

AGENDA REPORT

To: Mayor Pat Humphrey and the Clare City Commission
From: Jeremy Howard, City Manager
Date: June 1, 2023
Regarding: Clare County Intergovernmental Services Agreement – Early Voting Consolidation

For the Agenda of June 5, 2023

Background. In November 2022, Michigan voters approved Proposal 22-2, amending Article II of the Michigan Constitution (*att'd*), which established a registered voter's right to vote in person in statewide and Federal elections at an early voting site. The site is required to be open for at least nine consecutive days for at least eight hours a day, beginning on the second Saturday before the election and ending on the Sunday before the election. The proposal specified that early voting sites are governed like election-day polling places, except that an early voting site could serve voters from more than six precincts and from more than one municipality within a county.

This new unfunded mandate has proved to be of great concern to townships and cities on how to implement and pay for nine days of early voting on top of the expense and coordination efforts of operating a precinct on Election Day. If the City ran early voting our City Clerk, Diane Lyon, estimates the cost to run approximately \$6,500 (*copy att'd*) on top of approximately \$5,900 to operate on Election Day for one election. The City will hold a minimum of three elections in 2024.

To assist Clare County townships and cities with the expense of conducting early voting, the Clare County Board of Commissioners has approved the hiring of an Elections Coordinator at the County to manage and run consolidated early voting for the nine days prior to an election at the County with no cost attributable to the jurisdictions. County Clerk, Lori Martin and Clare County Administrator, Lori Phelps, have developed a proposed intergovernmental services agreement (*copy att'd*) for the County to provide the required nine days of early voting for all State and Federal Elections. This intergovernmental agreement expires on December 31, 2024.

Issues & Questions Specified. Should the City Commission approve the services agreement with Clare County to manage and coordinate early voting on behalf of the City?

Alternatives.

1. Approve the agreement.
2. Do not approve the agreement.
3. Defer this matter to a subsequently scheduled City Commission meeting.

Financial Impact. There is no additional cost to the city.

Recommendation. I recommend that the City Commission approve the intergovernmental services agreement and authorize the City Clerk to sign the said agreement, non-fiscal amendments to the agreement, and any and all related documents, by adoption of Resolution 2023-037 (*copy att'd*).

Attachments.

1. Michigan Constitution.
2. Clerk's Estimate of Early Voting Costs.
3. Clare County Intergovernmental Agreement.
4. Resolution 2023-037.

**STATE CONSTITUTION (EXCERPT)
CONSTITUTION OF MICHIGAN OF 1963**

**ARTICLE II
ELECTIONS**

§ 1 Qualifications of electors; residence.

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

History: Const. 1963, Art. II, § 1, Eff. Jan. 1, 1964.

Compiler's note: U.S. Const., Amendment XXVI, § 1, provides: "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age."

Former constitution: See Const. 1908, Art. III, §§ 1-3.

§ 2 Mental incompetence; imprisonment.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

History: Const. 1963, Art. II, § 2, Eff. Jan. 1, 1964.

§ 3 Presidential electors; residence.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

History: Const. 1963, Art. II, § 3, Eff. Jan. 1, 1964.

§ 4 Place and manner of elections.

Sec. 4. (1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) The fundamental right to vote, including but not limited to the right, once registered, to vote a secret ballot in all elections. No person shall: (1) enact or use any law, rule, regulation, qualification, prerequisite, standard, practice, or procedure; (2) engage in any harassing, threatening, or intimidating conduct; or (3) use any means whatsoever, any of which has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.

Any Michigan citizen or citizens shall have standing to bring an action for declaratory, injunctive, and/or monetary relief to enforce the rights created by this part (a) of subsection (4)(1) on behalf of themselves. Those actions shall be brought in the circuit court for the county in which a plaintiff resides. If a plaintiff prevails in whole or in part, the court shall award reasonable attorneys' fees, costs, and disbursements.

For purposes of this part (a) of subsection (4)(1), "person" means an individual, association, corporation, joint stock company, labor organization, legal representative, mutual company, partnership, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal entity, and includes an agent of a person.

(b) The right, if serving in the military or living overseas, to have an absent voter ballot sent to them at least forty-five (45) days before an election upon application and to have their absent voter ballot deemed timely received if postmarked on or before election day and received by the appropriate election official within six (6) days after such election. For purposes of this part (b) of subsection (4)(1), a postmark shall include any type of mark applied by the United States Postal Service or any delivery service to the return envelope, including but not limited to a bar code or any tracking marks, which indicates when a ballot was mailed.

(c) The right, once registered, to a "straight party" vote option on partisan general election ballots. In partisan elections, the ballot shall include a position at the top of the ballot by which the voter may, by a single selection, record a straight party ticket vote for all the candidates of one (1) party. The voter may vote a split or mixed ticket.

(d) The right to be automatically registered to vote as a result of conducting business with the secretary of state regarding a driver's license or personal identification card, unless the person declines such registration.

(e) The right to register to vote for an election by mailing a completed voter registration application on or

before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications.

(f) The right to register to vote for an election by (1) appearing in person and submitting a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications, or (2) beginning on the fourteenth (14th) day before that election and continuing through the day of that election, appearing in person, submitting a completed voter registration application and providing proof of residency to an election official responsible for maintaining custody of the registration file where the person resides, or their deputies. Persons registered in accordance with subsection (1)(f) shall be immediately eligible to receive a regular or absent voter ballot.

(g) The right, once registered, to prove their identity when voting in person or applying for an absent voter ballot in person by (1) presenting their photo identification, including photo identification issued by a federal, state, local, or tribal government or an educational institution, or (2) if they do not have photo identification or do not have it with them, executing an affidavit verifying their identity. A voter shall not be required to vote a provisional ballot solely because they executed an affidavit to prove their identity.

(h) The right, once registered, to vote an absent voter ballot without giving a reason, during the forty (40) days before an election, and the right to choose whether the absent voter ballot is applied for, received and submitted in person or by mail. During that time, election officials authorized to issue absent voter ballots shall be available in at least one (1) location to issue and receive absent voter ballots during the election officials' regularly scheduled business hours and for at least eight (8) hours during the Saturday and/or Sunday immediately prior to the election. Those election officials shall have the authority to make absent voter ballots available for voting in person at additional times and places beyond what is required herein. Voters shall have the right to prove their identity when applying for or voting an absent voter ballot other than in person by providing their signature to the election official authorized to issue absent voter ballots. Those election officials shall: (1) verify the identity of a voter who applies for an absent voter ballot other than in person by comparing the voter's signature on the absent voter ballot application to the voter's signature in their registration record; and (2) verify the identity of a voter who votes an absent voter ballot other than in person by comparing the signature on the absent voter ballot envelope to the signature on the voter's absent voter ballot application or the signature in the voter's registration record. If those election officials determine from either of the comparisons in (1) or (2) of this part (h) of subsection (4)(1) that the signatures do not sufficiently agree, or if the voter's signature on the absent voter ballot application or absent voter ballot envelope is missing, the voter has a right to be notified immediately and afforded due process, including an equitable opportunity to correct the issue with the signature.

(i) The right to: (1) state-funded prepaid postage to return an absent voter ballot application provided to them by a Michigan election official; (2) state-funded prepaid postage to return a voted absent voter ballot; and (3) a state-funded system to track submitted absent voter ballot applications and absent voter ballots. The system shall permit voters to elect to receive electronic notifications regarding the status of the voter's submitted absent voter ballot application and absent voter ballot, inform voters of any deficiency with the voter's submitted absent voter ballot application or absent voter ballot, and provide instructions for addressing any such deficiency.

(j) The right to at least one (1) state-funded secure drop-box for every municipality, and for municipalities with more than fifteen thousand (15,000) registered voters at least one (1) drop-box for every fifteen thousand (15,000) registered voters, for the return of completed absent voter ballot applications and voted absent voter ballots. Secure drop-boxes shall be distributed equitably throughout the municipality and shall be accessible twenty-four (24) hours per day during the forty (40) days prior to any election and until eight (8) pm on election day.

(k) The right, once registered, to have an absent voter ballot sent to the voter before each election by submitting a single signed absent voter ballot application covering all future elections. An election official responsible for issuing absent voter ballots shall issue an absent voter ballot for each election to every voter in the jurisdiction who has exercised the right in this part (k) of subsection (4)(1) and shall not require such voter to submit a separate application for an absent voter ballot for any election. A voter's exercise of this right shall be rescinded only if: (1) the voter submits a signed request to rescind; (2) the voter is no longer qualified to vote; (3) the secretary of state or the election official responsible for issuing the voter an absent voter ballot receives reliable information that the voter has moved to another state, or has moved within this state without updating their voter registration address; or (4) the voter does not vote for six (6) consecutive years. The exercise of the right in this part (k) of subsection (4)(1) shall remain in effect without the need for a new absent voter ballot application when the voter changes their residence in this state and updates their voter registration address.

(l) The right to have the results of statewide elections audited, in such a manner as prescribed by law, to

ensure the accuracy and integrity of elections. The secretary of state shall conduct election audits, and shall supervise and direct county election officials in the conduct of such audits. No officer or member of the governing body of a national, state, or local political party, and no political party precinct delegate, shall have any role in the direction, supervision, or conduct of an election audit. Public election officials shall maintain the security and custody of all ballots and election materials during an election audit. Election audits shall be conducted in public based on methods finalized and made public prior to the election to be audited. All funding of election audits shall be publicly disclosed.

(m) The right, once registered, to vote in each statewide and federal election in person at an early voting site prior to election day. Voters at early voting sites shall have the same rights and be subject to the same requirements as voters at polling places on election day. An early voting site is a polling place and shall be subject to the same requirements as an election day polling place, except that an early voting site may serve voters from more than six (6) precincts and may serve voters from more than one (1) municipality within a county. An early voting site shall also be subject to the same requirements as an election day precinct, except that any statutory limit on the number of voters assigned to a precinct shall not apply to an early voting site. Each early voting site shall be open for at least nine (9) consecutive days beginning on the second Saturday before the election and ending on the Sunday before the election, for at least eight (8) hours each day, and may be open for additional days and hours beyond what is required herein at the discretion of the election official authorized to issue ballots in the jurisdiction conducting the election. Jurisdictions conducting elections within a county may enter into agreements to share early voting sites. A jurisdiction conducting an election may enter into an agreement with the clerk of the county in which it is located authorizing the county clerk to conduct early voting for the jurisdiction. Jurisdictions conducting non-statewide elections may offer early voting for such elections in accordance with the provisions of this part (m) of subsection (4)(1). No early voting results shall be generated or reported until after eight (8) pm on election day.

All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein. This subsection and any portion hereof shall be severable. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this subsection.

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

(3) A county, city, or township conducting an election may accept and use publicly-disclosed charitable donations and in-kind contributions to conduct and administer elections. The county, city, or township shall retain discretion over whether to accept or use any such donations or contributions. Charitable donations and in-kind contributions of foreign funds or from foreign sources are prohibited.

History: Const. 1963, Art. II, § 4, Eff. Jan. 1, 1964;—Am. Init., approved Nov. 6, 2018, Eff. Dec. 22, 2018;—Am. Init., approved Nov. 8, 2022, Eff. Dec. 24, 2022.

Compiler's note: The constitutional amendment set out above was submitted to, and approved by, the electors as Proposal 18-3 at the November 6, 2018 general election. This amendment to the Constitution of Michigan of 1963 became effective December 22, 2018.

Former constitution: See Const. 1908, Art. III, §§ 1, 8.

§ 5 Time of elections.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

History: Const. 1963, Art. II, § 5, Eff. Jan. 1, 1964.

§ 6 Voters on tax limit increases or bond issues.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or

territory affected may vote on all other questions.

History: Const. 1963, Art. II, § 6, Eff. Jan. 1, 1964.

Former constitution: See Const. 1908, Art. III, § 4.

§ 7 Boards of canvassers, certification of election results.

Sec. 7. (1) The outcome of every election in this state shall be determined solely by the vote of electors casting ballots in the election.

(2) A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party. The legislature may by law establish boards of county canvassers.

(3) It shall be the ministerial, clerical, nondiscretionary duty of a board of canvassers, and of each individual member thereof, to certify election results based solely on: (1) certified statements of votes from counties; or (2) in the case of boards of county canvassers, statements of returns from the precincts and absent voter counting boards in the county and any corrected returns. The board of state canvassers is the only body or entity in this state authorized to certify the results of an election for statewide or federal office and to determine which person is elected in such election.

(4) If the certified results for any office certified by the board of state canvassers show a tie among two (2) or more persons, the tie shall be resolved and the winner certified by the drawing of lots under rules promulgated by the board of state canvassers. If the certified results for an office certified by a board of county canvassers show a tie among two (2) or more persons, the tie shall be resolved and the winner certified by such board of canvassers under procedures prescribed by law.

(5) The certification of any election results by the board of state canvassers shall be final subject only to (a) a post-certification recount of the votes cast in that election supervised by the board of state canvassers under procedures prescribed by law; or (b) a post-certification court order.

(6) A board of canvassers is authorized to conduct post-certification recounts of election results under procedures prescribed by law.

(7) For purposes of this section "to certify" means to make a signed, written statement.

History: Const. 1963, Art. II, § 7, Eff. Jan. 1, 1964;—Am. Init., approved Nov. 8, 2022, Eff. Dec. 24, 2022.

Former constitution: See Const. 1908, Art. III, § 9.

Transfer of powers: See MCL 16.128.

§ 8 Recalls.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

History: Const. 1963, Art. II, § 8, Eff. Jan. 1, 1964.

Former constitution: See Const. 1908, Art. III, § 8.

§ 9 Initiative and referendum; limitations; appropriations; petitions.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

Referendum, approval.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Initiative; duty of legislature, referendum.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law

proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

Legislative rejection of initiated measure; different measure; submission to people.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Initiative or referendum law; effective date, veto, amendment and repeal.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

Legislative implementation.

The legislature shall implement the provisions of this section.

History: Const. 1963, Art. II, § 9, Eff. Jan. 1, 1964.

Constitutionality: A law proposed by initiative petition which is enacted by the Legislature without change or amendment within forty days of its reception takes effect ninety days after the end of the session in which it was enacted unless two-thirds of the members of each house of the Legislature vote to give it immediate effect. *Frey v Department of Management and Budget*, 429 Mich 315; 414 NW2d 873 (1987).

Former constitution: See Const. 1908, Art. V, § 1.

§ 10 Limitations on terms of office of members of the United States House of Representatives and United States Senate from Michigan.

Sec. 10. No person shall be elected to office as representative in the United States House of Representatives more than three times during any twelve year period. No person shall be elected to office as senator in the United States Senate more than two times during any twenty-four year period. Any person appointed or elected to fill a vacancy in the United States House of Representatives or the United States Senate for a period greater than one half of a term of such office, shall be considered to have been elected to serve one time in that office for purposes of this section. This limitation on the number of times a person shall be elected to office shall apply to terms of office beginning on or after January 1, 1993.

The people of Michigan hereby state their support for the aforementioned term limits for members of the United States House of Representatives and United States Senate and instruct their public officials to use their best efforts to attain such a limit nationwide.

The people of Michigan declare that the provisions of this section shall be deemed severable from the remainder of this amendment and that their intention is that federal officials elected from Michigan will continue voluntarily to observe the wishes of the people as stated in this section, in the event any provision of this section is held invalid.

This section shall be self-executing. Legislation may be enacted to facilitate operation of this section, but no law shall limit or restrict the application of this section. If any part of this section is held to be invalid or unconstitutional, the remaining parts of this section shall not be affected but will remain in full force and effect.

History: Add. Init., approved Nov. 3, 1992, Eff. Dec. 19, 1992.

Constitutionality: U.S. Supreme Court found that an amendment to the Arkansas Constitution prohibiting the name of an otherwise-eligible candidate for Congress from appearing on the ballot if that candidate had already served 3 terms in the House of Representatives and 2 terms in the Senate was in violation of the Federal Constitution. The Supreme Court held that: "(1) states may not impose qualifications for offices of the United States representative or United States senator in addition to those set forth by the Constitution; (2) power to set additional qualifications was not reserved to the states by the Tenth Amendment; and (3) state provision is unconstitutional when it has likely effect of handicapping a class of candidates and has sole purpose of creating additional qualifications indirectly." *US Term Limits, Inc v Thornton*, 514 US 779; 115 S Ct 1842; 131 L Ed 2d 884 (1995).

Prop 22-2	Estimate of Costs for the City of Clare																
	Mandatory minimum of 3 inspectors from opposing parties present. Minimum of 5 Inspectors to cover lunches & curbside voting accomodation (Curbside voting accomodation is also mandated). <u>This is an estimate of the MINIMUM cost to the city.</u>																
Wage	Chair	15															
Scale:	V. Chair	13															
	EI	12															
	2023																
	Gov Rate											(conservative)					
	Hours Open	Daily Set Up/Tear	Total Daily	Days	Sub Total	Training Hours	Total Hours	Wage	Total Wages	Per Diem- Meals	Days	Total Per Diem	Training Mileage	Days	Mileage		
Chair	8	1	9	x 9	81	3	84	15	\$1,260.00	\$ 17.10	9	\$ 153.90	35	1	\$ 35.00		
Vice Chair	8	1	9	x 9	81	3	84	13	\$1,092.00	\$ 17.10	9	\$ 153.90	35	1	\$ 35.00		
EI 1	8	1	9	x 9	81	3	84	12	\$1,008.00	\$ 17.10	9	\$ 153.90	35	1	\$ 35.00		
EI 2	8	1	9	x 9	81	3	84	12	\$1,008.00	\$ 17.10	9	\$ 153.90	35	1	\$ 35.00		
EI 3	8	1	9	x 9	81	3	84	12	\$1,008.00	\$ 17.10	9	\$ 153.90	35	1	\$ 35.00		
								Total	\$5,376.00			\$ 769.50			\$ 175.00	\$6,320.50	
Public notices								\$300.00									\$6,620.50
Other potential costs:																	
Additional Security bags for securing ballots nightly						\$300.00	(one time cost)										
Election location rental fees (if required) N/A																	

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT, made and entered into this ____ day of _____, 2023, by and between the County of Clare, a municipal corporation and political subdivision of the State of Michigan (hereinafter referred to as “The County”) and _____ City/Township, a municipal corporation and political subdivision of the State of Michigan (hereinafter referred to as “The City/Township”).

WITNESSETH:

WHEREAS, The City/Township desires consolidation of election activities for nine (9) consecutive days for each required election for all State and Federal elections; and

WHEREAS, Clare County shall provide consolidation of elections for nine (9) consecutive days for each required election for all State and Federal elections; and

WHEREAS, Clare County and The City/Township have agreed to the terms and conditions of this Intergovernmental Agreement to provide Election Consolidation services.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, **IT IS HEREBY AGREED**, as follows:

1. Services to be provided by Clare County. Clare County agrees to provide the following services to City/Township:

- A. Provide the building for secured voting for all residents for nine (9) consecutive days.
- B. Provide Security during voting hours.
- C. Provide record of voters from each jurisdiction that voted at the County, as allowable by QVF.
- D. Provide election inspectors.
- E. Same day voter registration if allowable by law.
- F. Retain all election material as required by retention statutes.

2. Qualifications of the County. The County agrees that at all times during the term of this Agreement the Clare County Clerk and her staff shall maintain his/her professional status and shall satisfy applicable licensing requirements of the State of Michigan, which qualify him/her to continue service to the Townships. The County further agrees to keep current in the fields required to maintain his/her credentials, to remain in good standing with the State of Michigan in the capacity required to fulfill the terms of this Agreement. It is understood that the failure to comply with these requirements is a material breach of this Agreement and grounds for immediate termination of this Agreement.

3. Title to Records, Documents, Papers, Etc. The County shall retain the right to title and interest to any and all records, documents, papers, maps or manuscripts pertaining to or prepared pursuant to State and Federal retention statutes.

4. Avoidance of Conflicts of Interest. The County agrees, during the term of this Agreement or any extended term in which this Agreement remains in effect, to avoid both actual and the appearance of conflicts of interest.

5. City/Township Responsibilities. The Township agrees to provide The County with the following:

- A. The reasonable cooperation of City/Township personnel.
- B. Access to existing records to perform duties as depicted in this document.
- C. Recommendation of election inspectors, if any.
- D. Availability for same day voter registration pursuant to statute.
- E. Contact person to assist with local street index if issue may arise during voting hours.
- F. Grant Clare County Election Commission authority to appoint Election Inspectors.

7. **Nondiscrimination.** The County and The City/Township, as required by law, shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, or marital status. Breach of this section shall be regarded as a material breach of this Agreement.

8. **Compliance with the Law, Applicable Law and Venue.** The County, while engaged in any activity pursuant to this Agreement, shall comply with all applicable Federal, State or local laws, ordinances, rules and regulations. Breach of this covenant shall be regarded as a material breach of this Agreement.

This Agreement shall be construed according to the laws of the State of Michigan. The venue for the bringing of any legal or equitable action under this Agreement shall be established in accordance with the statutes of the State of Michigan.

9. **Independent Contractor.** It is expressly understood and agreed that Clare County is an Independent Contractor. The County and the employees and agents of The County shall in no way be deemed to be and shall not hold themselves out as employees or agents of the City/Township. The County and its employees and agents shall not be entitled to any fringe benefits which the City/Township affords its employees, such as, but not limited to, health and accident insurance, life insurance, paid vacation leave, or paid sick leave. The County shall be responsible for the payment of salaries, wages and other compensation due its staff for services they perform under this Agreement and for withholding and payment of all applicable taxes, including, but not limited to, income and social security taxes to the proper Federal, State and local governments. The County, to the extent required by law, shall carry workers' compensation insurance coverage.

10. **Liability.**

A. All liability to third parties, loss or damage as a result of claims, demands, costs, or judgments arising out of activities, such as direct service delivery, to be carried out by the County in the performance of this Agreement shall be the responsibility of the County, and not the responsibility of the City/Township, if the liability, loss, or damage is caused by, or arises out of, the actions or failure to act on the part of the County, any subcontractor, anyone directly or indirectly employed by the County, provided that nothing herein shall be construed as a waiver of any governmental immunity that has been provided to the County or their employees by statutes or court decisions.

B. All liability to third parties, loss, or damage as a result of claims, demands, costs, or judgments arising out of activities, such as the provision of policy and procedural direction, to be carried out by the City/Township in the performance of this Agreement shall be the responsibility of the City/Township and not the responsibility of the County if the liability, loss, or damage is caused by, or arises out of, the action or failure to act on the part of any City/Township employee or agent, provided that nothing herein shall be construed as a waiver of any governmental immunity by the City/Township or its employees as provided by statute or court decisions.

C. In the event that liability to third parties, loss, or damage arises as a result of activities conducted jointly by the County and the City/Township in fulfillment of their responsibilities under this Agreement, such liability, loss, or damage shall be borne by the County and the City/Township in relation to each party's responsibilities under these joint activities provided that nothing herein shall be construed as a waiver of any governmental immunity by the City/Township, the County or their employees, respectively, as provided by statute or court decisions.

D. **Risk Management Systems.** Each of the parties to this Agreement agrees to cooperate with the other party in the constitution and operation of their respective risk management systems. Each party agrees that if an incident occurs and is reported as a part of its respective risk management system, and if the incident report involves either institution or its respective staff or agent, a copy of said incident report will be immediately delivered to the designated representative of the other party. It is agreed and understood that said incident reports will be held in the strictest of confidence and that each party agrees to cooperate fully with the other in the investigation and resolution of the incident or liability exposure revealed as a result of its respective risk management system.

E. **Non-Beneficiary Contract.** This Agreement is not intended to be a third party beneficiary contract and confers no rights on anyone other than the parties hereto.

11. **Insurance.** During the term of this Agreement, the County shall maintain the following insurances:

A. Workers' Compensation Insurance, including Employers' Liability Coverage, covering its employees, to the extent required by applicable statutes of the State of Michigan.

B. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability of not less than \$500,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

C. Liability Insurance/Errors and Omissions

D. Cancellation Notice – The County shall promptly notify the City/Township in the event any of the insurance described above is canceled or expires during the term of this Agreement.

12. **Waivers.** No failure or delay on the part of either of the parties to this Agreement in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

In no event shall the making by the City/Township of any payment due to the County constitute or be construed as a waiver by the City/Township of any breach of a provision of this Agreement, or any default which may then exist, on the part of the County, and the making of any such payment by the City/Township while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the City/Township in respect to such breach or default.

13. **Modification of Agreement.** Modifications, amendments or waivers of any provisions of this Agreement may be made only by the written mutual consent of the parties hereto.

14. **Agreement Term.** The County shall commence performance of the services required under this Agreement on July 1, 2023 and the Agreement shall continue through December 31, 2024, unless terminated as provided in paragraphs 13, 15 or is otherwise amended by the written authorization of the parties.

15. **Termination of Agreement.** Either party shall have the right, upon sixty (60) calendar days prior written notice to the other party, to terminate this Agreement.

16. **Section Titles.** The titles of the sections set forth in this Agreement are inserted for the convenience of reference only, and shall be disregarded when construing or interpreting any of the provisions of this Agreement.

17. **Complete Agreement.** This Agreement contains all of the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

18. **Invalid Provisions.** If any provision of this Agreement is held to be invalid, it shall be considered to be deleted, and the remainder of this Agreement shall not be affected thereby. Where the deletion of the invalid provision would result in the illegality and/or unenforceability of this Agreement, this Agreement shall be considered to have terminated as of the date in which the provision was declared invalid.

19. **Certification of Authority to Sign Agreement.** The persons signing on behalf of the parties certify by their signatures that they are duly authorized to sign this Agreement on behalf of said parties and that this Agreement has been authorized by said parties.

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have fully executed this instrument on the day and year first above written.

WITNESSED BY:

COUNTY OF CLARE

_____ _____ By: _____
Date

_____ _____ By: _____
Date

WITNESSED BY:

CITY/TOWNSHIP

_____ _____ By: _____
Date

_____ _____ By: _____
Date

RESOLUTION 2023-037

A RESOLUTION OF THE CLARE CITY COMMISSION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR EARLY VOTING CONSOLIDATION SERVICES WITH CLARE COUNTY.

WHEREAS, the electorate of the State of Michigan approved nine days of early voting by amendment of the Michigan Constitution in 2022; and

WHEREAS, conducting nine days of early voting in the City would come at great expense to the City and citizens of Clare; and

WHEREAS, Clare County has offered to enter into an intergovernmental services agreement to consolidate early voting at the County at no expense to local jurisdictions; and

WHEREAS, the City desires to enter into an intergovernmental services agreement with Clare County to consolidate, manage, and conduct nine days of early voting for all federal and state elections on behalf of the City of Clare; and

WHEREAS, there is no cost to the city for said services.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Clare hereby approves the intergovernmental agreement between the City of Clare and Clare County, said contract to commence on the fifth day of June, 2023 and terminate on the thirty-first day of December, 2024.

BE IT FURTHER RESOLVED THAT the City Commission of the City of Clare hereby authorizes the City Clerk to sign the said agreement, any and all non-fiscal amendments to the agreement, and any and all related documents.

ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INsofar AS THEY CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION BE AND THE SAME ARE HEREBY RESCINDED.

The Resolution was introduced by Commissioner ____ and supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 5th day of June, 2023.

Diane Lyon, City Clerk