

**FIRST AMENDMENT TO THE MEMORANDUM OF
UNDERSTANDING BETWEEN THE AURORA ELECTION COMMISSION, THE
CITY OF AURORA AND KANE COUNTY DATED NOVEMBER 15, 2017**

THIS MEMORANDUM OF UNDERSTANDING, by and between the City of Aurora, an Illinois Municipal Corporation (herein "City"); the Aurora Election Commission, an Illinois Election Commission (herein "AEC"); and Kane County, Illinois (herein "County") is intended by the Parties to define certain administrative and financial procedures between them, effective November 15 2017, unless and until terminated either by mutual agreement or upon 30 day written notice by any Party hereto.

WITNESETH:

WHEREAS, AEC is a municipal board of election commissioners, duly organized and existing pursuant to the Illinois Election Code, 10 ILCS 5/6-1 and 10 ILCS 5/6-21, and is charged with conducting elections within the City of Aurora; and

WHEREAS, County pays certain expenses incurred by AEC, as provided for in the Illinois Election Code 55 ILCS 5/5-25, 10 ILCS 5/6-21 and 10 ILCS 5/6-70; and

WHEREAS, City pays certain expenses incurred by AEC as provided in the Illinois Election Code 10 ILCS 5/6-70; and

WHEREAS, pursuant to Section 5/6-70 of the Illinois Election Code, the Chief Judge of the Circuit Court of Kane County is authorized to audit the salaries and expenditures of AEC, and pursuant to Section 5/6-25 of the Illinois Election Code, the AEC Board of Commissioners ("AEC Board) has the right to employ an independent external auditor to review and approve all financial expenditures of the Board; and

WHEREAS, the Parties agree that the following provisions constitute an appropriate process and procedure for the carrying out of the funding obligations of County and City with respect to AEC.

NOW, THEREFORE, it is agreed between the Parties as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated in this Memorandum in their entirety by reference and made a part hereof.
2. **Proposed AEC Budget.** A complete proposed Budget for AEC's subsequent fiscal year ("Proposed Budget") prepared by AEC staff in accordance with appropriate procedures shall be placed on the AEC agenda of the first regular meeting of AEC in January of each calendar year for review and comment by AEC Board. No later than its regular meeting in the following March of that calendar year, AEC Board shall approve a Proposed Budget, including expenditures and a projection of revenues by a major source (e.g., Kane county Payment, City Payment, grants, etc.) as best can be ascertained at the time of the preparation of Proposed Budget. AEC will seasonably provide updated revenue projections as information becomes available. Within three (3) business days of such Board approval, the Executive Director of AEC shall submit the Proposed Budget to

the Chief Judge for review, with a copy to the Court Administrator. After AEC Board shall have made any revisions to the Proposed Budget in response to issues or concerns of the Chief Judge, said Budget shall then be submitted by AEC, within five (5) business days thereof, or April 30, whichever is sooner, to City. This Adopted Budget shall be the final Budget of AEC for the subsequent fiscal year, subject to amendment as necessitated by new requirements mandated by changes in law, special elections, and other such events affecting Budgeted items not foreseeable at the time of the Adopted Budget, provided immediate notice is afforded to City at the earliest practical time after learning of the unforeseen expense. Immediate notice shall, thereafter, be provided to the City as to the nature and amount of said expense.

3. **Method of Communication.** All communications between the Parties shall be sent via e-mail, including any and all attachments, unless the nature of the attachment requires another express method of transmission. All documentation shall otherwise be attached to the e-mail messages. Communications to City shall be sent to the Interim Chief Financial Officer/City Treasurer at shamling@aurora-il.org with a copy to mayorsoffice@aurora-il.org. Communications to AEC shall be sent to the Executive Director at lfechner@aec-il.org with a copy to info@aec-il.org with a copy to Patrick K. Bond at patrickbond@bond-dickson.com. Communications to County regarding payment shall be sent to the Chief Financial Officer at onzickjoseph@co.kane.il.us with a copy to the Chief Judge's Office at willeysu@co.kane.il.us.

4. **Kane County Operating Payments to AEC.** County shall calculate in accordance with 55 ILCS 5/5-1025 AEC's portion of the funds received from the County tax levy ("County Payment) and disburse to AEC on or before June 15 of each year. After the County calculates the County Payment, said calculation shall be provided to AEC, the Chief Judge and City. City shall not be responsible for front-funding the County Payment to AEC, nor shall any City payment to AEC be increased to cover any shortfall from other legally obligated contributory entities to AEC.

The salaries and benefits of the Executive Director and Commissioners of the Aurora Election Commission shall be processed and paid biweekly through the County's payroll system and be funded by the County as provided for in the Illinois Election Code, 10 ILCS 5/6-70.

In recognition of the elimination of the County funding for the Assistant Executive Director Position of the AEC beginning in County Fiscal Year 2018, the AEC has requested that the Assistant Executive Director of the AEC remain employed by the County and payroll for said individual continue to be processed biweekly by the County. The AEC agrees to prepay the County for the salary and benefit expense of the Assistant Executive Director Position for all pay periods with pay period ending dates falling within the County's Fiscal Year. Said payments shall be made in full within the first 15 days of the start of the Fiscal Year. Since the County's Fiscal Year runs from December 1 through November 30th, the prepayment will be due no later than December 15th. The County will provide the Aurora Election Commission with an estimate of the amount due by September 30th and will provide a final amount due by November 15th. The amount of the salary shall be determined by the Aurora Election Commission. The benefit expense shall be based on the benefit rates in effect during the Fiscal Year in which each of the payroll check dates fall. The benefits shall include the employer contribution for: Social Security and Medicare (together known as FICA), IMRF, health & vision insurance, and dental insurance,

as well as the budgeted expense allocation for liability insurance, worker's comp and unemployment expense.

5. **City Operating Payments to AEC.** Conditioned upon the adoption of its Annual Budget by the City Council, and appropriation of funds, City agrees to disburse payments to AEC on January 5, April 5 and July 5 of each year. Each payment will be 33 1/3% of the annual amount of the Approved Budget, less any received grants, funds in excess of reserve as defined herein, and/or other monies above \$5,000.00 previously tendered to AEC and not expended nor anticipated to be expended for the next quarter. Therefore, the amount of these payments may be reduced to the extent that the cash on hand exceeds the 15% "reserve balance" as provided for in paragraph 6 herein, as indicated by the documents supplied by AEC to City from time to time.

Said City payments are further conditioned upon AEC tendering monthly to City the following information:

- a. Statement of revenues and approved expenditures for the fiscal year through the end of each month provided within 15 calendar days of the end of the month, or upon approval by the AEC Board whichever is sooner;
- b. Statement of net position/balance sheet as of the end of each month provided within 15 calendar days of the end of the month, identified as the Treasurers Report;
- c. List of approved vendor and payroll payments made or to be made for each month showing date of payment, payee, amount and brief description of the item/purpose provided within 15 calendar days of the end of the month;
- d. A copy of the bank statement received for each AEC bank account (i.e., checking, savings, etc.) approved at each Board Meeting, provided within 3 business days of the end of the month, and a copy of the periodic statement received for each investment account (if any) for each month or quarter, as applicable, provided within 7 calendar days of receipt.

If City requests further documentation or disputes expenses of AEC, then in that event there must be an exchange of information in writing via e-mail, and the matter shall be resolved within fourteen (14) days or notice shall be sent to the Chief Judge who may request additional information as well. The Chief Judge will assist City and AEC in resolving any such unresolved issues not later than two (2) weeks prior to any scheduled payment.

6. **Reserve Balance.** AEC may maintain a cash reserve balance not to exceed 15% of the amount of the Adopted Budget for the current fiscal year. "Reserve Balance" shall mean equity/unrestricted net assets/unencumbered funds. The AEC shall not maintain any deferred revenue other than the monies set forth in the Reserve Balance, as set forth herein.

7. **AEC Procurements.** All purchases made by the AEC shall be in accordance with Federal and State law, where applicable and shall be made in accordance with the AEC Procurement Policy, as may be amended from time to time. AEC shall provide the City with a copy of the

current Procurement Policy and shall provide the City with any amendments thereto, within three (3) business days from the time of any such amendments.

8. **Breach.** If County or City fails to make a payment to AEC as provided herein, or if AEC fails to perform any of the requirements contained herein, any party hereto may submit a request to the Chief Judge to convene a meeting in order to facilitate action in accordance herewith. This provision, however, shall not prevent any party from immediately availing itself of any legal, equitable or other remedy to which it is entitled in the event of a breach of any provision herein.

9. **Maintenance of Records and Financial Reporting; Annual Audit.** AEC shall maintain its financial records in a manner permitting the efficient compilation of financial statements in accordance with generally accepted accounting principles (GAAP). AEC shall produce an annual financial report in accordance with GAAP within six (6) months of the close of its fiscal year. The financial report shall include management's discussion and analysis. Said financial statements shall be audited by a certified public accountant licensed to practice in Illinois. AEC shall provide the City with a copy of AEC's annual financial report and final management letter related to the audit within one week of the final version of these documents being accepted by the AEC Board, which acceptance shall take place at the next Regularly Scheduled Board Meeting occurring after the Report is completed by the Auditor.

10. **Transparency.**

- a. AEC will maintain AEC financial documents on its website.
- b. AEC will post its annual financial report on the AEC financial website within seven (7) business days of the final version of the report being approved by the AEC Board. Each annual report will be retained on the AEC website for a period of two (2) years.

AEC will post anticipated accounts payable to be approved at each AEC Board Meeting on the AEC website after each Board Meeting. Any additional accounts payable will be posted on the AEC website upon approval of the AEC Board. Each such posting will be retained on the AEC website for a period of two (2) years.

11. **Meeting Agenda Packets.** The Agenda and supporting documents for each regular and special AEC meeting shall be provided to City contemporaneously with their provision to AEC Board via e-mail. "Supporting documents" do not include internal communications between AEC attorney and staff or Board. AEC and the City agree to follow all Open Meetings Act requirements, and Freedom of Information Act requirements. City shall furnish AEC with copies of the Agendas of all City Council and City Council Standing Committee Meetings contemporaneously with their being provided to Council and Committee members when an AEC item is on a City Agenda, or those land annexation or other matters which affect the registered voters in the jurisdiction of the AEC.

CITY OF AURORA

AURORA ELECTION COMMISSION

By: _____
Richard C. Irvin, Mayor

By: _____
Leah Anderson, Chairman

Attest:

Attest:

Wendy McCambridge, City Clerk

Lillian Perry, Secretary

KANE COUNTY

By: _____
Chris Lauzen, Chairman

Attest:

Jack Cunningham, County Clerk

Approved:

Susan Boles, Chief Judge