

EXHIBIT

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into between the United States of America, through the Civil Rights Division of the U.S. Department of Justice, and the City of Eastpointe, Michigan; Suzanne Pixley, Mayor of Eastpointe; Cardi DeMonaco Jr., Michael Klinefelt, Sarah Lucido, and Monique Owens, members of the Eastpointe City Council; and Joseph Sobota, Eastpointe City Clerk.

The United States and the City of Eastpointe share the goal of ensuring that all Eastpointe voters have an opportunity to participate in local elections and to elect representatives of their choice. Through a proposed consent decree to be submitted in *United States v. City of Eastpointe*, No. 4:17-cv-10079 (E.D. Mich.), the City has agreed to adopt ranked choice voting as the new method of election for the Eastpointe City Council. The parties agree that ranked choice voting under the consent decree shall proceed in accordance with the procedures set out below, to the extent technically feasible using voting equipment and other resources available. The parties acknowledge impediments may arise that prevent Eastpointe from following these exact procedures and will work together to ensure successful implementation beginning in November 2019.

Section 1: RANKED CHOICE VOTING DEFINED

“Ranked choice voting” means the method of casting and tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds as described in Section 4 for the election of a single office or Section 5 for the election of two offices.

Section 2: ADDITIONAL DEFINITIONS

For the purposes of this ordinance, the following terms have the following meanings:

- (a) “Continuing candidate” means any candidate that has not been defeated or elected.
- (b) “Election threshold” means the number of votes sufficient for a candidate to be elected in a multi winner contest. The election threshold is calculated by dividing the total number of votes cast in the contest by the sum of one plus the number of offices to be filled in the contest and then adding one vote, with any fractions disregarded. *I.e.*,

$$\frac{Total\ Votes}{1 + Total\ Seats} + 1$$

- (c) “Exhausted ballot” means a ballot that is not counted for any continuing candidate for one or more of the following reasons:
 - 1. It does not rank any continuing candidates;
 - 2. Its highest continuing ranking contains an overvote; or

3. It includes two or more consecutive skipped rankings prior to its highest continuing ranking.
- (d) “Highest continuing ranking” means the highest ranking for any continuing candidate.
- (e) “Overvote” means a voter has ranked more than one candidate at the same ranking.
- (f) “Ranking” means the number assigned by a voter to a candidate to express the voter’s choice for that candidate. A ranking of “1” is the highest ranking followed by “2” and then “3” and so on.
- (g) “Round” means an instance of the sequence of voting tabulation beginning with Section 4(a) for single winner contests or Section 5(a) for multi winner contests.
- (h) “Skipped ranking” means a voter has left a ranking blank and ranks a candidate at a subsequent ranking.
- (i) “Surplus” means a positive difference between a candidate’s vote total and the election threshold.
- (j) “Surplus fraction” means the number equal to a candidate’s surplus divided by that candidate’s vote total, rounding to four decimal places.
- (k) “Transfer value” means the proportion of a vote that a ballot will contribute to its highest continuing ranking. Each ballot begins with a transfer value of 1. If a ballot transfers from an elected candidate with a surplus, it receives a new transfer value. The new transfer value of such a ballot is calculated by multiplying the surplus fraction of the elected candidate by the ballot’s current transfer value, rounding down to four decimal places.

Section 3: FORM OF BALLOT

In any contest conducted by ranked choice voting, the ballot shall allow voters to rank candidates in order of choice. Additionally, it shall meet the following specifications:

- (a) The ballot shall be simple and easy to understand.
- (b) If feasible, the ballot shall allow voters to rank every listed candidate in a contest. If it is not feasible to allow voters to rank that number of candidates, the number of allowable rankings may be limited to no fewer than 3.
- (c) Instructions on the ballot or the ballot secrecy sleeve shall conform substantially to the following specifications, subject to usability testing and modification based on ballot design:

- TO VOTE: completely darken the oval to the right of the candidate of your choice.
- Rank candidates in order of preference.
- Fill in the oval marked “1” next to your first choice. Fill in the oval marked “2” next to your second choice. Fill in the oval marked “3” next to your third choice. And so on.
- Do not fill in more than one oval per candidate. Do not fill in more than one oval per column.
- Ranking additional candidates will not hurt your first choice candidate.

Section 4: RANKED CHOICE VOTING—SINGLE WINNER TABULATION

In any contest for exactly one office conducted by ranked choice voting, each validly cast ballot shall be initially counted as one vote for the candidate at its highest continuing ranking or as an exhausted ballot. If a candidate has more than half of the total votes counting for candidates, that candidate is elected and the tabulation is complete. Otherwise, tabulation proceeds in rounds. Each round shall proceed sequentially as follows:

- (a) If two or fewer continuing candidates remain, the candidate with the greatest number of votes is elected and the tabulation is complete. Otherwise, the tabulation continues to subsection (b).
- (b) If three or more continuing candidates remain:
 1. The candidate with the fewest votes is defeated.
 2. Votes for the defeated candidate shall cease counting for the defeated candidate and shall be added to the totals of each ballot’s next-ranked continuing candidate or counted as exhausted ballots, and
 3. A new round begins with subsection (a).

SECTION 5: RANKED CHOICE VOTING—MULTI WINNER TABULATION

In any contest for more than one office conducted by ranked choice voting, each validly cast ballot shall be initially counted as one vote for its highest-ranked continuing candidate or as an exhausted ballot. First, the election threshold shall be calculated. Tabulation shall then proceed sequentially as follows:

- (a) If the number of continuing candidates whose vote totals exceed the election threshold is equal to the number of seats remaining to be filled, those candidates are elected and the tabulation is complete. Otherwise, the tabulation continues to subsection (b).

- (b) If the number of continuing candidates is equal to or less than the number of seats remaining to be filled, then all continuing candidates are elected and the tabulation is complete. Otherwise, the tabulation continues to subsection (c).
- (c) If at least one continuing candidate has a vote total that equals or exceeds the election threshold, then the continuing candidate with the highest vote total is elected. Otherwise, the tabulation continues to subsection (d).
 - 1. If a candidate is thus elected, the number of surplus votes and the surplus fraction for the elected candidate shall then be calculated.
 - 2. Next, the new transfer value of each vote cast for the elected candidate shall be calculated.
 - 3. Votes for the elected candidate shall be added, at their new transfer values, to the totals of each ballot's highest-ranked continuing candidate or counted as exhausted ballots.
 - 4. A new round begins with subsection (a).
- (d) The candidate with the fewest votes is defeated.
 - 1. If the number of continuing candidates is now equal to the number of seats remaining to be filled, all continuing candidates are elected, and the tabulation is complete.
 - 2. Otherwise, votes for the defeated candidate shall cease counting for the defeated candidate.
 - A. Votes cast for the defeated candidate shall be added, at their current transfer values, to the totals of each ballot's next-ranked continuing candidate or counted as exhausted ballots
 - B. A new round begins with subsection (a).

SECTION 6: RANKED CHOICE VOTING—TIES

If a tie to determine which candidate has the greatest number of votes or the fewest votes occurs at any point in the tabulation procedure described in Sections 4 or 5, and tabulation cannot proceed until the tie is resolved, the board of canvassers shall determine the candidate who is considered to have the greater number of votes by lot.

The Undersigned Agree to this Memorandum of Understanding.

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