use of County supplies. "Expenses" as used in this subsection shall include the cost or the reasonable value of the following:
 - i. Time and effort expended by County officers and employees;
 - ii. Equipment and supplies furnished by the County;
 - iii. Any other necessary expenditures made by the County in the accomplishment of this Agreement.
 - e. CORRECTIONS: The City agrees to bear the cost of correcting errors, including reprinting and mailing of information, if determined to be necessary, once the City Clerk has approved the final typeset version of ballot materials.
 - f. The "pro-rata share" in the Agreement shall be determined by dividing the number of registered voters in the City by the total number of aggregate registered voters in all cities/districts going to election.
8. The City shall provide suitable locations for vote centers, ballot drop boxes and/or the consolidation of returns and perform any other necessary functions, including the issuance of Vote by Mail ballots or establishment of additional Vote by Mail drop-off or early voting locations, if requested by the County.
9. County employees assigned to duties in the performance of this Agreement shall remain at all times under supervision or control of the County. The City shall exercise no supervision or control of such employees. If questions arise on the part of the City as to performance, such questions shall be referred directly to the County Elections Official as the supervisor of such employees, and the determination or resolution of questions or problems shall be settled as mutually agreed upon by the parties to this Agreement. For purposes of workers' compensation insurance, it is intended that all persons performing services under this Agreement shall remain in the general service of the County, and that their services on behalf of the City shall be considered a special employment which shall not subject the City to liability under workers' compensation laws. However, it is understood that the County, in computing the cost of its services hereunder, may take into account its direct cost of providing workers' compensation insurance coverage for such employees in proportion to time spent in the performance of this Agreement. The City shall hold harmless, defend and indemnify the County from and against any liability, claims, actions, costs, damages or losses to any person, or damage to any property, arising out of the City's activities under this Agreement,

including any claim arising from or related to the City's obligation conduct elections on behalf of the Petaluma Joint Union High School District. The County, in computing its costs of services under this Agreement, may take into account the direct cost of providing adequate liability insurance to cover operations under this Agreement. The parties understand that each party maintains insurance programs under workers' compensation laws and in protection of various other liability risks and exposures; each party shall continue to maintain such programs as a matter of its own discretion. In the event liability is imposed upon the parties to this Agreement under any circumstances in which the above provisions of this paragraph do not control, and if the liability is joint and several, the parties shall contribute equally to the settlement of any claim or judgment. The City shall not be obligated or liable for payment hereunder to any party other than the County.

10. Notwithstanding anything to the contrary in this Agreement, the City, for itself or on behalf of the Petaluma Joint Union High School District, has ultimate responsibility for canvassing the returns of any election held hereunder, County shall not be obligated in any case to defend or prosecute any action at law or equity arising out of any such election or contesting the validity of any such election. The City shall be responsible for defending any court action brought to challenge any election held pursuant to this Agreement, whether on behalf of the City or the Petaluma Joint Union High School District.
11. It is expressly recognized that this Agreement transfers ministerial duties only. In the event that policy questions arise, such questions will be referred to the City for decision by the appropriate City officials.
12. For any fiscal year commencing after December 31, 2022, either the City or the County, at the time of its respective annual budget deliberations, may terminate this Agreement by giving the other party a 90-day written notice of termination. In such event, the County will not be responsible for the conduct of elections occurring thereafter. If no such notice is given, this Agreement ~~will be deemed to have been renewed for an additional term of one year~~ shall continue year-to-year until expiration of the term.
13. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

To City:

City Clerk
City of Petaluma
11 English Street
Petaluma, CA 94952

To County:

Deva Marie Proto
Clerk-Recorder-Assessor
585 Fiscal Drive, Room 104
Santa Rosa, CA 95403

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

14. This Agreement constitutes the complete and exclusive statement of the agreement between the County and the City and shall supersede any previous agreements, whether verbal or written, concerning the same subject matter.
15. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.
16. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.
17. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.
18. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date. CITY OF PETALUMA

By: _____
City Manager

Date: _____

ATTEST:

City Clerk

Date: _____

APPROVED AS TO FORM:

City Attorney

Date: _____

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF INSURANCE ON
FILE WITH AND APPROVED AS TO
SUBSTANCE FOR COUNTY:

By: _____
Department Head

Date: _____

APPROVED AS TO FORM FOR COUNTY:

By: _____
County Counsel

Date: _____

COUNTY OF SONOMA

By: _____
Chair
Sonoma County Board of Supervisors

Date: _____

ATTEST:

Clerk of the Board of Supervisors