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Summary

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Coming into force of Acts

Gouvernement du Québec

O.C. 1174-2002, 2 October 2002

Act to delimit the high water mark of the St Lawrence River in the territory of Municipalité régionale de comté de La Côte-de-Beaupré (1999, c. 84)

— **Coming into force**

COMING INTO FORCE of the Act to delimit the high water mark of the St. Lawrence River in the territory of Municipalité régionale de comté de La Côte-de-Beaupré

WHEREAS the Act to delimit the high water mark of the St. Lawrence River in the territory of Municipalité régionale de comté de La Côte-de-Beaupré (1999, c. 84) was assented to on 20 December 1999;

WHEREAS, under section 5, the Act comes into force on the date to be fixed by the Government;

WHEREAS it is expedient to fix the date of coming into force of the Act;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Municipal Affairs, Greater Montréal, the Environment and Water and Minister of the Environment:

THAT 3 October 2002 be fixed as the date of coming into force of the Act to delimit the high water mark of the St. Lawrence River in the territory of Municipalité régionale de comté de La Côte-de-Beaupré (1999, c. 84).

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

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Gouvernement du Québec

O.C. 1192-2002, 2 October 2002

An Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, c. 26)
— **Coming into force of certain provisions**

COMING INTO FORCE of certain provisions of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions

WHEREAS, under section 222 of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, c. 26), the provisions of the Act come into force on the date or dates to be fixed by the Government, except the provisions of paragraph 2 of section 12, section 31, section 45.3 of the Labour Code (R.S.Q., c. C-27) enacted by section 32 of that Act, sections 42, 44, 45, 47, 50, 51, 57, 58, 60 to 62, 73 to 82, 93, 126, 128 to 130, 132 to 134, 136 and 137, paragraph 24 of section 151, sections 158, 159 and 173, paragraph 3 of section 182 and sections 202, 206, 211 and 221 of the Act, which came into force on 15 July 2001;

WHEREAS, under Order in Council 132-2002 dated 13 February 2002, sections 137.11 to 137.16 of the Labour Code, enacted by section 63 of chapter 26 of the Statutes of 2001, and section 207 of that Act, enacted by section 3 of chapter 49 of the Statutes of 2001, came into force on 13 February 2002;

WHEREAS it is expedient to fix 2 October 2002 as the date of coming into force of sections 137.17 to 137.39 of the Labour Code, enacted by section 63 of chapter 26 of the Statutes of 2001, and in the case of sections 137.19 and 137.20, as replaced by section 32 of chapter 22 of the Statutes of 2002, and in the case of sections 137.24, 137.27 and 137.30, as amended respectively by sections 33 and 34 of chapter 22 of the Statutes of 2002 and by section 2 of chapter 49 of the Statutes of 2001;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour :

THAT 2 October 2002 be fixed as the date of coming into force of sections 137.17 to 137.39 of the Labour Code, enacted by section 63 of chapter 26 of the Statutes of 2001, and in the case of sections 137.19 and 137.20, as replaced by section 32 of chapter 22 of the Statutes of 2002, and in the case of sections 137.24, 137.27 and 137.30, as amended respectively by sections 33 and 34 of chapter 22 of the Statutes of 2002 and by section 2 of chapter 49 of the Statutes of 2001.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

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Regulations and other acts

Gouvernement du Québec

O.C. 1157-2002, 2 October 2002

Cities and Towns Act

(R.S.Q., c. C-19; 2001, c. 25; 2001, c. 68; 2002, c. 37)

Municipal Code of Québec

(R.S.Q., c. C-27.1; 2001, c. 25; 2001, c. 68; 2002, c. 37)

An Act respecting the Communauté métropolitaine de Montréal

(R.S.Q., c. C-37.01; 2001, c. 25; 2001, c. 68; 2002, c. 37)

An Act respecting the Communauté métropolitaine de Québec

(R.S.Q., c. C-37.02; 2001, c. 25; 2001, c. 68; 2002, c. 37)

An Act respecting public transit authorities

(2001, c. 23; 2002, c. 37)

Certain professional services

— Awarding of contracts

Regulation to amend the Regulation respecting the awarding of contracts for certain professional services

WHEREAS, under section 100 of the Act respecting public transit authorities (2001, c. 23) amended by section 269 of the Act to amend various legislative provisions concerning municipal affairs (2002, c. 37) and section 573.3.0.1 of the Cities and Towns Act (R.S.Q., c. C-19), article 938.0.1 of the Municipal Code of Québec (R.S.Q., c. C-27.1), section 112.1 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., c. C-37.01) and section 105.1 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., c. C-37.02), enacted respectively by sections 37, 57, 207 and 488 of the Act to amend various legislative provisions concerning municipal affairs (2001, c. 25) and amended respectively by sections 25, 40, 100 and 210 of the Act to amend various legislative provisions concerning municipal affairs (2001, c. 68) and by sections 89, 111, 125 and 139 of the Act to amend various legislative provisions concerning municipal affairs (2002, c. 37), the Government shall, by regulation, establish the rules that the metropolitan communities, the municipalities,

the intermunicipal boards and the public transit authorities must comply with when awarding a contract involving an expenditure of \$ 100 000 or more for the supply of services that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary, except if the service is necessary for the purposes of a proceeding before a tribunal, or a body or person exercising judicial or adjudicative functions;

WHEREAS the Government made the Regulation respecting the awarding of contracts for certain professional services by Order in Council 646-2002 dated 5 June 2002;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, under the first paragraph of section 293 of the Act to amend various legislative provisions concerning municipal affairs (2002, c. 37), the first regulatory amendment made under section 573.3.0.1 of the Cities and Towns Act, article 938.0.1 of the Municipal Code of Québec, section 112.1 of the Act respecting the Communauté métropolitaine de Montréal and section 105.1 of the Act respecting the Communauté métropolitaine de Québec, as amended respectively by sections 89, 111, 125 and 139, is not subject to the provisions of Division III of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, under the second paragraph of section 293, the first regulation made under section 100 of the Act respecting public transit authorities, as amended by section 269, is not subject to the provisions of Division III of the Regulations Act;

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal:

That the Regulation to amend the Regulation respecting the awarding of contracts for certain professional services, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the awarding of contracts for certain professional services*

Cities and Towns Act

(R.S.Q., c. C-19, s. 573.3.0.1; 2001, c. 25, s. 37; 2001, c. 68, s. 25; 2002, c. 37, s. 89)

Municipal Code of Québec

(R.S.Q., c. C-27.1, s. 938.0.1; 2001, c. 25, s. 57; 2001, c. 68, s. 40; 2002, c. 37, s. 111)

An Act respecting the Communauté métropolitaine de Montréal

(R.S.Q., c. C-37.0.1, s. 112.1; 2001, c. 25, s. 207; 2001, c. 68, s. 100; 2002, c. 37, s. 125)

An Act respecting the Communauté métropolitaine de Québec

(R.S.Q., c. C-37.02, s. 105.1; 2001, c. 25, s. 488; 2001, c. 68, s. 210; 2002, c. 37, s. 139)

An Act respecting public transit authorities (2001, c. 23, s. 100; 2002, c. 37, s. 269)

1. The following is substituted for section 2 of the Regulation respecting the awarding of contracts for certain professional services:

“**2.** For the purposes of this Regulation, “municipal body” means a metropolitan community, a municipality, an intermunicipal board or a public transit authority.”.

2. The following is substituted for section 6:

“**6.** Paragraphs 3 to 6 and 8 of section 573 and sections 573.1.0.2 and 573.1.0.3 of the Cities and Towns Act (R.S.Q., c. C-19) apply to the awarding of contracts referred to in section 3, adapted as required in particular

(1) the municipal body council may adopt a qualification process that discriminates as permitted under section 4; and

(2) where a qualification process is established in order to award a single contract, the municipal body council may provide that it will declare eligible a maximum number of suppliers or services, in which case the maximum may not be less than five.”.

3. Section 8 is amended by adding the following paragraph after the second paragraph:

“The municipal body may provide that, not only should the territory in question as defined in its case be taken into account but also the territory defined in the case of one or more other municipal bodies.”.

4. Section 13 is amended by adding the following sentence at the end of the second paragraph: “The third paragraph of section 8 applies.”.

5. Section 14 is amended by adding the following sentence at the end of the second paragraph: “The third paragraph of section 8 applies.”.

6. The following Division is inserted after section 23:

“DIVISION III SPECIFIC RULES APPLICABLE TO THE AWARDING OF CONTRACTS FOR THE SERVICES OF AN ARCHITECT

23.1. Despite sections 3 to 23, the municipal body shall hold an architectural competition in accordance with the rules established by the Minister of Culture and Communications for the purposes of awarding any contract for the services of an architect relating to a construction project evaluated at \$ 2 million and more and in respect of a facility eligible under the support program for cultural facilities of the Ministère de la Culture et des Communications.

The municipal body shall, if so required by the Minister of Culture and Communications, hold such a competition for the purposes of awarding any contract for the services of an architect relating to any construction project evaluated at less than \$ 2 million and in respect of such a facility.”.

7. The following is substituted for section 26:

“**26.** Paragraphs 3 to 6 and 8 of section 573 and sections 573.1.0.2 and 573.1.0.3 of the Cities and Towns Act apply to the awarding of contracts referred to in section 24, adapted as required.”.

8. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 1, 2 and 7 which come into force on 1 November 2002.

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* The Regulation respecting the awarding of contracts for certain professional services was made by Order in Council 646-2002 dated 5 June 2002 (2002, G.O. 2, 2676).

Gouvernement du Québec

O.C. 1158-2002, 2 October 2002

An Act respecting the Régie du logement
(R.S.Q., c. R-8.1)

Régie du logement

— Procedure of the recruitment and selection of persons apt for appointment as commissioners and for the renewal of their term of office

— Amendments

Regulation to amend the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office

WHEREAS, under section 7.7 of the Act respecting the Régie du logement (R.S.Q., c. R-8.1), replaced by section 36 of chapter 22 of the Statutes of 2002, the Government shall establish by regulation a procedure for the renewal of the term of office of the commissioners of the Régie du logement; the regulation may, in particular, fix the composition of the committees to examine the renewal of the term of office of a commissioner of the Board and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01);

WHEREAS section 39 of the Act to amend the Act respecting administrative justice and other legislative provisions (2002, c. 22) provides namely that the first regulation made under section 7.7 of the Act respecting the Régie du logement is not subject to the publication requirement prescribed by section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, by Order in Council 299-98 dated 18 March 1998, the Government made the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office;

WHEREAS it is expedient to amend the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Municipal Affairs and Greater Montréal, the Environment and Water and Minister of Municipal Affairs and Greater Montréal:

THAT the Regulation to amend the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office*

An Act respecting the Régie du logement
(R.S.Q., c. R-8.1, s. 7.7; 2002, c. 22, s. 36)

1. The following is substituted for the second and third paragraphs of section 26 of the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office:

“ The committee shall be composed of a representative of the legal community, a retiree from a body of the administrative branch who exercised adjudicative functions and a university representative who is a member of a professional order. The committee members shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01).”

2. Section 27 is amended by inserting “, consider the commissioner’s annual performance assessments” after “ 15”.

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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* The Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office, made by Order in Council 299-98 dated 18 March 1998 (1998, *G.O.* 2, 1427), has not been amended since it was made.

Gouvernement du Québec

O.C. 1159-2002, 2 October 2002

An Act respecting the Régie du logement
(R.S.Q., c. R-8.1)

Régie du logement
— **Remuneration and other conditions of office**
of commissioners
— **Amendments**

Regulation to amend the Regulation respecting the remuneration and other conditions of office of commissioners of the Régie du logement

WHEREAS, under subparagraph 1 of the first paragraph of section 7.14 of the Act respecting the Régie du logement (R.S.Q., c. R-8.1), amended by section 37 of chapter 22 of the Statutes of 2002, the Government shall make regulations determining the mode of remuneration of the commissioners of the Régie du logement and the applicable standards and scales as well as the method for determining the annual percentage of salary advancement of commissioners up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate;

WHEREAS, by Order in Council 300-98 dated 18 March 1998, the Government made the Regulation respecting the remuneration and other conditions of office of commissioners of the Régie du logement;

WHEREAS it is expedient to amend the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Municipal Affairs and Greater Montréal, the Environment and Water and Minister of Municipal Affairs and Greater Montréal:

THAT the Regulation to amend the Regulation respecting the remuneration and other conditions of office of commissioners of the Régie du logement, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the remuneration and other conditions of office of commissioners of the Régie du logement*

An Act respecting the Régie du logement
(R.S.Q., c. R-8.1, s. 7.14, 1st par., subpar. 1;
2002, c. 22, s. 37)

1. The Regulation respecting the remuneration and other conditions of office of commissioners of the Régie du logement is amended by substituting the following for the third paragraph of section 7:

“Where a commissioner of the Board already in office is designated as chairman of the Board, his salary shall be increased by 10%. However, the new salary may not be lower than the regular minimum salary of the scale applicable to that position.”

2. The following is substituted for section 9:

“**9.** The salary of a full-time commissioner shall be increased, up to the regular maximum salary of the applicable scale, by the annual percentage determined according to the following formula:

$$(0.1 \times \% \text{ attributed for the "A" performance rating}) + (0.3 \times \% \text{ attributed for the "B" performance rating}) + (0.6 \times \% \text{ attributed for the "C" performance rating})$$

The percentages of increase shall be the annual percentages provided for salary advancement under the government policy on performance assessments for members of a body appointed by the Government.

Where a commissioner's salary reaches the maximum, the salary shall be adjusted with a lump sum the annual percentage of which is determined according to the above formula. The percentages shall be the annual percentages for performance bonuses under that policy. The lump sum shall, if applicable, be reduced to take into account the percentage of increase that the commissioner has received under the first paragraph or the portion of the salary that exceeds the regular maximum of the salary scale applicable to that position.

* The Regulation respecting the remuneration and other conditions of office of commissioners of the Régie du logement, made by Order in Council 300-98 dated 18 March 1998 (1998, G.O. 2, 1431), has not been amended since it was made.

With respect to a full-time commissioner who has retired from the public sector as described in Schedule III, the regular maximum of the applicable salary scale shall be determined by taking into account the deduction made at the time of the commissioner's appointment or term renewal in accordance with section 4.

A full-time commissioner who has been in office less than four months during the period used as reference for salary advancement and remuneration adjustment does not benefit from the provisions of this section."

3. The following is substituted for paragraphs 1 and 2 of section 14:

"(1) full-time commissioners of the Board shall participate in the Pension Plan of Management Personnel; and

(2) the chairman and vice-chairmen of the Board shall participate in the Pension Plan of Management Personnel and be subject to the special retirement provisions prescribed by Orders in Council 245-92 dated 26 February 1992 and 461-92 dated 1 April 1992 and any consequential amendments, as employees not subject to Schedule I to the latter Order in Council."

4. Section 18 is amended by substituting "\$ 2415" for "\$ 2100" and "\$ 2070" for "\$ 1400" in the first paragraph.

5. Section 2 of Schedule I is amended by substituting "Level 4" for "Level 3".

6. Section 3 of Schedule I is amended by substituting "Level 3" for "Level 2".

7. Section 4 of Schedule I is amended by substituting "Level 3" for "Level 2".

8. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 1179-2002, 2 October 2002

An Act respecting administrative justice
(R.S.Q., c. J-3)

Administrative Tribunal of Québec — Procedure for the recruitment and selection of persons apt for appointment as members and the renewal of their term of office — Amendments

Regulation to amend the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office

WHEREAS, under section 49 of the Act respecting administrative justice (R.S.Q., c. J-3), replaced by section 4 of chapter 22 of the Statutes of 2002, the Government shall establish a procedure for the renewal of the term of office of the members of the Administrative Tribunal of Québec; the regulation may, in particular, fix the composition of the committees to examine the renewal of a Tribunal member's term and the mode of appointment of committee members who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01);

WHEREAS section 39 of the Act to amend the Act respecting administrative justice and other legislative provisions (2002, c. 22) provides namely that the first regulation made under section 49 of the Act respecting administrative justice is not subject to the publication requirement prescribed by section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, by Order in Council 317-98 dated 18 March 1998, the Government made the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office;

WHEREAS it is expedient to amend the Regulation ;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Justice and Attorney General :

THAT the Regulation to amend the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office*

An Act respecting administrative justice (R.S.Q., c. J-3, s. 49 ; 2002, c. 22, s. 4)

1. The following is substituted for the second and third paragraphs of section 26 of the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office :

“ The committee shall be composed of a representative from the legal community, a retired person having exercised an adjudicative function within a body of the administrative branch and a university representative who is a member of a professional order. The committee members shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01).”

2. Section 27 is amended by inserting “ , consider the member’ s annual performance assessments” after “ 15” .

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 1180-2002, 2 October 2002

An Act respecting administrative justice (R.S.Q., c. J-3)

**Administrative Tribunal of Québec
— Remuneration and other conditions of office of members
— Amendments**

Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec

WHEREAS, under subparagraph 1 of the first paragraph of section 56 of the Act respecting administrative justice (R.S.Q., c. J-3), amended by section 5 of chapter 22 of the Statutes of 2002, the Government shall make regulations determining the mode of remuneration of the members of the Administrative Tribunal of Québec and the applicable standards and scales as well as the method for determining the annual percentage of salary advancement of members up to the maximum salary rate and of the adjustment of the remuneration of members whose salary has reached the maximum rate ;

WHEREAS, by Order in Council 318-98 dated 18 March 1998, the Government made the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec ;

WHEREAS it is expedient to amend the Regulation ;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Justice :

THAT the Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

* The Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office, made by Order in Council 317-98 dated 18 March 1998 (1998, *G.O.* 2, 1439), has not been amended since it was made.

Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec*

An Act respecting administrative justice
(R.S.Q., c. J-3, s. 56, 1st par., subpar. 1; 2002, c. 22, s. 5)

1. Section 7 of the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec is amended

(1) by substituting “ 10%” for “ 5%” in the first and second paragraphs; and

(2) by substituting the following for the third paragraph:

“ Where a member of the Tribunal already in office is designated as president of the Tribunal, his salary shall be increased by 20%. However, the new salary may not be lower than the regular minimum salary of the scale applicable to that position.” .

2. The following is substituted for section 9:

“**9.** The salary of a full-time member shall be increased, up to the regular maximum salary of the applicable scale, by the annual percentage determined according to the following formula:

$$(0.1 \times \% \text{ attributed for the "A" performance rating}) + (0.3 \times \% \text{ attributed for the "B" performance rating}) + (0.6 \times \% \text{ attributed for the "C" performance rating})$$

The percentages of increase shall be the annual percentages provided for salary advancement under the government policy on performance assessments for members of a body appointed by the Government.

Where a member's salary reaches the maximum, the salary shall be adjusted with a lump sum the annual percentage of which is determined according to the above formula. The percentages shall be the annual percentages for performance bonuses under that policy. The lump sum shall, if applicable, be reduced to take into account the percentage of increase that the member has received under the first paragraph or the portion of the salary that exceeds the regular maximum of the salary scale applicable to that position.

With respect to a full-time member who has retired from the public sector as described in Schedule III, the regular maximum of the applicable salary scale shall be determined by taking into account the deduction made at the time of the member's appointment or term renewal in accordance with section 4.

A full-time member who has been in office less than four months during the period used as reference for salary advancement and remuneration adjustment does not benefit from the provisions of this section.” .

3. Section 14 is amended

(1) by substituting “ Pension Plan of Management Personnel” for “ Government and Public Employees Retirement Plan (RREGOP) applicable to non unionizable employees” in paragraph 1;

(2) by substituting the following for paragraph 2:

“ (2) the vice-presidents of the Administrative Tribunal shall participate in the Pension Plan of Management Personnel and be subject to the special retirement provisions prescribed by Orders in Council 245-92 dated 26 February 1992 and 461-92 dated 1 April 1992 and any consequential amendments, as employees not subject to Schedule I to the latter Order in Council; ” ; and

(3) by substituting “ Pension Plan of Management Personnel and be subject” for “ Government and Public Employees Retirement Plan (RREGOP) applicable to non unionizable employees and are subject” in paragraph 3.

4. Section 18 is amended by substituting “ \$ 4140” for “ \$ 3600” and “ \$ 2415” for “ \$ 2100” in the first paragraph.

5. Section 1 of Schedule I is amended by substituting “ Level 7” for “ Level 6” .

6. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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* The Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec made by Order in Council 318-98 dated 18 March 1998 (1998, G.O. 2, 1443), has not been amended since it was made.

Gouvernement du Québec

O.C. 1193-2002, 2 October 2002

Labour Code
(R.S.Q., c. C-27)

Commission des relations du travail — Remuneration and other conditions of employment of commissioners

Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail

WHEREAS, under the first paragraph of section 137.27 of the Labour Code (R.S.Q., c. C-27), enacted by section 63 of chapter 26 of the Statutes of 2001 and amended by section 34 of chapter 22 of the Statutes of 2002, the Government shall make regulations determining the mode of remuneration of the commissioners of the Commission des relations du travail and the applicable standards and scales, the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate and the conditions subject to which and the extent to which a commissioner may be reimbursed for the expenses incurred in the performance of his or her duties;

WHEREAS, under the second paragraph of section 137.27 of the Code, the Government may make regulations determining other conditions of employment applicable to all or certain commissioners, including employment benefits other than a pension plan;

WHEREAS, under the third paragraph of section 137.27 of the Code, the regulatory provisions may vary according to whether they apply to a full-time or part-time commissioner or to a commissioner holding an administrative office within the Commission;

WHEREAS, under the fourth paragraph of section 137.27 of the Code, the regulations come into force on the fifteenth day following the date of their publication in the Gazette officielle du Québec or on any later date indicated therein;

WHEREAS, under Order in Council 1192-2002 dated 2 October 2002, section 137.27 of the Code came into force on 2 October 2002;

WHEREAS it is expedient to make the Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail attached to this Order in Council;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour:

THAT the Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail

Labour Code
(R.S.Q., c. C-27, s. 137.27; 2001, c. 26, s. 63;
2002, c. 22, s. 34)

DIVISION I REMUNERATION

1. The salary scale applicable to commissioners of the Commission des relations du travail is the scale in Schedule I.

The salary scale shall be revised in keeping with the policy adopted by the Government for holders of senior positions appointed by the Government.

2. Part-time commissioners of the Commission shall receive fees in accordance with the hourly rate in Schedule I, up to a maximum of seven hours' work a day.

The maximum number of work hours may be exceeded where authorized by the president of the Commission and where special circumstances warrant it.

For the purposes of this Regulation, fees paid to the commissioners of the Commission are considered to be a salary.

3. The starting salary of full-time commissioners of the Commission shall be determined by their experience and education, the level of the position and their income at the time of appointment established in accordance with the standards prescribed in Schedule II.

Civil servants appointed as full-time commissioners may not receive a salary lower than the regular salary to which they were entitled before their appointment, in accordance with their classification in the public service.

4. Retirees from the public sector defined in Schedule III and appointed commissioners of the Commission shall receive a salary equal to the salary determined in accordance with the standards of this Regulation, from which shall be deducted half the amount of the retirement pension they are receiving from the public sector. The deduction shall be established in the instrument of appointment or upon renewal of the commissioners' term of office. The salary may therefore be lower than the regular minimum of the scale applicable to the position.

5. Whoever has received or is receiving a severance pay or allowance from the public sector defined in Schedule III and receives a salary as a commissioner of the Commission during the period covered by such pay or allowance shall repay the portion of the severance pay or allowance that covers the period for which the person was receiving a salary, or shall cease to receive it during that period.

However, if the salary the person receives as a commissioner is lower than what the person was receiving prior to his or her appointment, the person shall repay only that portion of the severance pay or allowance that equals the amount of the person's new salary and may continue to receive the portion of the severance pay or allowance that exceeds his or her new salary.

The period covered by the severance pay or allowance is the same as that which would have been covered by an equal amount if it had been received as salary for the person's office, employment or previous position.

6. Upon renewal of a term of office, the salary shall remain the same as the salary paid before such renewal, subject to section 4.

7. Full-time commissioners who cease to hold an administrative office within the Commission, in accordance with the second paragraph of section 137.29 of the Labour Code (R.S.Q., c. C-27), shall receive, starting on the effective date, a salary equivalent to what they were receiving without exceeding the maximum of the salary scale for a commissioner's position.

However, in such cases, public servants may not receive a salary lower than the regular salary to which they would be entitled in respect of their classification in the public service.

8. The salary of a full-time commissioner shall be increased, up to the regular maximum salary of the applicable scale, by the annual percentage determined according to the following formula:

$$\begin{aligned} & (0.1 \times \% \text{ attributed to an "A" performance rating}) \\ & + (0.3 \times \% \text{ attributed to a "B" performance rating}) \\ & + (0.6 \times \% \text{ attributed to a "C" performance rating}) \end{aligned}$$

The percentages of increase shall be the annual percentages provided for salary advancement under the government policy on performance assessments for members of a body appointed by the Government.

Where a commissioner's salary reaches the maximum, the remuneration shall be adjusted with a lump sum the annual percentage of which is determined according to the above formula. The percentages shall be the annual percentages for performance bonuses under that policy. The lump sum shall, if applicable, be reduced to take into account the percentage of increase that the commissioner has received under the first paragraph or the portion of the salary that exceeds the regular maximum of the applicable salary scale.

For a full-time commissioner who has retired from the public sector as defined in Schedule III, the regular maximum of the applicable salary scale shall be established by taking into account the deduction made at the time of the commissioner's appointment or renewal of office in accordance with section 4.

A full-time commissioner who has been in office less than four months during the period used as reference for salary advancement and remuneration adjustment does not benefit from the provisions of this section.

9. The annual performance assessment of a commissioner shall be made by the president of the Commission or the vice-president designated by the president. The criteria and ratings used to assess a commissioner's performance in accordance with the principle of independence in the performance of adjudicative functions appear in Schedule IV.

The annual assessment of a vice-president's performance shall be made by the president of the Commission and shall measure, as to the performance of the vice-president's administrative duties, the efficiency and effectiveness of the vice-president's management of resources in carrying out the Commission's mission. Where applicable, it shall also pertain to the performance as commissioner and the criteria and ratings used for the assessment in accordance with the principle of independence in the performance of adjudicative functions appear in Schedule IV.

The president's performance shall be assessed annually by the Minister of Labour and shall exclusively measure the efficiency and effectiveness of the president's management of resources in carrying out the Commission's mission. The ratings used for the assessment of the president's performance appear in Schedule IV.

10. Commissioners whose term of office has expired and who are concluding the cases they have begun to hear but have yet to determine shall continue to receive, for a period to be determined by the president of the Commission, the annual salary to which they were entitled. However, if the president considers that the new situation warrants the commissioners' performing their duties part time, commissioners may be remunerated on an hourly basis calculated according to the annual salary they were receiving at the time their term of office expired. For the purposes of this paragraph, commissioners are deemed to work 35 hours a week.

If the situation applies to part-time commissioners, they shall receive the hourly rate to which they were entitled.

11. The commissioner designated by the president of the Commission as the person in charge of assigning cases shall receive, while performing that duty, an additional remuneration equivalent to 3% of the commissioners' annual salary.

The additional remuneration shall be paid only if the duty is performed for at least 45 consecutive days.

Such additional remuneration may not be paid to more than three commissioners at the same time.

DIVISION II

OTHER CONDITIONS OF EMPLOYMENT

§1. Insurance plans

12. Full-time commissioners shall participate in the group insurance plans for managerial staff of the Québec public and parapublic sectors.

In the case of a commissioner's disability giving entitlement to salary insurance benefits during a term of office, the benefits provided for under the long- or short-term salary insurance plans shall be paid and the commissioner shall be exempted from paying premiums to the pension and insurance plans for the duration of the period of disability, even if the commissioner's term expires during that period.

§2. Pension plans

13. In accordance with section 137.30 of the Labour Code, full-time commissioners of the Commission shall participate in the Pension Plan of Management Personnel or, as the case may be, in the Civil Service Superannuation Plan.

§3. Annual vacation leave

14. Full-time commissioners shall be entitled to a paid annual vacation of 20 working days, to be calculated proportionally to the time in office during the fiscal year.

Persons on full leave without pay from the public service shall be entitled to an annual vacation equivalent to the number of days of leave they would be entitled to under their classification in the public service.

Where part or all of the annual vacation to which a commissioner is entitled cannot be taken in a given fiscal year, a request for its carryover shall be made to the president of the Commission before the end of that fiscal year.

The number of days of annual vacation carried over may not exceed the number of days of annual vacation to which the commissioner is entitled.

§4. Legal holidays

15. Full-time commissioners shall have the same annual statutory holidays as those that apply to the public service.

§5. Travel and living expenses

16. The commissioners shall be entitled to the reimbursement of travel and living expenses incurred in the performance of their duties in accordance with Décret 2500-83 dated 30 November 1983 concernant les règles sur les frais de déplacement des présidents, vice-présidents et membres d'organismes gouvernementaux, as amended.

17. For the purposes of reimbursing expenses, the principal location for the performance of a commissioner's duties is specified in the instrument of appointment.

§6. Resignation notice

18. For the purposes of section 137.23 of the Labour Code, the notice of resignation given to the Minister of Labour shall be sent to the president of the Commission who shall send a copy thereof to the Associate Secretary General for Senior Positions at the Ministère du Conseil exécutif.

§7. *Full leave without pay from the public service*

19. For the purposes of section 137.31 of the Labour Code, a public servant who is appointed commissioner of the Commission shall be, for the duration of the appointment and to discharge the duties of commissioner, on full leave without pay from the Ministère du Travail.

20. Commissioners who are on full leave without pay from the public service and resign their office or whose term is not renewed shall be reinstated in the Ministère du Travail with the salary received at the Commission if that salary is equal to or lower than the maximum of the applicable salary scale in the public service. If the salary at the Commission was higher, commissioners shall be reinstated with a salary equal to the maximum of the salary scale applicable under their classification in the public service.

§8. *Transition allowance and other similar measures*

21. Full-time commissioners who are not on full leave without pay from the public service and whose term of office is not renewed or who do not request a renewal of their term, shall receive a transition allowance.

The allowance at the time of departure is equal to one month's salary for each year of continuous service since the beginning of their term as full-time holders of a senior position appointed by the Government, without exceeding 12 months.

If the period is less than one year, the allowance shall be calculated proportionally to the number of days of service completed.

22. Commissioners who are dismissed or removed shall not receive a transition allowance.

23. Commissioners who no longer perform their duties, who received or are receiving the transition allowance prescribed in section 21 and who hold an office, employment or any other remunerated position in the public sector defined in Schedule III during the period to which the allowance applies, shall either repay the portion of the allowance that covers the period for which they received a salary, or cease to receive it during that period.

However, if the salary they receive is lower than that which they were previously receiving, they shall repay the allowance that equals the amount of the new salary and may continue to receive the portion of the allowance that exceeds their new salary.

The period covered by the transition allowance is the same as that which would have been covered by an equal amount had the commissioner received it as a salary while holding an office, an employment or a previous position.

24. Full-time commissioners who no longer perform their duties, who have benefited from a departure incentive program or its equivalent and who, within the two years following their departure, return to office, an employment or any other remunerated position in the public sector defined in Schedule III shall repay an amount equal to the amount received under the program up to the amount of the remuneration received during that two-year period as a result of their return.

25. Part-time teaching activities are not included in sections 23 and 24.

26. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I

(ss. 1, 2)

SALARY SCALE APPLICABLE TO COMMISSIONERS OF THE COMMISSION DES RELATIONS DU TRAVAIL

1. The salary scale applicable to commissioners of the Commission des relations du travail is the scale established for Level 3 full-time members of bodies under Décret 713-2000 dated 14 June 2000, as amended.

2. The hourly rate paid to commissioners of the Commission performing their duties part-time is calculated as follows:

The maximum of the scale applicable to Level 3 full-time members of bodies + 20%* ÷ 261 working days ÷ 7 hours per working day.

* Compensation for the absence of fringe benefits

SCHEDULE II

(s. 3)

**DETERMINATION OF THE STARTING SALARY
OF A COMMISSIONER APPOINTED TO THE
COMMISSION DES RELATIONS DU TRAVAIL**

For the purposes of determining the income to be used as a basis for the calculation of the starting salary of a commissioner appointed to the Commission des relations du travail, the following rules shall apply:

1. Take into account the regular salary with the previous employer, supported by a compulsory attestation by the employer.

2. Determine self-employment income by one of the following means:

— a financial statement prepared by an accounting firm;

— a copy of the T4 or Relevé 1 slips(s) showing the income for the year(s) of reference required;

— an affidavit in which the candidate attests to his or her income; or

— any other acceptable and accurate proof of the candidate's income.

3. Exclude from the salaries, earnings or income provided, any amount that is not of a regular nature such as premiums, overtime or other such bonuses.

4. Take into account, for the purposes of determining the salary, only the income from the principal employment, excluding income from casual employment or work done outside regular hours.

5. Subtract, in the case of candidates who are contract or casual employees of the Gouvernement du Québec, the percentage of their salary compensating for the absence of fringe benefits, where such a percentage is provided.

6. Establish an average over a number of years where income varies considerably because of profit-sharing income or income of another type.

SCHEDULE III

(ss. 4, 5, 8, 23, 24)

PUBLIC SECTOR

The public sector includes

1. the Government, a government department, the Conseil exécutif and the Conseil du trésor;

2. the Lieutenant-Governor's staff, the National Assembly, the Public Protector, any person designated by the National Assembly to perform duties that come under the National Assembly, where the law provides that its personnel is appointed in accordance with the Public Service Act (R.S.Q., c. F-3.1.1) and any body to which the National Assembly or one of its committees appoints the majority of the members;

3. any body that is established by an Act, pursuant to an Act, or by a decision of the Government, the Conseil du trésor or a Minister and that meets one of the following conditions:

(1) all or part of its appropriations for operating purposes appear under that heading in the budgetary estimates tabled in the National Assembly;

(2) its employees are required by law to be appointed in accordance with the Public Service Act;

(3) the Government or a Minister appoints at least half of its members or directors and at least half of its operating costs are borne directly or indirectly by the consolidated revenue fund or by other funds administered by a public body referred to in section 1 or 2 of this Schedule or by both at the same time;

4. the Public Curator;

5. any body or agency, other than those referred to in section 1, 2 or 3 of this Schedule, established by an Act, pursuant to an Act, or by a decision of the Government, the Conseil du trésor or a Minister and at least half of whose members or directors are appointed by the Government or a Minister;

6. any joint-stock company, other than a government body referred to in section 3 of this Schedule, of which more than 50% of the voting shares are part of the domain of the State or are owned by a government body referred to in sections 1 to 3 and 5 of this Schedule or by an undertaking referred to in this section;

7. any educational institution at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., c. E-14.1);

8. any general and vocational college established in accordance with the General and Vocational Colleges Act (R.S.Q., c. C-29);

9. any school board referred to in the Education Act (R.S.Q., c. I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., c. I-14), and the Conseil scolaire de l'Île-de-Montréal;

10. any private institution accredited for purposes of subsidies under the Act respecting private education (R.S.Q., c. E-9.1);

11. any other educational institution of which more than one-half of the operating expenses are paid out of the appropriations entered in the budgetary estimates tabled in the National Assembly;

12. any public or private institution under agreement and any regional board referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2);

13. a regional council established under the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5);

14. any municipality, and any body declared by law to be the mandatory or agent of a municipality, and any body whose board of directors is composed of a majority of members of a municipal council, as well as any body otherwise under municipal authority;

15. any metropolitan community, intermunicipal board, intermunicipal transit corporation, intermunicipal board of transport, Kativik Regional Government and any other body whose board of directors is composed of a majority of elected municipal officers, except a private body.

SCHEDULE IV

(s. 9)

PERFORMANCE ASSESSMENT CRITERIA AND RATINGS

Annual performance assessments shall be based on the following criteria:

(1) Qualitative criteria include factors and standards for assessing the knowledge, skills, attitudes and behaviour of commissioners in the exercise of their powers and duties, in particular,

(a) the knowledge and use of statutes, regulations, rules of evidence and procedure, and jurisprudence acquired through the means available to commissioners;

(b) the written quality of decisions, in particular, clarity, precision and conciseness;

(c) behaviour with respect to the parties, their witnesses and representatives, in particular during hearings;

(d) compliance with the code of ethics applicable to commissioners of the Commission des relations du travail;

(e) availability and interest in the work;

(f) communications and relations with the management and staff of the Commission; and

(g) participation in committees and activities related to a commissioner's duties.

(2) Quantitative criteria assess the quantitative contribution of commissioners with respect to the handling of cases, in particular,

(a) the number of cases settled following conciliation, withdrawal or an amicable settlement;

(b) the number of cases handled following inquiries and hearings of the parties, and the testimonies, arguments and the entire documentation pertaining to a case taken under advisement; and

(c) the number of decisions rendered.

The annual performance assessment shall be in keeping with the following ratings:

- A: performance that far exceeds required standards
- B: performance that exceeds required standards
- C: performance that meets required standards
- D: performance that is below required standards
- E: performance that is far below required standards.

5333

Gouvernement du Québec

O.C. 1194-2002, 2 October 2002

An Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001)

Commission des lésions professionnelles
— Procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners and for the renewal of their term of office
— Amendments

Regulation to amend the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office

WHEREAS, under section 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), amended by section 29 of chapter 22 of the Statutes of 2002, the Government shall establish a procedure for the renewal of the term of office of a commissioner of the Commission des lésions professionnelles; the regulation may, in particular, fix the composition of the committees to examine the renewal of a commissioner's term of office and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01);

WHEREAS section 39 of the Act to amend the Act respecting administrative justice and other legislative provisions (2002, c. 22) provides namely that the first regulation made under section 395 of the Act respecting

industrial accidents and occupational diseases shall not be subject to the publication requirement provided for in section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, by Order in Council 566-98 dated 22 April 1998, the Government made the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office;

WHEREAS it is expedient to amend the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour:

THAT the Regulation to amend the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office*

An Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001, s. 395; 2002, c. 22, s. 29)

1. The following is substituted for the second and third paragraphs of section 26 of the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office:

* The Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office, made by Order in Council 566-98 dated 22 April 1998 (1998, *G.O.* 2, 1752), has not been amended since it was made.

“The committee shall be composed of a representative from the legal community, a retired person having exercised an adjudicative function within a body of the administrative branch and a university representative who is a member of a professional order. The committee members shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01).”

2. Section 27 is amended by inserting “, consider the commissioner’s annual performance assessments” after “15”.

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5334

Gouvernement du Québec

O.C. 1195-2002, 2 October 2002

An Act respecting industrial accidents and occupational diseases
(R.S.Q., c. A-3.001)

Commission des lésions professionnelles — Remuneration and other conditions of office of commissioners — Amendments

Regulation to amend the Regulation respecting the remuneration and other conditions of office of commissioners of the Commission des lésions professionnelles

WHEREAS, under subparagraph 1 of the first paragraph of section 402 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), amended by section 31 of chapter 22 of the Statutes of 2002, the Government shall make regulations determining the mode of remuneration of the members of the Commission des lésions professionnelles, and the applicable standards and scales as well as the method for determining the annual percentage of salary advancement of commissioners up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate;

WHEREAS, by Order in Council 726-98 dated 27 May 1998, the Government made the Regulation respecting the remuneration and other conditions of office of commissioners of the Commission des lésions professionnelles;

WHEREAS it is expedient to amend the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour:

THAT the Regulation to amend the Regulation respecting the remuneration and other conditions of office of commissioners of the Commission des lésions professionnelles, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the remuneration and other conditions of office of commissioners of the Commission des lésions professionnelles*

An Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001, s. 402, 1st par., subpar. 1; 2002, c. 22, s. 31)

1. Section 6 of the Regulation respecting the remuneration and other conditions of office of commissioners of the Commission des lésions professionnelles is amended

(1) by substituting “10%” for “5%” in the second paragraph; and

(2) by substituting the following for the third paragraph:

“Where a commissioner of the board already in office is designated as president of the board, his salary shall be increased by 15%. However, the new salary may not be lower than the regular minimum salary of the scale applicable to that position.”

2. The following is substituted for section 8:

“8. The salary of a commissioner shall be increased, up to the regular maximum salary of the applicable scale, by the annual percentage determined according to the following formula:

* The Regulation respecting the remuneration and other conditions of office of commissioners of the Commission des lésions professionnelles, made by Order in Council 726-98 dated 27 May 1998 (1998, *G.O.* 2, 2175), has not been amended since it was made.

(0.1 x % attributed for the “A” performance rating) +
 (0.3 x % attributed for the “B” performance rating) +
 (0.6 x % attributed for the “C” performance rating)

The percentages of increase shall be the annual percentages provided for salary advancement under the government policy on performance assessments for members of a body appointed by the Government.

Where a commissioner’s salary reaches the maximum, the salary shall be adjusted with a lump sum the annual percentage of which is determined according to the above formula. The percentages shall be the annual percentages for performance bonuses under that policy. The lump sum shall, if applicable, be reduced to take into account the percentage of increase that the commissioner has received under the first paragraph or the portion of the salary that exceeds the regular maximum of the salary scale applicable to that position.

With respect to a commissioner who has retired from the public sector, as described in Schedule III, the regular maximum of the applicable salary scale shall be determined by taking into account the deduction made at the time of the commissioner’s appointment or term renewal in accordance with section 3.

A commissioner who has been in office less than four months during the period used as reference for salary advancement and remuneration adjustment does not benefit from the provisions of this section.”

3. Section 12 is amended by substituting “5%” for “3%” in the first paragraph.

4. Section 14 is amended

(1) by substituting “Pension Plan of Management Personnel” for “Government and Public Employees Retirement Plan (RREGOP) applicable to non unionizable employees” in paragraph 1;

(2) by substituting the following for paragraph 2:

“(2) the vice-presidents of the Board shall participate in the Pension Plan of Management Personnel, and be subject to the special retirement provisions prescribed by Orders in Council 245-92 dated 26 February 1992 and 461-92 dated 1 April 1992 and any consequential amendments, as employees not subject to Schedule I to the latter Order in Council; ” ; and

(3) by substituting “Pension Plan of Management Personnel and be subject” for “Government and Public Employees Retirement Plan (RREGOP) applicable to non unionizable employees and are subject” in paragraph 3.

5. Section 18 is amended by substituting “\$ 3450” for “\$ 3000” and “\$ 2070” for “\$ 1800” in the first paragraph.

6. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5335

Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities
 (R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEWMETHODS OF VOTING FOR AN ELECTION USING “ACCU-VOTES 2000” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF DEUX-MONTAGNES, a legal person established in the public interest, having its head office at 803, chemin d’Oka, Deux-Montagnes, Province of Québec, represented by the mayor, Mr. Pierre-Benoît Forget, and the clerk or secretary-treasurer, Mr. Paul Allard, under resolution number 2002.367, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL, having his main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution no. 2002.367, passed at its meeting of September 9th 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities and to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 3rd 2002 in the MUNICIPALITY;

WHEREAS under sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2):

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.” ;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions to hold a general election on November 3rd 2002 and, could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of September 9th 2002, resolution No. 2002.367 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “ Electronic ballot box” means an apparatus containing a vote tabulator, a memory card, a printer, a cardboard or, where necessary, plastic recipient for ballot papers and a modem, where necessary.

2.2 “ Vote tabulator” means a device that uses an optical scanner to detect a mark made in a circle on a ballot paper by an elector.

2.3 “ Memory card” means a memory device that computes and records the marks made by an elector for each of the candidates whose names are printed on the ballot paper and the number of rejected ballot papers according to the subdivisions of the vote tabulator program.

2.4 “ Recipient for ballot papers” means a box into which the ballot paper cards fall.

2.5 Where applicable, “ transfer box” means the box in which the ballot paper cards are placed when a plastic recipient is used for the electronic ballot box.

2.6 “ Ballot paper card” means the card on which the ballot paper or papers are printed.

2.7 “ Refused card” means a ballot paper card the insertion of which into the tabulator is refused.

2.8 “ Confidentiality sleeve” means a sleeve designed to receive the ballot paper card.

3. ELECTION

3.1 For the purposes of the general election of November 3rd 2002 in the municipality, a sufficient number of Accu-Vote ES 2000 model electronic ballot boxes will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

The electronic ballot boxes used must include the following security mechanisms:

(1) a report displaying a total of “ zero ” must be automatically produced by an electronic ballot box upon being turned on on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card, and must record each procedural operation;

(3) the electronic ballot box must not be placed in “ end of election ” mode while the poll is still under way;

(4) the compilation of results must not be affected by any type of interference once the electronic ballot box has been placed in “ election ” mode;

(5) each electronic ballot box must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the electronic ballot boxes are connected to a generator;

(6) if a ballot box is defective, the memory card may be removed and transferred immediately into another electronic ballot box in order to allow the procedure to continue.

5. PROGRAMMING

Each memory card used is specially programmed either by the firm Cognicase inc., or by the returning officer under the supervision of the firm Cognicase inc., to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by inserting the words “ senior deputy returning officer, assistant to the senior deputy returning officer ” after the word “ assistant ” .

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.” .

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic ballot box;

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the electronic ballot box;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic ballot box functions correctly;

(5) print out the results compiled by the electronic ballot box at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by the electronic ballot box;

(7) give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box, the overall statement and the partial statement or statements of votes;

(8) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the circles and go to the polling station in order to obtain another ballot paper card;

(9) advise the returning officer immediately of any defect in the memory card or the electronic ballot box.

80.1. The assistant to the senior deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter's duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place;

(4) get the pencils and confidentiality sleeves back from the senior deputy returning officer and redistribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) ensure that the polling is properly conducted and maintain order in the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give the electors a ballot paper card, a confidentiality sleeve and a pencil to exercise their right to vote;

(6) receive from electors any ballot paper cards that are refused by the tabulator and give them another ballot paper card, and record the occurrence in the poll book.”

6.4 Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.”

6.5 Notice of election

The following is added after paragraph 7 of section 99 of the Act:

“(8) the fact that the method of voting is voting by means of electronic ballot boxes.”

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

“**104.** The returning officer shall divide the list of electors into polling subdivisions.

The polling subdivisions shall have a number of electors determined by the returning officer. That number shall not be greater than 750 electors.”

6.7 Verification of electronic ballot box

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

“**§1.1** *Verification of electronic ballot box*

173.1. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator

accurately detects the mark made on a ballot paper and that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm Cognicase inc. and the representatives of the candidates.

173.2. During the testing of the electronic ballot box, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall mark the memory card with the returning officer's initials and insert it into the electronic ballot box;

(2) he shall insert into the electronic ballot box a pre-determined number of ballot paper cards, previously marked and tallied manually. The ballot paper cards shall include

(a) a sufficient and pre-determined number of ballot papers correctly marked to indicate a vote for each of the candidates;

(b) a sufficient and pre-determined number of ballot papers that are not correctly marked;

(c) a sufficient and pre-determined number of ballot papers marked to indicate a vote for more than one candidate for the same office;

(d) a sufficient and pre-determined number of blank ballot papers;

(3) he shall place the electronic ballot box in "end of election" mode and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results;

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(5) he shall place the tabulator in the travel case and place a seal on it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(6) where an error is detected, the returning officer shall determine with certitude the cause of the error, make the necessary corrections and proceed with a further test, and shall repeat the operation until the optical scanner of the vote tabulator accurately detects the mark made on a ballot paper and until a perfect compilation of results is obtained. Any error or discrepancy observed shall be noted in the test report;

(7) he may not change the programming for the scanning of the mark in a circle without supervision from the firm Cognicase inc." .

6.8 Mobile polling station

The said Act is amended by inserting the following sections after section 175:

"175.1. The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it.

175.2. The returning officer shall, before the opening of the advance polling station, give the senior deputy returning officer the ballot box containing the ballot papers from the mobile polling station.

The senior deputy returning officer shall, in the presence of the assistant to the senior deputy returning officer, remove from the ballot box the confidentiality sleeves containing the ballot papers and insert the ballot papers, one by one, in the electronic ballot box." .

6.9 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act:

"182. After the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors who were given a ballot paper card;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the spoiled, refused or cancelled ballot paper cards, the unused ballot paper cards, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except those containing the list of electors, shall be given to the senior deputy returning officer for deposit in a box reserved for that purpose.

182.1. The senior deputy returning officer, in the presence of the candidates or of their representative who wish to be present, shall seal the recipient for ballot papers, and then place the electronic ballot box in its travel case and place a seal the case. The senior deputy returning officer and the representatives who wish to do so shall note the number entered on the seal.

The senior deputy returning officer shall then give the recipient or recipients for ballot papers, the transfer box and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the recipient or recipients for ballot papers until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the transfer box and give each deputy returning officer the poll books, the envelopes containing unused ballot paper cards and the forms. Each deputy returning officer shall open the envelopes and take possession of their contents. The spoiled, refused or cancelled ballot paper cards shall remain in the transfer boxes, which the senior deputy returning officer shall seal.

The senior deputy returning officer, before the persons present, shall remove the seal from the travel case of the tabulator.

The returning officer, or the person designated by the returning officer, shall give each deputy returning officer the list of electors of the grouped polling station or stations, where applicable.

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the deputy returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the electronic ballot box, place it in an envelope, seal the envelope, place the envelope in the recipient for ballot papers, and seal the recipient.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope. They shall also be placed in a sealed transfer box.

The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

185. From 7: 00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required” .

6.10 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic ballot boxes are used in an election, the polling station shall have the number of polling booths determined by the returning officer.” .

6.11 Ballot papers

The following is substituted for section 193 of the Act:

“**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed by reversing process so that, on the obverse, the indications appear in white on a black background and the circles provided to receive the elector’ s mark appear in white on an orange vertical strip.” .

Section 195 of the Act is revoked.

6.12 Identification of the candidates

Section 196 of the Act is amended

(1) by substituting the following for the first paragraph:

“**196.** The ballot paper card shall contain a ballot paper for the office of mayor and the ballot papers for the office or offices of councillor. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse: ” ;

(2) by adding the following after subparagraph 3 of the first paragraph:

“ (4) the offices in question and, where applicable, the number of the seat to be filled. The indications of the offices in question shall correspond to those contained in the nomination papers.” .

6.13 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** The ballot paper cards shall contain on the obverse, as shown in the Schedule,

- (1) the name of the municipality;
- (2) the indication “ municipal election” and the date of the poll;
- (3) the ballot papers;
- (4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown in the Schedule,

- (1) a space intended to receive the initials of the deputy returning officer;
- (2) a space intended to receive the number of the polling subdivision;
- (3) the name and address of the printer;
- (4) the bar code.” .

6.14 Confidentiality sleeve

The Act is amended by inserting the following after section 197:

“**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through them.” .

6.15 Withdrawal of a candidate

Section 198 of the Act is amended by adding the following paragraphs at the end:

“ Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.” .

6.16 Withdrawal of authorization or recognition

Section 199 of the Act is amended by adding the following paragraph at the end:

“ Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the party or the ticket from which recognition has been withdrawn.” .

6.17 Number of electronic ballot boxes

The following is substituted for section 200 of the Act:

“**200.** The returning officer must ensure that there are as many electronic ballot boxes as polling places available and that a sufficient number of replacement electronic ballot boxes are available in the event of a breakdown or technical deficiency.

The returning officer shall ensure that a sufficient number of recipients for ballot papers are available for each electronic ballot box.” .

6.18 Provision of polling materials

Section 204 of the Act is amended by substituting the word “ recipient” for the words “ ballot box” in the second line of the first paragraph.

6.19 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

“207. In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic ballot box for the polling place. The senior deputy returning officer shall ensure that the electronic ballot box displays a total of zero recorded ballot papers by verifying the printed report of the electronic ballot box.

The senior deputy returning officer shall keep the report and show it to any person present who wishes to examine it.

The senior deputy returning officer shall examine the documents and materials provided by the returning officer.

207.1. In the hour preceding the opening of the polling stations, the deputy returning officer and poll clerk shall examine the documents and polling materials provided by the returning officer.” .

The following is substituted for section 209 of the Act:

“209. Immediately before the hour fixed for the opening of the polling stations, the senior deputy returning officer, before the deputy returning officers, the poll clerks and the representatives of the candidates present, shall ensure that the recipient of the electronic ballot box is empty.

The recipient shall then be sealed by the senior deputy returning officer. The senior deputy returning officer and the representatives present who wish to do so shall affix their initials to the seal. The electronic ballot box shall be placed in such a way that it is in full view of the polling officers and the electors.” .

POLLING PROCEDURE

6.20 Presence at the polling station

The following is substituted for the third paragraph of section 214 of the Act:

“ In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the election clerk, the assistant to the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.” .

6.21 Initialling of ballot papers

The following is substituted for section 221 of the Act:

“221. The deputy returning officer shall give the ballot paper card to which the elector is entitled to each elector admitted to vote, after initialling the ballot paper card in the space reserved for that purpose and entering the number of the polling subdivision. The deputy returning officer shall also give the elector a confidentiality sleeve and a pencil.

The deputy returning officer shall instruct the elector how to insert the ballot paper card in the confidentiality sleeve after having voted.” .

6.22 Voting

The following is substituted for section 222 of the Act:

“222. The elector shall enter the polling booth and, using the pencil given by the deputy returning officer, mark one of the circles on the ballot paper or papers opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

The elector shall insert the ballot paper card, without folding it, into the confidentiality sleeve in such a way that the deputy returning officer’s initials can be seen.” .

6.23 Following the vote

The following is substituted for section 223 of the Act:

“223. After marking the ballot paper or papers and inserting the ballot paper card in the confidentiality sleeve, the elector shall leave the polling booth and go to the electronic ballot box.

The elector shall allow the senior deputy returning officer to examine the initials of the deputy returning officer.

The elector or, at the elector’s request, the senior deputy returning officer shall insert the ballot paper card on the reverse side into the electronic ballot box without removing it from the confidentiality sleeve.” .

6.24 Automatic acceptance

The Act is amended by inserting the following after section 223:

“**223.1.** The electronic ballot box shall be programmed to accept automatically every ballot paper card that is inserted on the reverse side and that was given by the deputy returning officer to an elector.

223.2. If a ballot paper card becomes blocked in the recipient for ballot paper cards, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall open the recipient, restart the electronic ballot box, close it and seal the recipient again in their presence, before authorizing voting to resume.

The senior deputy returning officer must report to the returning officer the time during which voting was stopped. Mention of that fact shall be made in the poll book.

If a ballot paper card becomes blocked in the tabulator, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall unblock the tabulator and restart the electronic ballot box.” .

6.25 Cancelled ballots

The following is substituted for section 224 of the Act:

“**224.** The senior deputy returning officer shall prevent the insertion into the electronic ballot box of any ballot paper card that is not initialled or that is initialled by a person other than the deputy returning officer of a polling station. The elector must return to the polling station.

The deputy returning officer of the polling station in question shall, if his initials are not on the ballot paper card, initial it before the persons present, provided that the ballot paper card is *prima facie* a ballot paper card given to the elector by the deputy returning officer that was not initialled by oversight or inadvertence. The elector shall return to insert the ballot paper card into the electronic ballot box.

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall cancel the ballot paper card.

The occurrence shall be recorded in the poll book.” .

6.26 Visually impaired person

Section 227 of the Act is amended:

(1) by substituting the following for the second and third paragraphs:

“ The assistant to the senior deputy returning officer shall set up the template and the ballot paper card, give them to the elector, and indicate to the elector the order in which the candidates’ names appear on the ballot papers and the particulars entered under their names, where such is the case.

The senior deputy returning officer shall help the elector insert the ballot paper card into the electronic ballot box.” ; and

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.27 Compilation of results

The following is substituted for sections 229 and 230 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall place the electronic ballot box in “end of election” mode and print out the results compiled by the electronic ballot box. The representatives assigned to the polling stations at the polling place may be present.

The report on the compiled results shall indicate the total number of ballot paper cards, the number of ballot papers marked to indicate a vote for more than one candidate, the number of blank ballot papers and the number of valid votes for each office.

230. After the closing of the poll, the deputy returning officer of each polling station in the polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

The poll clerk of the polling station shall enter the following particulars in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors admitted to vote;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or representatives assigned to that station.” .

The Act is amended by inserting the following after section 230:

“**230.1.** The senior deputy returning officer shall ensure, before the persons present, that the results entered on the printed report of the electronic ballot box and the total number of unused, spoiled, refused and cancelled ballot paper cards entered on the partial statement of votes of each deputy returning officer correspond to the total number of ballot paper cards issued by the returning officer.

230.2. Using the partial statement or statements of votes, the senior deputy returning officer shall complete an overall statement of votes in a sufficient number so that each representative assigned to a polling station or each candidate can have a copy of it.”

6.28 Compiling sheet

Section 231 of the Act is revoked.

6.29 Counting of the votes

Section 232 of the Act is revoked.

6.30 Rejected ballot papers

The following is substituted for section 233 of the Act:

“**233.** The electronic ballot box shall be programmed in such a way as to reject any ballot paper that

- (1) has not been marked;
- (2) has been marked in favour of more than one candidate;
- (3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words both the cards containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.”

6.31 Rejected ballot papers, procedural omission, valid ballot papers

Sections 233 to 236 of the Act, adapted as required, shall apply only in the case of a judicial recount.

6.32 Contested validity

The following is substituted for section 237 of the Act:

“**237.** The poll clerk, at the request of the senior deputy returning officer, shall enter in the poll book every objection raised by a representative present at the printing out of the results compiled by an electronic ballot box in respect of the validity of the results.”

6.33 Partial statement of votes, overall statement of votes and copy given to representatives of candidates

The following is substituted for section 238 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out

- (1) the number of ballot paper cards received from the returning officer;
- (2) the number of spoiled, refused or cancelled ballot paper cards that were not inserted into the electronic ballot box;
- (3) the number of unused ballot paper cards.

The deputy returning officer shall make two copies of the partial statement of votes, one of which must be given to the senior deputy returning officer.

Using the partial statements of votes and the results compiled by the electronic ballot box, the senior deputy returning officer shall draw up an overall statement of votes.

The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.”

Section 240 of the Act is revoked.

6.34 Separate, sealed and initialled envelopes given to the returning officer

The following is substituted for sections 241, 242 and 243 of the Act:

“**241.** After the closing of the poll, each deputy returning officer shall place in separate envelopes the list of electors, the poll book, the forms, the spoiled, refused or cancelled ballot paper cards that were not inserted into the electronic ballot box, the unused ballot paper cards

and the partial statement of votes. Each deputy returning officer shall seal the envelopes and place them in a recipient, seal it and give it to the senior deputy returning officer. The deputy returning officer, the poll clerk and the representatives assigned to the polling station who wish to do so shall initial the seals.

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or representatives who wish to be present, the senior deputy returning officer:

— if the plastic recipient has been used for the electronic ballot box, place the ballot paper cards from the recipient of the electronic ballot box in a transfer box. Next, he shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. He shall seal the envelope, initial it, allow the representatives who wish to do so to initial it and place it in the transfer box. He shall seal and initial the transfer box and allow the representatives who wish to do so to initial it;

— if the cardboard recipient is used for the electronic ballot box, remove the cardboard recipient containing the ballot papers. Next, he shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. He shall seal the envelope, initial it, allow the representatives who wish to do so to initial it and place it in the cardboard recipient. He shall seal and initial the cardboard recipient and allow the representatives who wish to do so to initial it.

The senior deputy returning officer give the transfer boxes or the cardboard recipients to the returning officer or to the person designated by the returning officer.

243. The senior deputy returning officer shall place in an envelope a copy of the overall statement of votes stating the results of the election and the partial statements of votes. The senior deputy returning officer shall then seal and initial the envelope and give it to the returning officer.

The representatives assigned to the polling stations may initial the seal.” .

Section 244 of the Act is revoked.

6.35 Addition of votes

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.” .

6.36 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement has been obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results compiled by an electronic ballot box, the returning officer shall, in the presence of the senior deputy returning officer and the candidates concerned or their representatives if they so wish, print out the results using the memory card taken from the transfer box opened in the presence of the persons listed above.” .

6.37 Placing in envelope

The following is substituted for section 249 of the Act:

“**249.** After printing and examining the results, the returning officer shall place them in an envelope together with the memory card.

The returning officer shall seal the envelope, put the envelope in the transfer box and then seal the box.

The returning officer, the candidates and the representatives present may initial the seals.” .

6.38 New counting of the votes

The following is substituted for section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box equipped with a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.” .

6.39 Notice to the Minister

Section 251 of the Act is amended by substituting the words “ overall statement of votes, the report on the results compiled by the electronic ballot box and the ballot paper cards” for the words “ statement of votes and the ballot papers” in the first line of the first paragraph.

6.40 Access to ballot papers

The following is substituted for section 261 of the Act:

“**261.** Except for the purposes of an examination of rejected ballot papers pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the municipality may not issue copies of the ballot papers used, or allow any person to examine the ballot papers, without being required to do so by an order issued by a court or judge.” .

6.41 Application for a recount

Section 262 of the Act is amended by substituting the words “ an electronic ballot box” for the words “ a deputy returning officer, a poll clerk or the returning officer” in the first and second lines of the first paragraph.

7. EXAMINATION OF REJECTED BALLOT PAPERS

Within 120 days from the date on which an election is declared or contested, the returning officer must, at the request of the Chief Electoral Officer or the Minister, examine the rejected ballot papers to ascertain the grounds for rejection. The returning officer must verify the ballot paper cards contained in the recipients for ballot papers.

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the examination to explain the operation of the mechanism for rejecting ballot papers and to answer questions from the participants.

The programming parameters for rejecting ballot papers must be disclosed to the participants.

The examination of the rejected ballot papers shall in no way change the results of the poll or be used in a court to attempt to change the results of the poll.

A report on the examination must be drawn up by the returning officer and include, in particular, the assessment sheet for the grounds for rejection and a copy of the related ballot paper. Any other relevant comment concerning the conduct of the poll must also be included.

Prior to the examination of the rejected ballot papers, the rejected ballot papers must be separated from the other ballot papers, using the electronic ballot box duly programmed by the representative of the firm, and a sufficient number of photocopies must be made for the participants present. The candidates or their representatives may be present during this operation.

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31st 2005.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general elections or subsequent by-elections provided for in the agreement.

Mention of that fact shall be made in the assessment report.

10. ASSESSMENT REPORT

Within 120 days following the general election held on November 3rd 2002 the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points:

- the preparations for the election (choice of the new method of voting, communications plan, etc.);
- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system:
- the cost of adapting election procedures;
- non-recurrent costs likely to be amortized;

— a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the general election on November 3rd 2002 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of ballot paper cards issued to the deputy returning officers and the number of ballot paper cards returned used and unused;

— the examination of rejected ballot papers, if it has been completed.

11. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election held on November 3rd 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Deux-Montagnes, on this 9th day of the month of September of the year 2002

THE MUNICIPALITY OF DEUX-MONTAGNES

By: _____
PIERRE-BENOÎT FORGET, *Mayor*

PAUL ALLARD, *Secretary-Treasurer*

In Québec, on this 16th day of the month of September of the year 2002

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 1st day of the month of October of the year 2002

THE MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL

By: _____
JEAN PRONOVOST, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER HOLDER

MUNICIPALITÉ DE MATTEAU

Élection municipale
du 3 novembre 2002

“SPÉCIMEN”

| | |
|---|---|
| Poste de Maire | |
| Marie BONENFANT | ● |
| Jean-Charles BUREAU <small>Appartenance politique</small> | ● |
| Pierre-A. LARRIVÉE | ● |

| | |
|---|---|
| Poste de Conseiller District 1 | |
| Luc GAUTHIER | ● |
| Carl LUSSIER | ● |
| Hélène ROCHETTE <small>Appartenance politique</small> | ● |
| Sylvain SAINT-PIERRE | ● |

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**INITIALES DU
SCRUTATEUR**

SECTION DE VOTE

Imprimerie Atwater Inc.
3009, rue Notre-Dame Ouest
Montréal (Québec)
H4C 1N9

Gouvernement du Québec

Agreement

An Act respecting elections and referendums
in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEWMETHODS OF
VOTING USING “ PERFAS-MV” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF CHARLEMAGNE, a legal person established in the public interest, having its head office at 84, rue du Sacré-Coeur, in Charlemagne, Province of Québec, represented by the substitute mayor, Gilles Rivest and the clerk, Pierre Paquin under a resolution bearing number 02-08-112, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL, having his main office at 10, rue Pierre-Olivier-Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 02-08-112, passed at its special meeting of 21st August 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the municipal election of 3rd November 2002 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montreal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montreal and the Chief Electoral Officer.”;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the municipal election held on 3rd November 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that municipal election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of 9th September 2002, resolution No. 02-08-112 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “electronic voting system” means an apparatus consisting of the following devices:

— a computer containing in its memory the list of electors, used for the preparation of electronic voting cards;

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

— electronic cards used to place the terminals in “election” mode, to vote (electronic voting cards), to place the terminals in “end of election” mode, and to record the results from each autonomous voting terminal;

2.2 “voting terminal” means an independent device containing a display with a graphical representation of a ballot paper, buttons used by electors to vote, and a memory card to record and compile the votes cast by electors;

2.3 “electronic card reader” means a device allowing the information required for an elector to vote to be transferred onto an electronic card;

2.4 “rejected ballot paper” means a ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” has been pushed by an elector on the voting terminal;

2.5 “operations trail” means a print-out of the operations (audit) of a voting terminal.

3. ELECTION

3.1 For the purposes of the municipal election of 3rd November 2002 in the municipality, a sufficient number of “PERFAS-MV” model electronic voting systems will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

1) a report displaying a total of “zero” must be automatically produced by the electronic ballot box when a voting terminal is turned on the first day of advance polling and on polling day;

2) a verification report must be generated on a continuous basis and automatically saved on the memory card of the voting terminal, and must record each procedural operation;

3) a mechanism which prevents a voting terminal from being placed in “end of election” mode while polling is still under way, because the terminal can only be placed in “end of election” mode by the insertion of an “end of election” card;

4) a mechanism to ensure that the compilation of results is not affected by any type of interference once the electronic ballot box has been placed in “election” mode;

5) each voting terminal must be equipped with seals, two to prevent the opening of the box and one covering the screws of the voting terminal;

6) each voting terminal must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the terminals are connected to a generator;

7) if a voting terminal is defective, its internal memory card may be removed and transferred immediately into another voting terminal in order to allow the procedure to continue.

5. PROGRAMMING

Each electronic voting system used is specially programmed by the firm PG Elections inc. for the municipality in order to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant,”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.” .

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic voting systems (voting terminal and electronic card reader);

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the voting terminals in the polling place;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic voting systems function correctly;

(5) print out the results compiled by the voting terminals at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by each voting terminal;

(7) give the returning officer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of electors at each polling station who were given an electronic voting card;

(8) give the returning officer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in “end of election” mode, and the voting terminals in sealed cases.

80.1. The assistant to the deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter’s duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) see that the polling is properly conducted and maintain order at the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors an electronic voting card to exercise their right to vote;

(6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that an elector has failed to exercise the right to vote;

(7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of electors given an electronic voting card by the deputy returning officer at the polling station.” .

6.4 Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs and Greater Montreal of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.” .

6.5 Notice of election

The following is added after paragraph 7 of section 99:

“(8) the fact that the method of voting is by means of an electronic voting system.”

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

“**104.** The returning officer shall divide the list of electors into polling subdivisions, each comprising not more than 750 electors.

The returning officer shall provide a sufficient number of polling stations at each polling place to receive electors, establish their identity and give them an electronic voting card.

In the polling place, the electors may report to any polling station. They shall be directed to the first available voting terminal to exercise their right to vote.” .

6.7 Verification of electronic voting systems

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

“§1.1 Verification of electronic voting systems

173.1. The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

173.2. During the testing of the electronic voting system, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the system, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations :

(1) he shall prepare a pre-determined number of electronic voting cards and transfer onto them the information relating to one of the positions to be filled;

(2) he shall record on the voting terminal a pre-determined number of votes that have been manually tallied. The votes shall include :

(a) a pre-determined number of votes in favour of one of the candidates for the office of mayor and councillor;

(b) a pre-determined number of votes corresponding to the statement “ I do not wish to vote for the office of mayor” or “ I do not wish to vote for the office of councillor” ;

(c) a pre-determined number of votes for a candidate for the office of mayor and the same pre-determined number of votes for a candidate for a position as a councillor;

(3) he shall ensure that it is not possible to record more than one vote for the same position;

(4) he shall ensure that the button used to record a vote can be pushed only after the button used to vote for the mayor or corresponding to the statement “ I do not wish to vote for the office of mayor” , and the button used to vote for a councillor or corresponding to the statement “ I do not wish to vote for the office of councillor” , have been pushed;

(5) he shall ensure that the information relating to the positions to be filled contained on the electronic voting cards is consistent with the information transferred to the cards by the returning officer;

(6) he shall place the system in “ end of election” mode and ensure that the results compiled by the voting terminal are consistent with the results compiled manually;

(7) once the test has been successfully completed, he shall reset the voting terminal to zero and replace it in a sealed case; the candidates or their representatives may affix their signature if they so wish;

(8) where an error in the compilation of the results compiled by the terminals is detected, the returning officer shall determine with certitude the cause of error, proceed with a further test, and repeat the operation until a perfect compilation of results is obtained; any error or discrepancy shall be noted in the test report;

(9) he may not change the programming established by the firm PG Elections inc.”.

6.8 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act :

“**182.** At the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book :

- (1) the number of electors who were given an electronic voting card ;
- (2) the total number of votes recorded on each terminal, as transmitted by the senior deputy returning officer ;
- (3) the names of the persons who performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the forms, the verification reports printed out at each terminal, the poll book and the list of electors, and shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in a large envelope. The large envelope shall be sealed. The persons present may affix their initials to the seal.

182.1. At the close of the advance polling station, the senior deputy returning officer shall :

- (1) place the voting terminals in “ end of election” mode ;
- (2) transfer the data contained in the memory of the electronic ballot box onto a memory card ;
- (3) print the operations trail (audit) ;
- (4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes ;
- (5) forward the envelopes to the returning officer, who shall keep them safely in separated locations ;
- (6) set each voting terminal to zero, seal it and place it in its plastic case ;
- (7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

182.2. The senior deputy returning officer shall place the card used to place the terminals in “ election” mode and “ end of election” mode in the large envelope.

The senior deputy returning officer shall seal the large envelope and each terminal. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.

The senior deputy returning officer shall then give the large envelope, the envelopes containing the list of electors, the memory card and the operations trail, as well as the voting terminals, to the returning officer or the person designated by the returning officer.

The returning officer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The returning officer shall, using the various lists of electors used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The returning officer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

The senior deputy returning officer shall take possession of the verification reports indicating the total number of votes recorded on each terminal, the card used to place the terminals in “ election” mode and the card used to place the terminals in “ end of election” mode.

The senior deputy returning officer shall verify for each terminal, using the memory card, that the number of votes recorded matches the number entered the previous day in the poll book by the poll clerk for that polling station.

The returning officer, or the person designated by the returning officer, shall return the list of electors to each deputy returning officer.

At the close of the advance poll on the second day, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the advance poll on the first day.

185. From 7: 00 p.m. on polling day, the returning officer or the person designated by the returning officer shall, using the memory card or cards on which the results are recorded, print out the results compiled by each voting terminal used in the advance poll in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.” .

6.9 Revocation

Sections 186 and 187 of the Act are revoked.

6.10 Polling place

The following is substituted for the first paragraph of section 188 of the Act:

“**188.** The polling place must be in premises that are spacious and easily accessible to the public.” .

6.11 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic voting systems are used in an election, each polling station shall have the number of polling booths determined by the returning officer.” .

6.12 Ballot papers and electronic voting cards

The following is substituted for section 192 of the Act:

“**192.** The returning officer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the electors’ right to vote.”

The following is substituted for sections 193 to 195 of the Act:

“**193.** The graphical representation of a ballot paper that appears on the voting terminal shall be consistent with the model set out in Schedule 1 to the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities.” .

6.13 Identification of the candidates

The following is substituted for section 196 of the Act:

“**196.** The graphical representation of a ballot paper that appears on the voting terminal must allow each candidate to be identified.

Depending on the number of positions to be filled, the representation shall have one or more columns on one or more pages, showing:

(1) the name of each candidate, the given name preceding the surname;

(2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;

(3) a rectangle for the elector’s mark opposite the particulars pertaining to each candidate.

All rectangles, as the space between consecutive rectangles, must be of the same size.

Where several independent candidates for the same office have the same name, the graphical representation of the ballot paper used in the polling for that office shall indicate the address of each candidate under the candidate’s name and, where such is the case, above the indication of the candidate’s political affiliation.

The particulars must appear in alphabetical order of the candidates’ surnames and, as the case may be, of the candidates’ given names. Where two or more candidates for the same office have the same name, the order in which the particulars relating to each of them appear shall be determined by a drawing of lots carried out by the returning officer.

The particulars pertaining to the candidates must correspond to those contained in the nomination papers, unless, in the meantime, the authorization of the party or the recognition of the ticket has been withdrawn, or the name of the party or ticket appearing on the nomination papers is inaccurate.” .

6.14 Reverse of ballot paper

Section 197 is revoked.

6.15 Withdrawal of a candidate

The following is substituted for section 198 of the Act:

“**198.** Where an electronic voting system is used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.” .

6.16 **Withdrawal of authorization or recognition**

The following is substituted for section 199 of the Act:

“**199.** Where electronic voting systems are used in an election, the returning officer shall ensure that they are adjusted so that they do not take into account the party or ticket from which authorization or recognition has been withdrawn.” .

6.17 **Number of voting terminals**

The following is substituted for sections 200 and 201 of the Act:

“**200.** The returning officer shall ensure that a sufficient number of electronic voting systems are available for the election.

201. The upper surface of the voting terminal must be in conformity with the model described in Schedule 2 to this Agreement.

The voting terminal must be designed so that the button used to vote for a candidate is placed opposite the particulars relating to that candidate.

The instructions to the electors on how to vote must be clearly indicated on the upper surface of the voting terminal.” .

6.18 **Provision of polling materials**

The following is substituted for section 204 of the Act:

“**204.** Not later than one hour before the time fixed for the opening of the polling station, the returning officer shall give or make available to the deputy returning officer, in a sealed envelope, after affixing his initials to the seals,

(1) the copy of the list of electors for the polling subdivision used for the advance poll and comprising the electors who are entitled to vote at that polling station;

(2) a poll book;

(3) electronic voting cards;

(4) the forms and other documents necessary for the poll and the closing of the polling station.

The returning officer shall give or make available to the deputy returning officer, as well as to the senior deputy returning officer, any other materials required for the poll, the closing of the polling office, and the tallying and recording of votes.” .

6.19 **Examination of polling materials and documents**

The following is substituted for section 207 of the Act:

“**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic voting system for the polling place. The senior deputy returning officer shall ensure that the system computer displays a total of zero electors having voted, and that each voting terminal displays a total of zero recorded votes, by verifying the printed reports from those devices.

The senior deputy returning officer shall ensure that as many small envelopes are available for the memory cards used to record results as there are voting terminals under his responsibility.

The senior deputy returning officer must inform the returning officer of any discrepancy observed upon activating a voting terminal or during the poll.

The senior deputy returning officer shall keep the reports and show them to any person present who wishes to examine them.

The senior deputy returning officer must, in addition, before the persons present, ensure that two seals are affixed to each terminal.

In the hour preceding the opening of the polling stations, each deputy returning officer and poll clerk shall examine the polling documents and materials provided by the returning officer.” .

POLLING PROCEDURE

6.20 **Presence at the polling station**

The following is substituted for the third paragraph of section 214 of the Act:

“ In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer, may be present at the polling station. The officer in charge of information and order

may be present, at the request of the deputy returning officer, for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.” .

6.21 Electronic voting cards

The following is substituted for section 221 of the Act:

“**221.** The deputy returning officer shall give each elector admitted to vote an electronic voting card to which the information required to exercise the right to vote has been transferred.

In no case may the information transferred to the card allow a link to be established between the casting of a vote and the identity of an elector.” .

6.22 Voting

The following is substituted for section 222 of the Act:

“**222.** The elector shall enter the polling booth and exercise the right to vote by :

(1) inserting the electronic voting card in the opening provided for that purpose and clearly identified on the upper surface of the voting terminal ;

(2) pressing the button placed opposite the particulars relating to the candidate in whose favour the elector wishes to vote as mayor and councillor or councillors, causing a mark to appear in the rectangle ;

(3) recording the vote by pressing the red button placed on the upper surface of the voting terminal, causing the red lights placed above the button to go out.” .

6.23 Following the vote

The following is substituted for section 223 of the Act:

“**223.** After removing the electronic voting card from the voting terminal, the elector shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the returning officer.

If an elector indicates one or more votes but leaves the booth without recording them, the senior deputy returning officer or the latter’ s assistant shall record the votes.

If an elector fails to indicate and record one or more votes and leaves the polling place, the senior deputy returning officer or the latter’ s assistant shall press the button corresponding to the statement “ I do not wish to vote for the office of mayor” or “ I do not wish to vote for the office of councillor” or both, as the case may be, and shall then record the voter’ s vote.

The electronic voting card shall then be removed from the voting terminal and given to the deputy returning officer. The occurrence shall be recorded in the poll book.” .

6.24 Cancelled and spoiled ballot papers

Sections 224 and 225 of the Act are revoked.

6.25 Assistance for electors

The following is substituted for section 226 of the Act:

“**226.** An elector who declares under oath, before the senior deputy returning officer or the assistance to the senior deputy returning officer, that he is unable to use the electronic ballot box or to vote, may be assisted either :

(1) by a person who is the elector’ s spouse or a relative within the meaning of section 131 ;

(2) by the senior deputy returning officer, in the presence of the assistant to the senior deputy returning officer.

A deaf or mute elector may be assisted, for the purposes of communicating with the election officers and representatives, by a person capable of interpreting the sign language of the deaf.

The senior deputy returning officer shall advise the deputy returning officer concerned that an elector has availed himself of this section, and the occurrence shall be entered in the poll book.” .

6.26 Transfer of information to electronic voting cards

The following is substituted for section 228 of the Act:

“**228.** The electronic voting system shall ensure that the information required for an elector to exercise the right to vote is transferred once only to the electronic voting card.” .

6.27 **Compilation of results and tallying of votes**

The following is substituted for section 229 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall compile the results by:

- (1) placing the election terminals of the polling place in “end of election” mode;
- (2) recording the results of each voting terminal;
- (3) printing out the results compiled by each voting terminal.

The reports on the compiled results shall indicate the total number of voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of votes for each candidate.

The senior deputy returning officer shall gather from each poll clerk the number of electors admitted to vote.

The senior deputy returning officer shall allow each person present to consult the results.”

6.28 **Entries in poll book**

The following is substituted for section 230 of the Act:

“**230.** After the closing of the poll, the poll clerk of each polling station shall enter in the poll book:

- (1) the number of electors who have voted;
- (2) the names of the persons who have performed duties as election officers or as representatives assigned to that polling station.

230.1. The deputy returning officer shall place the poll book and the list of electors in separate envelopes.

The deputy returning officer shall seal the envelopes, and the representatives assigned to the polling station who wish to do so shall affix their initials to the seals.

The deputy returning officer shall then give the envelopes to the senior deputy returning officer.”

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

“**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” is pushed by the elector on the voting terminal is rejected.

For the purposes of the poll, the memory card shall be programmed in such a way that the electronic voting system processes and conserves all the votes cast, in other words both the valid ballot papers and the rejected ballot papers.”

Sections 234 to 237 of the Act are revoked.

6.32 **Partial statement of votes and copy for representatives**

The following is substituted for sections 238 and 240 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out the total number of electors admitted to vote.

A separate statement shall be drawn up for each polling station.

The deputy returning officer shall draw up sufficient copies of the partial statement of votes for himself, the senior deputy returning officer, the returning officer and every representative assigned to the polling station.

238.1 Using the partial statements of votes and the results compiled by the electronic voting system, the senior deputy returning officer shall draw up an overall statement of votes.

240. The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.

The senior deputy returning officer shall retain a copy of the statement and a second copy for the returning officer for the purposes of section 244.”

6.33 Separate envelopes

The following is substituted for section 241 of the Act:

“**241.** After printing out the results compiled by each voting terminal in the polling place, the senior deputy returning officer shall:

(1) place the memory card used to record the results from each voting terminal in a small envelope bearing the serial number of the terminal concerned, seal the envelope and affix his initials, along with those of the representatives who wish to do so;

(2) place all the reports on the results compiled in an envelope, together with the partial statements and the overall statement of votes.” .

6.34 Seals

The following is substituted for section 242 of the Act:

“**242.** The senior deputy returning officer shall place in a large envelope:

(1) the small envelopes prepared pursuant to paragraph 1 of section 241;

(2) the envelopes provided for in section 230.1;

(3) the card used in the polling place to place the terminals in “ election” mode and “ end of election” mode;

(4) the electronic voting cards.

The senior deputy returning officer shall seal the large envelope. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.” .

6.35 Placing in ballot box

Section 243 of the Act is revoked.

6.36 Delivery to returning officer

The following is substituted for section 244 of the Act:

“**244.** The senior deputy returning officer shall deliver to the returning officer or the person designated by the returning officer

(1) the envelope containing the reports of the results compiled by each voting terminal, the partial statements and the overall statement of votes;

(2) the large envelope provided for in section 242.” .

6.37 Addition of votes

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.” .

6.38 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results and a partial statement of votes, the returning officer shall, in the presence of the senior deputy returning officer and the candidates in question or of their representatives if they so wish, print out a new report using the appropriate memory card for recording results and the copy of the partial statements of votes taken from the large envelope, opened in the presence of the aforementioned persons.” .

6.39 Placing in envelope

The following is substituted for section 249 of the Act:

“**249.** After printing out the results, the returning officer shall place the memory card used to record results in an envelope, seal the envelope, and affix his initials and allow the candidates or their representatives to affix their initials if they so wish. He shall place the copy of the partial statements of votes in the large envelope, seal it, and allow the candidates or representatives present to affix their initials.” .

6.40 New counting of the votes

Section 250 of the Act is revoked.

6.41 Notice to the Minister

The following is substituted for section 251 of the Act:

“251. Where it is impossible to obtain the electronic cards used to record the results, where applicable, the returning officer shall advise the Minister of Municipal Affairs and Greater Montreal in accordance with Division III of Chapter XI.” .

6.42 Access to voting papers

Section 261 of the Act is revoked.

6.43 Application for a recount or re-addition

The following is substituted for the first paragraph of section 262 of the Act:

“262. Any person who has reasonable grounds to believe that a voting terminal has produced an inaccurate statement of the number of votes cast, or that a deputy returning officer has drawn up an inaccurate partial statement of votes, or that a senior deputy returning officer has drawn up an inaccurate overall statement of votes, may apply for a new compilation of the results. The applications may be limited to one or more voting terminals, but the j u d g e is not bound by that limitation.” .

6.44 Notice to candidates

The following is substituted for section 267 of the Act:

“267. The j u d g e shall give one clear day’ s advance notice in writing to the candidates concerned of the date, time and place at which he will proceed with the new compilation of the results or re-addition of the votes.

The j u d g e shall summon the returning officer and order him to bring the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of vote. Where the new compilation is limited to one or certain polling subdivisions, the j u d g e shall order only the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of votes he will need.” .

6.45 Procedure for a new compilation of results or re-addition of votes

The following is substituted for section 268 of the Act:

“268. On the appointed day, the j u d g e, in the presence of the returning officer shall, in the case of a new compilation of results, print out the results compiled by the voting terminal display or displays under inquiry.

In the case of a re-addition of votes, the j u d g e shall examine the reports of the compiled results and the partial and overall statements of votes.

The candidates concerned or their mandataries and the returning officer may, at that time, examine all the documents and items examined by the j u d g e.” .

6.46 Repeal

Section 269 is revoked.

6.47 Missing electronic card for recording results and partial statements of votes

The following is substituted for the first paragraph of section 270 of the Act:

“270. If an electronic card on which results are recorded or a required document is missing, the j u d g e shall use appropriate means to ascertain the results of the vote.” .

6.48 Custody of items and documents, and verification

The following is substituted for sections 271, 272 and 273 of the Act:

“271. During a new compilation or a re-addition, the j u d g e shall have custody of the voting system and of the items and documents entrusted to him.

272. As soon as the new compilation is completed, the j u d g e shall confirm or rectify each report of compiled results and each report on a partial statement of votes and carry out a re-addition of the votes.

273. After completing the re-addition of the votes, the j u d g e shall certify the results of the poll.

The j u d g e shall give the returning officer the electronic cards used to record the results and all the other documents used to complete the new compilation or the re-addition.” .

7. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before 31st December 2010.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the municipal election to be held on 3rd November 2002 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the municipal election held on 3rd November 2002 the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system:

– the cost of adapting election procedures;

– non-recurrent costs likely to be amortized;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the municipal election on 3rd November 2002 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of electors admitted to vote.

10. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities shall apply to the municipal election held on 3rd November 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Charlemagne, this 21st day of August 2002.

MUNICIPALITY OF CHARLEMAGNE

By: _____
GILLES RIVEST, *Substitute Mayor*

PIERRE PAQUIN, *Clerk*

In Sainte-Foy, on this 3rd day of September 2002

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 19th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS
AND GREATER MONTRÉAL

By: _____
JEAN PRONOVOST, *Deputy Minister*

5321

Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEWMETHODS OF VOTING USING “PERFAS-MV” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF SAINT-JACQUES, a legal person established in the public interest, having its head office at 16, rue Maréchal, in Saint-Jacques, Province of Québec, represented by the mayor, Yvon Lajoie and the clerk or secretary-treasurer, Josée Philibert, under a resolution bearing number 261-2002, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL, having his main office at 10, rue Pierre-Olivier-Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 190-2002, passed at its meeting of 3 June 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the municipal election of 3 November 2002 in the MUNICIPALITY ;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following :

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into ; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.” ;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the municipal election held on 3 November 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement ;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that municipal election ;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER ;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected ;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of 4 September 2002, resolution No. 261-2002 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement ;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out ;

THEREFORE, the parties agree to the following :

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “ electronic voting system” means an apparatus consisting of the following devices :

— a computer containing in its memory the list of electors, used for the preparation of electronic voting cards ;

— a reader of electronic voting cards ;

— one or more printers ;

— one or more autonomous voting terminals ;

— electronic cards used to place the terminals in “election” mode, to vote (electronic voting cards), to place the terminals in “end of election” mode, and to record the results from each autonomous voting terminal;

2.2 “voting terminal” means an independent device containing a display with a graphical representation of a ballot paper, buttons used by electors to vote, and a memory card to record and compile the votes cast by electors;

2.3 “electronic card reader” means a device allowing the information required for an elector to vote to be transferred onto an electronic card;

2.4 “rejected ballot paper” means a ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” has been pushed by an elector on the voting terminal;

2.5 “operations trail” means a print-out of the operations (audit) of a voting terminal.

3. ELECTION

3.1 For the purposes of the municipal election of 3 November 2002 in the municipality, a sufficient number of “PERFAS-MV” model electronic voting systems will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

1) a report displaying a total of “zero” must be automatically produced by the electronic ballot box when a voting terminal is turned on on the first day of advance polling and on polling day;

2) a verification report must be generated on a continuous basis and automatically saved on the memory card of the voting terminal, and must record each procedural operation;

3) a mechanism which prevents a voting terminal from being placed in “end of election” mode while polling is still under way, because the terminal can only be placed in “end of election” mode by the insertion of an “end of election” card;

4) a mechanism to ensure that the compilation of results is not affected by any type of interference once the electronic ballot box has been placed in “election” mode;

5) each voting terminal must be equipped with seals, two to prevent the opening of the box and one covering the screws of the voting terminal;

6) each voting terminal must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the terminals are connected to a generator;

7) if a voting terminal is defective, its internal memory card may be removed and transferred immediately into another voting terminal in order to allow the procedure to continue.

5. PROGRAMMING

Each electronic voting system used is specially programmed by the firm PG Elections inc. for the municipality in order to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant,”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“76. The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.”.

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic voting systems (voting terminal and electronic card reader);

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the voting terminals in the polling place;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic voting systems function correctly;

(5) print out the results compiled by the voting terminals at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by each voting terminal;

(7) give the returning officer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of electors at each polling station who were given an electronic voting card;

(8) give the returning officer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in “end of election” mode, and the voting terminals in sealed cases.

80.1. The assistant to the deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter’s duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) see that the polling is properly conducted and maintain order at the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors an electronic voting card to exercise their right to vote;

(6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that an elector has failed to exercise the right to vote;

(7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of electors given an electronic voting card by the deputy returning officer at the polling station.” .

6.4 Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its obj ect.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.” .

6.5 Notice of election

The following is added after paragraph 7 of section 99:

“(8) the fact that the method of voting is by means of an electronic voting system.”

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

104. The returning officer shall divide the list of electors into polling subdivisions, each comprising not more than 750 electors.

The returning officer shall provide a sufficient number of polling stations at each polling place to receive electors, establish their identity and give them an electronic voting card.

In the polling place, the electors may report to any polling station. They shall be directed to the first available voting terminal to exercise their right to vote.” .

6.7 Verification of electronic voting systems

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

“§1.1 *Verification of electronic voting systems*

173.1. The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

173.2. During the testing of the electronic voting system, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the system, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall prepare a pre-determined number of electronic voting cards and transfer onto them the information relating to one of the positions to be filled;

(2) he shall record on the voting terminal a pre-determined number of votes that have been manually tallied. The votes shall include:

(a) a pre-determined number of votes in favour of one of the candidates for the office of mayor and councillor;

(b) a pre-determined number of votes corresponding to the statement “ I do not wish to vote for the office of mayor” or “ I do not wish to vote for the office of councillor” ;

(c) a pre-determined number of votes for a candidate for the office of mayor and the same pre-determined number of votes for a candidate for a position as a councillor;

(3) he shall ensure that it is not possible to record more than one vote for the same position;

(4) he shall ensure that the button used to record a vote can be pushed only after the button used to vote for the mayor or corresponding to the statement “ I do not wish to vote for the office of mayor” , and the button used to vote for a councillor or corresponding to the statement “ I do not wish to vote for the office of councillor” , have been pushed;

(5) he shall ensure that the information relating to the positions to be filled contained on the electronic voting cards is consistent with the information transferred to the cards by the returning officer;

(6) he shall place the system in “ end of election” mode and ensure that the results compiled by the voting terminal are consistent with the results compiled manually;

(7) once the test has been successfully completed, he shall reset the voting terminal to zero and replace it in a sealed case; the candidates or their representatives may affix their signature if they so wish;

(8) where an error in the compilation of the results compiled by the terminals is detected, the returning officer shall determine with certitude the cause of error, proceed with a further test, and repeat the operation until a perfect compilation of results is obtained; any error or discrepancy shall be noted in the test report;

(9) he may not change the programming established by the firm PG Elections inc.” .

6.8 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act:

182. At the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of electors who were given an electronic voting card;

(2) the total number of votes recorded on each terminal, as transmitted by the senior deputy returning officer;

(3) the names of the persons who performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the forms, the verification reports printed out at each terminal, the poll book and the list of electors, and shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in a large envelope. The large envelope shall be sealed. The persons present may affix their initials to the seal.

182.1. At the close of the advance polling station, the senior deputy returning officer shall :

- (1) place the voting terminals in “ end of election” mode;
- (2) transfer the data contained in the memory of the electronic ballot box onto a memory card;
- (3) print the operations trail (audit);
- (4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes;
- (5) forward the envelopes to the returning officer, who shall keep them safely in separated locations;
- (6) set each voting terminal to zero, seal it and place it in its plastic case;
- (7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

182.2. The senior deputy returning officer shall place the card used to place the terminals in “ election” mode and “ end of election” mode in the large envelope.

The senior deputy returning officer shall seal the large envelope and each terminal. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.

The senior deputy returning officer shall then give the large envelope, the envelopes containing the list of electors, the memory card and the operations trail, as well as the voting terminals, to the returning officer or the person designated by the returning officer.

The returning officer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The returning officer shall, using the various lists of electors used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The returning officer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

The senior deputy returning officer shall take possession of the verification reports indicating the total number of votes recorded on each terminal, the card used to place the terminals in “ election” mode and the card used to place the terminals in “ end of election” mode.

The senior deputy returning officer shall verify for each terminal, using the memory card, that the number of votes recorded matches the number entered the previous day in the poll book by the poll clerk for that polling station.

The returning officer, or the person designated by the returning officer, shall return the list of electors to each deputy returning officer.

At the close of the advance poll on the second day, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the advance poll on the first day.

185. From 7: 00 p.m. on polling day, the returning officer or the person designated by the returning officer shall, using the memory card or cards on which the results are recorded, print out the results compiled by each voting terminal used in the advance poll in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.” .

6.9 Revocation

Sections 186 and 187 of the Act are revoked.

6.10 Polling place

The following is substituted for the first paragraph of section 188 of the Act:

“**188.** The polling place must be in premises that are spacious and easily accessible to the public.”

6.11 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic voting systems are used in an election, each polling station shall have the number of polling booths determined by the returning officer.”

6.12 Ballot papers and electronic voting cards

The following is substituted for section 192 of the Act:

“**192.** The returning officer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the electors’ right to vote.”

The following is substituted for sections 193 to 195 of the Act:

193. The graphical representation of a ballot paper that appears on the voting terminal shall be consistent with the model set out in Schedule 1 to the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities.”

6.13 Identification of the candidates

The following is substituted for section 196 of the Act:

“**196.** The graphical representation of a ballot paper that appears on the voting terminal must allow each candidate to be identified.

Depending on the number of positions to be filled, the representation shall have one or more columns on one or more pages, showing:

(1) the name of each candidate, the given name preceding the surname;

(2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;

(3) a rectangle for the elector’s mark opposite the particulars pertaining to each candidate.

All rectangles, as the space between consecutive rectangles, must be of the same size.

Where several independent candidates for the same office have the same name, the graphical representation of the ballot paper used in the polling for that office shall indicate the address of each candidate under the candidate’s name and, where such is the case, above the indication of the candidate’s political affiliation.

The particulars must appear in alphabetical order of the candidates’ surnames and, as the case may be, of the candidates’ given names. Where two or more candidates for the same office have the same name, the order in which the particulars relating to each of them appear shall be determined by a drawing of lots carried out by the returning officer.

The particulars pertaining to the candidates must correspond to those contained in the nomination papers, unless, in the meantime, the authorization of the party or the recognition of the ticket has been withdrawn, or the name of the party or ticket appearing on the nomination papers is inaccurate.”

6.14 Reverse of ballot paper

Section 197 is revoked.

6.15 Withdrawal of a candidate

The following is substituted for section 198 of the Act:

“**198.** Where an electronic voting system is used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.”

6.16 Withdrawal of authorization or recognition

The following is substituted for section 199 of the Act:

“199. Where electronic voting systems are used in an election, the returning officer shall ensure that they are adjusted so that they do not take into account the party or ticket from which authorization or recognition has been withdrawn.” .

6.17 Number of voting terminals

The following is substituted for sections 200 and 201 of the Act:

“200. The returning officer shall ensure that a sufficient number of electronic voting systems are available for the election.

201. The upper surface of the voting terminal must be in conformity with the model described in Schedule 2 to this Agreement.

The voting terminal must be designed so that the button used to vote for a candidate is placed opposite the particulars relating to that candidate.

The instructions to the electors on how to vote must be clearly indicated on the upper surface of the voting terminal.” .

6.18 Provision of polling materials

The following is substituted for section 204 of the Act:

“204. Not later than one hour before the time fixed for the opening of the polling station, the returning officer shall give or make available to the deputy returning officer, in a sealed envelope, after affixing his initials to the seals,

(1) the copy of the list of electors for the polling subdivision used for the advance poll and comprising the electors who are entitled to vote at that polling station;

(2) a poll book;

(3) electronic voting cards;

(4) the forms and other documents necessary for the poll and the closing of the polling station.

The returning officer shall give or make available to the deputy returning officer, as well as to the senior deputy returning officer, any other materials required for the poll, the closing of the polling office, and the tallying and recording of votes.” .

6.19 Examination of polling materials and documents

The following is substituted for section 207 of the Act:

“207. In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic voting system for the polling place. The senior deputy returning officer shall ensure that the system computer displays a total of zero electors having voted, and that each voting terminal displays a total of zero recorded votes, by verifying the printed reports from those devices.

The senior deputy returning officer shall ensure that as many small envelopes are available for the memory cards used to record results as there are voting terminals under his responsibility.

The senior deputy returning officer must inform the returning officer of any discrepancy observed upon activating a voting terminal or during the poll.

The senior deputy returning officer shall keep the reports and show them to any person present who wishes to examine them.

The senior deputy returning officer must, in addition, before the persons present, ensure that two seals are affixed to each terminal.

In the hour preceding the opening of the polling stations, each deputy returning officer and poll clerk shall examine the polling documents and materials provided by the returning officer.” .

POLLING PROCEDURE

6.20 Presence at the polling station

The following is substituted for the third paragraph of section 214 of the Act:

“ In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer, may be present at the polling station. The officer in charge of information and order may be present, at the request of the deputy returning officer, for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.” .

6.21 Electronic voting cards

The following is substituted for section 221 of the Act:

“**221.** The deputy returning officer shall give each elector admitted to vote an electronic voting card to which the information required to exercise the right to vote has been transferred.

In no case may the information transferred to the card allow a link to be established between the casting of a vote and the identity of an elector.” .

6.22 Voting

The following is substituted for section 222 of the Act:

“**222.** The elector shall enter the polling booth and exercise the right to vote by:

(1) inserting the electronic voting card in the opening provided for that purpose and clearly identified on the upper surface of the voting terminal;

(2) pressing the button placed opposite the particulars relating to the candidate in whose favour the elector wishes to vote as mayor and councillor or councillors, causing a mark to appear in the rectangle;

(3) recording the vote by pressing the red button placed on the upper surface of the voting terminal, causing the red lights placed above the button to go out.” .

6.23 Following the vote

The following is substituted for section 223 of the Act:

“**223.** After removing the electronic voting card from the voting terminal, the elector shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the returning officer.

If an elector indicates one or more votes but leaves the booth without recording them, the senior deputy returning officer or the latter’s assistant shall record the votes.

If an elector fails to indicate and record one or more votes and leaves the polling place, the senior deputy returning officer or the latter’s assistant shall press the button corresponding to the statement “ I do not wish to vote for the office of mayor” or “ I do not wish to vote for the office of councillor” or both, as the case may be, and shall then record the voter’s vote.

The electronic voting card shall then be removed from the voting terminal and given to the deputy returning officer. The occurrence shall be recorded in the poll book.” .

6.24 Cancelled and spoiled ballot papers

Sections 224 and 225 of the Act are revoked.

6.25 Assistance for electors

The following is substituted for section 226 of the Act:

“**226.** An elector who declares under oath, before the senior deputy returning officer or the assistance to the senior deputy returning officer, that he is unable to use the electronic ballot box or to vote, may be assisted either:

(1) by a person who is the elector’s spouse or a relative within the meaning of section 131;

(2) by the senior deputy returning officer, in the presence of the assistant to the senior deputy returning officer.

A deaf or mute elector may be assisted, for the purposes of communicating with the election officers and representatives, by a person capable of interpreting the sign language of the deaf.

The senior deputy returning officer shall advise the deputy returning officer concerned that an elector has availed himself of this section, and the occurrence shall be entered in the poll book.” .

6.26 Transfer of information to electronic voting cards

The following is substituted for section 228 of the Act:

“**228.** The electronic voting system shall ensure that the information required for an elector to exercise the right to vote is transferred once only to the electronic voting card.” .

6.27 Compilation of results and tallying of votes

The following is substituted for section 229 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall compile the results by:

- (1) placing the election terminals of the polling place in “end of election” mode;
- (2) recording the results of each voting terminal;
- (3) printing out the results compiled by each voting terminal.

The reports on the compiled results shall indicate the total number of voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of votes for each candidate.

The senior deputy returning officer shall gather from each poll clerk the number of electors admitted to vote.

The senior deputy returning officer shall allow each person present to consult the results.” .

6.28 Entries in poll book

The following is substituted for section 230 of the Act:

“**230.** After the closing of the poll, the poll clerk of each polling station shall enter in the poll book:

- (1) the number of electors who have voted;
- (2) the names of the persons who have performed duties as election officers or as representatives assigned to that polling station.

230.1. The deputy returning officer shall place the poll book and the list of electors in separate envelopes.

The deputy returning officer shall seal the envelopes, and the representatives assigned to the polling station who wish to do so shall affix their initials to the seals.

The deputy returning officer shall then give the envelopes to the senior deputy returning officer.” .

6.29 Compiling sheet

Section 231 of the Act is revoked.

6.30 Counting of the votes

Section 232 of the Act is revoked.

6.31 Rejected ballot papers

The following is substituted for section 233 of the Act:

“**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” is pushed by the elector on the voting terminal is rejected.

For the purposes of the poll, the memory card shall be programmed in such a way that the electronic voting system processes and conserves all the votes cast, in other words both the valid ballot papers and the rejected ballot papers.” .

Sections 234 to 237 of the Act are revoked.

6.32 Partial statement of votes and copy for representatives

The following is substituted for sections 238 and 240 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out the total number of electors admitted to vote.

A separate statement shall be drawn up for each polling station.

The deputy returning officer shall draw up sufficient copies of the partial statement of votes for himself, the senior deputy returning officer, the returning officer and every representative assigned to the polling station.

238.1 Using the partial statements of votes and the results compiled by the electronic voting system, the senior deputy returning officer shall draw up an overall statement of votes.

240. The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.

The senior deputy returning officer shall retain a copy of the statement and a second copy for the returning officer for the purposes of section 244.” .

6.33 Separate envelopes

The following is substituted for section 241 of the Act:

“**241.** After printing out the results compiled by each voting terminal in the polling place, the senior deputy returning officer shall:

(1) place the memory card used to record the results from each voting terminal in a small envelope bearing the serial number of the terminal concerned, seal the envelope and affix his initials, along with those of the representatives who wish to do so;

(2) place all the reports on the results compiled in an envelope, together with the partial statements and the overall statement of votes.” .

6.34 Seals

The following is substituted for section 242 of the Act:

“**242.** The senior deputy returning officer shall place in a large envelope:

- (1) the small envelopes prepared pursuant to paragraph 1 of section 241;
- (2) the envelopes provided for in section 230.1;
- (3) the card used in the polling place to place the terminals in “ election” mode and “ end of election” mode;
- (4) the electronic voting cards.

The senior deputy returning officer shall seal the large envelope. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.” .

6.35 Placing in ballot box

Section 243 of the Act is revoked.

6.36 Delivery to returning officer

The following is substituted for section 244 of the Act:

“**244.** The senior deputy returning officer shall deliver to the returning officer or the person designated by the returning officer

- (1) the envelope containing the reports of the results compiled by each voting terminal, the partial statements and the overall statement of votes;
- (2) the large envelope provided for in section 242.” .

6.37 Addition of votes

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.” .

6.38 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results and a partial statement of votes, the returning officer shall, in the presence of the senior deputy returning officer and the candidates in question or of their representatives if they so wish, print out a new report using the appropriate memory card for recording results and the copy of the partial statements of votes taken from the large envelope, opened in the presence of the aforementioned persons.” .

6.39 Placing in envelope

The following is substituted for section 249 of the Act:

“**249.** After printing out the results, the returning officer shall place the memory card used to record results in an envelope, seal the envelope, and affix his initials and allow the candidates or their representatives to affix their initials if they so wish. He shall place the copy of the partial statements of votes in the large envelope, seal it, and allow the candidates or representatives present to affix their initials.” .

6.40 New counting of the votes

Section 250 of the Act is revoked.

6.41 Notice to the Minister

The following is substituted for section 251 of the Act:

“**251.** Where it is impossible to obtain the electronic cards used to record the results, where applicable, the returning officer shall advise the Minister of Municipal Affairs and Greater Montréal in accordance with Division III of Chapter XI.” .

6.42 Access to voting papers

Section 261 of the Act is revoked.

6.43 Application for a recount or re-addition

The following is substituted for the first paragraph of section 262 of the Act:

“**262.** Any person who has reasonable grounds to believe that a voting terminal has produced an inaccurate statement of the number of votes cast, or that a deputy returning officer has drawn up an inaccurate partial statement of votes, or that a senior deputy returning officer has drawn up an inaccurate overall statement of votes, may apply for a new compilation of the results. The applications may be limited to one or more voting terminals, but the judge is not bound by that limitation.”

6.44 Notice to candidates

The following is substituted for section 267 of the Act:

“**267.** The judge shall give one clear day’s advance notice in writing to the candidates concerned of the date, time and place at which he will proceed with the new compilation of the results or re-addition of the votes.

The judge shall summon the returning officer and order him to bring the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of vote. Where the new compilation is limited to one or certain polling subdivisions, the judge shall order only the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of votes he will need.”

6.45 Procedure for a new compilation of results or re-addition of votes

The following is substituted for section 268 of the Act:

“**268.** On the appointed day, the judge, in the presence of the returning officer shall, in the case of a new compilation of results, print out the results compiled by the voting terminal display or displays under inquiry.

In the case of a re-addition of votes, the judge shall examine the reports of the compiled results and the partial and overall statements of votes.

The candidates concerned or their mandataries and the returning officer may, at that time, examine all the documents and items examined by the judge.”

6.46 Repeal

Section 269 is revoked.

6.47 Missing electronic card for recording results and partial statements of votes

The following is substituted for the first paragraph of section 270 of the Act:

“**270.** If an electronic card on which results are recorded or a required document is missing, the judge shall use appropriate means to ascertain the results of the vote.”

6.48 Custody of items and documents, and verification

The following is substituted for sections 271, 272 and 273 of the Act:

“**271.** During a new compilation or a re-addition, the judge shall have custody of the voting system and of the items and documents entrusted to him.

272. As soon as the new compilation is completed, the judge shall confirm or rectify each report of compiled results and each report on a partial statement of votes and carry out a re-addition of the votes.

273. After completing the re-addition of the votes, the judge shall certify the results of the poll.

The judge shall give the returning officer the electronic cards used to record the results and all the other documents used to complete the new compilation or the re-addition.”

7. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before 1st of January 2010.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the municipal election to be held on 3 November 2002 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the municipal election held on 3 November 2002 the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

- the preparations for the election (choice of the new method of voting, communications plan, etc.);
- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system:
 - the cost of adapting election procedures;
 - non-recurrent costs likely to be amortized;
 - a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the municipal election on 3 November 2002 using traditional methods;
- the number and duration of incidents during which voting was stopped, if any;
- the advantages and disadvantages of using the new method of voting;
- the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of electors admitted to vote.

10. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities shall apply to the municipal election held on 3 November 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Saint-Jacques, this 5th day of September 2002

MUNICIPALITY OF SAINT-JACQUES

By: _____
 YVON LAJOIE, *Mayor*

 JOSÉE PHILIBERT, *Secretary-treasurer of the municipality*

In Sainte-Foy, on this 10th day of September 2002

THE CHIEF ELECTORAL OFFICER

 MARCEL BLANCHET

In Québec, on this 25th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL

By: _____
 JEAN PRONOVOST, *Deputy Minister*

5320

Gouvernement du Québec

Agreement

An Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEWMETHODS OF VOTING FOR AN ELECTION USING “PERFAS-TAB” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF BOISBRIAND, a legal person established in the public interest, having its head office at 940, boulevard Grande-Allée, Boisbriand, province of Québec J7G 2J7 represented by the mayor, ROBERT POIRIER and the clerk, LUCIE MONGEAU under a resolution bearing number 2002-09-523 hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL having his main office at 10, rue Pierre-Olivier-Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 2002-09-523, passed at its meeting of September 3rd 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for any regular or by-election from November 3rd two thousand and two, until the regular election that shall be held on November 6th, 2005 ;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following :

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into ; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.” ;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November 3rd 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement ;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that regular election ;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER ;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected ;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of September 3rd 2002, resolution No. 2002-09-523 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement ;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out ;

THEREFORE, the parties agree to the following :

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “ Electronic ballot box” means an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballot papers and a modem, where necessary.

2.2 “ Vote tabulator” means a device that uses an optical scanner to detect a mark made by an elector in the space provided for that purpose on a ballot paper.

2.3 “ Memory card” means a memory device that computes and records the marks made by an elector for each of the candidates whose names are printed on the ballot paper and the number of rejected ballot papers according to the subdivisions of the vote tabulator program.

2.4 “Recipient for ballot paper cards” means a box into which the ballot paper cards fall.

2.5 “Transfer box” means the box in which the ballot paper cards are placed once the results of the poll have been compiled.

2.6 “Ballot paper card” means the card on which the ballot papers are printed.

2.7 “Refused ballot paper card” means a ballot paper card the insertion of which in the tabulator is refused.

2.8 “Confidentiality sleeve” means a sleeve designed to receive the ballot paper card.

3. ELECTION

3.1 For the purposes of the general election and any other by election that shall be requested until and including the next general election due on November 6th 2005 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

The electronic ballot boxes used must include the following security mechanisms:

(1) a report displaying a total of “zero” must be produced by an electronic ballot box upon being turned on by the senior deputy returning officer on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card, and must record each procedural operation;

(3) the electronic ballot box must not be placed in “end of election” mode while the poll is still under way;

(4) the compilation of results must not be affected by any type of interference once the electronic ballot box has been placed in “election” mode;

(5) each electronic ballot box must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the electronic ballot boxes are connected to a generator;

(6) if a ballot box is defective, the memory card may be removed and transferred immediately into another electronic ballot box in order to allow the procedure to continue.

5. PROGRAMMING

Each memory card used is specially programmed by the firm PG Elections inc. to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.”.

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic ballot box;

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the electronic ballot box;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic ballot box functions correctly;

(5) print out the results compiled by the electronic ballot box at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by the electronic ballot box;

(7) give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box and the partial statements of votes;

(8) put the ballot paper cards from the electronic ballot box recipient into the transfer boxes, seal them and give them to the returning officer;

(9) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the spaces provided for the affixing of the elector's mark, and go to the polling station in order to obtain another ballot paper card;

(10) advise the returning officer immediately of any defect in the memory card or the electronic ballot box.

80.1. The assistant to the senior deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter's duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place;

(4) get the pencils and confidentiality sleeves back from the senior deputy returning officer and redistribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) ensure that the polling is properly conducted and maintain order;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors a ballot paper card, a confidentiality sleeve and a pencil to exercise their right to vote;

(6) receive from electors any ballot paper cards that are refused by the tabulator and give the electors another ballot paper, and record the occurrence in the poll book." .

6.4 Discretion of the chief electoral officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

"90.5. Where, during the election period, within the meaning of section 364, it comes to the attention of the chief electoral officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the chief electoral officer may adapt the provision in order to achieve its object.

The chief electoral officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the chief electoral officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption." .

6.5 Notice of election

The following is added after paragraph 7 of section 99 of the Act:

"(8) the fact that the method of voting is voting by means of electronic ballot boxes." .

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

"104. The returning officer shall divide the list of electors into polling subdivisions.

The polling subdivisions shall have a number of electors determined by the returning officer. That number shall not be greater than 750 electors." .

6.7 Verification of electronic ballot boxes

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

“§1.1 Verification of electronic ballot boxes

173.1. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm Cognicase inc. and the representatives of the candidates.

173.2. During the testing of the electronic ballot boxes, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall mark the memory card with the returning officer's initials and insert it into the electronic ballot box;

(2) he shall insert into the electronic ballot box a pre-determined number of ballot paper cards, previously marked and tallied manually. The ballot paper cards shall include

(a) a sufficient and pre-determined number of ballot papers correctly marked to indicate a vote for each of the candidates;

(b) a sufficient and pre-determined number of ballot papers that are not correctly marked;

(c) a sufficient and pre-determined number of ballot papers marked to indicate a vote for more than one candidate for the same office;

(d) a sufficient and pre-determined number of blank ballot papers;

(3) he shall place the electronic ballot box in “end of election mode” and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results;

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall initial the seal;

(5) he shall place the tabulator in the travel case and place a seal on it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(6) where an error is detected, the returning officer shall determine with certitude the cause of the error, make the necessary corrections and proceed with a further test, and shall repeat the operation until the optical scanner of the vote tabulator accurately detects the mark made on a ballot paper and until a perfect compilation of results is obtained. Any error or discrepancy observed shall be noted in the test report;

(7) he may not change the programming for the scanning of the mark made by an elector in the space provided for that purpose without supervision from the firm PG Elections inc.”

6.8 Mobile polling station

The said Act is amended by inserting the following sections after section 175:

175.1. The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it.

175.2. The returning officer shall, before the opening of the advance polling station, give the senior deputy returning officer the ballot box containing the ballot papers from the mobile polling station.

The senior deputy returning officer shall, in the presence of the assistant to the senior deputy returning officer, remove from the ballot box the confidentiality sleeves containing the ballot papers and insert the ballot papers, one by one, in the electronic ballot box.”

6.9 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act:

182. After the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors who were given a ballot paper card;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the spoiled, refused or cancelled ballot paper cards, the unused ballot paper cards, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

182.1. The senior deputy returning officer, in the presence of the candidates or of their representatives who wish to be present, shall open the recipient of the electronic ballot box and place the ballot paper cards from the recipient in one or more transfer boxes, and seal the transfer boxes. The senior deputy returning officer shall then seal the opening of the electronic ballot box. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals. Next, the senior deputy returning officer shall place the electronic ballot box in its travel case and seal it. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

The senior deputy returning officer shall then give the transfer boxes and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the transfer box or boxes until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the transfer boxes and give each deputy returning officer the poll books, the envelopes containing unused ballot paper cards and the forms. Each deputy returning officer shall open the envelopes and take possession of their contents. The spoiled, refused or cancelled ballot paper cards from the first day shall remain in the transfer boxes, which the senior deputy returning officer shall seal.

The senior deputy returning officer, before the persons present, shall remove the seal from the travel case of the tabulator.

The returning officer, or the person designated by the returning officer, shall give each deputy returning officer the list of electors of grouped polling stations, where applicable.

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the electronic ballot box, place it in an envelope, seal the envelope, place the envelope in a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope. They shall also be placed in a sealed transfer box.

The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

185. From 7: 00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.” .

6.10 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic ballot boxes are used in an election, the polling station shall have the number of polling booths determined by the returning officer.” .

6.11 Ballot papers

The following is substituted for section 193 of the Act:

“**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed in accordance with the model shown in the Schedule, by reversing process so that, on the obverse, the indications appear in white on a dark-coloured background and each circle provided for the affixing of the elector’s mark appears in white inside an orange circle. Every ballot paper shall contain bar codes.” .

Section 195 of the Act is revoked.

6.12 Identification of the candidates

Section 196 of the Act is amended

(1) by substituting the following for the first paragraph:

“**196.** The ballot paper cards shall contain a ballot paper for the office of mayor and the ballot papers for the office or offices of councillor. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse: ” ;

(2) by adding the following after subparagraph 3 of the first paragraph:

“(4) the offices in question and, where applicable, the number of the seat to be filled. The indications of the offices in question shall correspond to those contained in the nomination papers.” .

6.13 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** The ballot paper cards shall contain on the obverse, as shown in the Schedule,

(1) the name of the municipality;

(2) the indication “ municipal election” and the date of the poll;

(3) the ballot papers;

(4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown in the Schedule,

(1) a space intended to receive the initials of the deputy returning officer;

(2) a space intended to receive the number of the polling subdivision;

(3) the name and address of the printer;

(4) the bar code.” .

6.14 Confidentiality sleeve

The Act is amended by inserting the following after section 197:

“**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through it.” .

6.15 Withdrawal of a candidate

Section 198 of the Act is amended by adding the following paragraphs at the end:

“ Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.” .

6.16 Withdrawal of authorization or recognition

Section 199 of the Act is amended by adding the following paragraph at the end:

“ Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the party or the ticket from which recognition has been withdrawn.” .

6.17 Number of electronic ballot boxes

The following is substituted for section 200 of the Act:

“**200.** The returning officer must ensure that there are as many electronic ballot boxes as polling places available and that a sufficient number of replacement electronic ballot boxes are available in the event of a breakdown or technical deficiency.

The returning officer shall ensure that a sufficient number of transfer boxes are available for each electronic ballot box.” .

6.18 Provision of polling materials

Section 204 of the Act is amended by substituting the word “recipient” for the words “ballot box” in the second line of the first paragraph.

6.19 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

“**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic ballot box for the polling place. The senior deputy returning officer shall ensure that the electronic ballot box displays a total of zero recorded ballot papers by verifying the printed report of the electronic ballot box.

The senior deputy returning officer shall keep the report and show it to any person present who wishes to examine it.

The senior deputy returning officer shall examine the documents and materials provided by the returning officer.

207.1. In the hour preceding the opening of the polling stations, the deputy returning officer and poll clerk shall examine the documents and polling materials provided by the returning officer.”

The following is substituted for section 209 of the Act:

“**209.** Immediately before the hour fixed for the opening of the poll, the senior deputy returning officer, before the deputy returning officers, the poll clerks and the representatives of the candidates present, shall ensure that the recipient of the electronic ballot box is empty.

The recipient shall then be sealed by the senior deputy returning officer. The senior deputy returning officer and the representatives present who wish to do so shall affix their initials to the seal. The electronic ballot box shall be placed in such a way that it is in full view of the polling officers and the electors.”

POLLING PROCEDURE

6.20 Presence at the polling station

The following is substituted for the third paragraph of section 214 of the Act:

“In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.”

6.21 Initialling of ballot papers

The following is substituted for section 221 of the Act:

“**221.** The deputy returning officer shall give the ballot paper card to which the elector is entitled to each elector admitted to vote, after initialling the ballot paper card in the space reserved for that purpose and entering the number of the polling subdivision. The deputy returning officer shall also give the elector a confidentiality sleeve and a pencil.

The deputy returning officer shall instruct the elector how to insert the ballot paper card in the confidentiality sleeve after having voted.”

6.22 Voting

The following is substituted for section 222 of the Act:

“**222.** The elector shall enter the polling booth and, using the pencil given by the deputy returning officer, mark the ballot paper or papers in the space provided for that purpose opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

The elector shall insert the ballot paper card, without folding it, into the confidentiality sleeve in such a way that the deputy returning officer’s initials can be seen.”

6.23 Following the vote

The following is substituted for section 223 of the Act:

“**223.** After marking the ballot paper or papers and inserting the ballot paper card in the confidentiality sleeve, the elector shall leave the polling booth and go to the electronic ballot box.

The elector shall allow the senior deputy returning officer to examine the initials of the deputy returning officer.

The elector or, at the elector's request, the senior deputy returning officer shall insert the ballot paper card into the electronic ballot box without removing it from the confidentiality sleeve."

6.24 Automatic acceptance

The Act is amended by inserting the following after section 223:

"**223.1.** The electronic ballot box shall be programmed to accept automatically every ballot paper card that is inserted and that has been given by the deputy returning officer to an elector.

223.2. If a ballot paper card becomes blocked in the recipient receiving ballot paper cards, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall open the recipient, restart the electronic ballot box, close it and seal the recipient again in their presence, before authorizing voting to resume. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal.

The senior deputy returning officer must report to the returning officer the time during which voting was stopped. Mention of that fact shall be made in the poll book.

If a ballot paper card becomes blocked in the tabulator, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall unblock the tabulator and restart the electronic ballot box."

6.25 Cancelled ballots

The following is substituted for section 224 of the Act:

"**224.** The senior deputy returning officer shall prevent the insertion into the electronic ballot box of any ballot paper card that is not initialled or that is initialled by a person other than the deputy returning officer of a polling station. The elector must return to the polling station.

The deputy returning officer of the polling station in question shall, if his initials are not on the ballot paper, initial it before the persons present, provided that the ballot paper card is *prima facie* a ballot paper card given to the elector by the deputy returning officer that was not initialled by oversight or inadvertence. The elector shall return to insert the ballot paper card into the electronic ballot box.

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall not give the elector a new ballot paper card.

The occurrence shall be recorded in the poll book."

6.26 Visually impaired person

Section 227 of the Act is amended:

(1) by substituting the following for the second and third paragraphs:

"The assistant to the senior deputy returning officer shall set up the template and the ballot paper card, give them to the elector, and indicate to the elector the order in which the candidates' names appear on the ballot papers and the particulars entered under their names, where such is the case.

The senior deputy returning officer shall help the elector insert the ballot paper card into the electronic ballot box." ; and

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.27 Compilation of results

The following is substituted for sections 229 and 230 of the Act:

"**229.** After the closing of the poll, the senior deputy returning officer shall place the electronic ballot box in "end of election" mode and print the results compiled by the electronic ballot box. The representatives assigned to the polling stations at the polling place may be present.

The report on the compiled results shall indicate the total number of ballot paper cards, the number of rejected ballot papers and the number of valid votes for each office.

230. After the closing of the poll, the deputy returning officer of each polling station the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

The poll clerk of the polling station shall enter the following information in the poll book :

- (1) the number of ballot paper cards received from the returning officer ;
- (2) the number of electors admitted to vote ;
- (3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards ;
- (4) the names of the persons who have performed duties as election officers or representatives assigned to that station.” .

The Act is amended by inserting the following after section 230 :

“**230.1.** The senior deputy returning officer shall ensure, before the persons present, that the results entered on the printed report of the electronic ballot box and the total number of unused, spoiled, refused and cancelled ballot paper cards entered on the partial statement of votes of each deputy returning officer correspond to the total number of ballot paper cards issued by the returning officer.

230.2. Using the partial statement or statements of votes, the senior deputy returning officer shall complete an overall statement of votes in a sufficient number so that each representative assigned to a polling station or each candidate can have a copy of it.” .

6.28 Manual counting of the votes

Sections 231 to 244 of the Act, adapted as required, apply if a manual counting of the votes is necessary.

6.29 Compiling sheet

Section 231 of the Act is revoked.

6.30 Electronic counting of the votes

Section 232 of the Act is revoked.

6.31 Rejected ballot papers

The following is substituted for section 233 of the Act:

“**233.** The electronic ballot box shall be programmed in such a way as to reject any ballot paper that

- (1) has not been marked ;
- (2) has been marked in favour of more than one candidate ;
- (3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words those containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.” .

6.32 Rejected ballot papers, procedural omission, valid ballot papers

Sections 233 to 236 of the Act, adapted as required, shall apply only in the case of a judicial recount.

6.33 Contested validity

The following is substituted for section 237 of the Act:

“**237.** The poll clerk, at the request of the senior deputy returning officer, shall enter in the poll book every objection raised by a representative present at the poll in respect of the validity of the results following the printing of the results compiled by an electronic ballot box.” .

6.34 Partial statement of votes, overall statement of votes and copy given to representatives of candidates

The following is substituted for section 238 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out

- (1) the number of ballot paper cards received from the returning officer ;

(2) the number of spoiled, refused or cancelled ballot paper cards or those that were not inserted into the electronic ballot box;

(3) the number of unused ballot paper cards.

The deputy returning officer shall make two copies of the partial statement of votes, including a copy that must be given to the senior deputy returning officer.

Using the partial statements of votes and the results compiled by the electronic ballot box, the senior deputy returning officer shall draw up an overall statement of votes.

The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.” .

Section 240 of the Act is revoked.

6.35 Separate, sealed and initialled envelopes given to the returning officer

The following is substituted for sections 241, 242 and 243 of the Act :

“**241.** After the closing of the poll, each deputy returning officer shall place in separate envelopes the list of electors, the poll book, the forms, the spoiled, refused or cancelled ballot paper cards and those that were not inserted into the electronic ballot box, the unused ballot paper cards and the partial statement of votes. Each deputy returning officer shall seal the envelopes and place them in a large envelope, seal it and give it to the senior deputy returning officer. The deputy returning officer, the poll clerk and the representatives assigned to the polling station who wish to do so shall initial the seals.

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or their representatives who wish to be present, the senior deputy returning officer shall place the ballot paper cards from the electronic ballot box recipient in one or more envelopes, and then seal and initial the envelope or envelopes. Any representatives or candidates who wish to do so may initial the seal or seals.

The senior deputy returning officer shall place the envelope or envelopes in a transfer box. He shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. The senior deputy returning officer shall seal the envelope, initial it and place it in one of the transfer boxes.

The senior deputy returning officer shall place the large envelope received from the deputy returning officers in one of the transfer boxes.

The senior deputy returning officer shall then seal and initial the transfer boxes, allow the representatives who wish to do so to initial them, and give the boxes to the returning officer.

243. The senior deputy returning officer shall place in an envelope a copy of the overall statement of votes stating the results of the election and the partial statements of votes. The senior deputy returning officer shall then seal and initial the envelope and give it to the returning officer.

The representatives assigned to the polling stations may initial the seal.” .

Section 244 of the Act is revoked.

6.36 Addition of votes

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.” .

6.37 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement has been obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results compiled by an electronic ballot box, the returning officer shall, in the presence of the senior deputy returning officer and the candidates concerned or their representatives if they so wish, print out the results using the memory card taken from the transfer box opened in the presence of the persons listed above.” .

6.38 Placing in envelope

The following is substituted for section 249 of the Act:

“**249.** After printing and examining the results, the returning officer shall place them in an envelope together with the memory card.

The returning officer shall seal the envelope, put the envelope in the transfer box and then seal the box.

The returning officer, the candidates and the representatives present may initial the seals.” .

6.39 New counting of the votes

The following is substituted for section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.” .

6.40 Notice to the Minister

Section 251 of the Act is amended by substituting the words “ overall statement of votes, the report on the results compiled by the electronic ballot box and the ballot paper cards” for the words “ statement of votes and the ballot papers” in the first line of the first paragraph.

6.41 Access to ballot papers

The following is substituted for section 261 of the Act:

“**261.** Except for the purposes of an examination of rejected ballot papers pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the municipality may not issue copies of the ballot papers used, or allow any person to examine the ballot papers, without being required to do so by an order issued by a court or magistrate.” .

6.42 Application for a recount

Section 262 of the Act is amended by substituting the words “ an electronic ballot box” for the words “ a deputy returning officer, a poll clerk or the returning officer” in the first and second lines of the first paragraph.

7. EXAMINATION OF REJECTED BALLOT PAPERS

Within 120 days from the date on which an election is declared or contested, the returning officer must, at the request of the chief electoral officer or the Minister, examine the rejected ballot papers to ascertain the grounds for rejection. The returning officer must verify the ballot paper cards contained in the transfer boxes.

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the examination to explain the operation of the mechanism for rejecting ballot papers and to answer questions from the participants.

The programming parameters for rejecting ballot papers must be disclosed to the participants.

The examination of the rejected ballot papers shall in no way change the results of the poll or be used in a court to attempt to change the results of the poll.

A report on the examination must be drawn up by the returning officer and include, in particular, the assessment sheet for the grounds for rejection and a copy of the related ballot paper. Any other relevant comment concerning the conduct of the poll must also be included.

Prior to the examination of the rejected ballot papers, the rejected ballot papers must be separated from the other ballot papers, using the electronic ballot box duly programmed by the representative of the firm, and a sufficient number of photocopies must be made for the participants present. The candidates or their representatives may be present during this operation.

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held until the regular election of November 6th 2005 inclusively.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general elections or subsequent by-elections provided for in the agreement.

Mention of that fact shall be made in the assessment report.

10. ASSESSMENT REPORT

Within 120 days following the general election held on November 3rd 2002, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the chief electoral officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points :

- the preparations for the election (choice of the new method of voting, communications plan, etc.);
- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system :
- the cost of adapting election procedures ;
- non-recurrent costs likely to be amortized ;
- a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected costs of holding the general election on November 3rd, 2002 using traditional methods ;
- the number and duration of incidents during which voting was stopped, if any ;
- the advantages and disadvantages of using the new method of voting ;
- the results obtained during the addition of the votes and the correspondence between the number of ballot papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused ;
- a survey of rejected ballot papers, if the survey has been completed.

11. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to any general or by election held from November 3rd, 2002 until and after the regular election due on November 6th, 2005 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES :

In Boisbriand, this 9th day of September 2002

MUNICIPALITY OF BOISBRIAND

By: _____
ROBERT POIRIER, *Mayor*

M^{re} LUCIE MONGEAU, *Clerk*

In Québec, on this 12th day of September 2002

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 25th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL

By: _____
JEAN PRONOVOST, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD

District 1
Georges Leduc

Mairie - Mayor

CANDIDAT, Mairie1
Appartenance politique

CANDIDAT, Mairie2
Appartenance politique

CANDIDAT, Mairie3
Appartenance politique

CANDIDAT, Mairie4
Appartenance politique

Conseiller - Council

CANDIDAT, Conseil1
Appartenance politique

CANDIDAT, Conseil2
Appartenance politique

CANDIDAT, Conseil3
Appartenance politique

CANDIDAT, Conseil4
Appartenance politique

CANDIDAT, Conseil5
Appartenance politique

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Initiales du scrutateur
Initials of the DRO

Ville de ...

Élections municipales / Municipal elections

3 novembre 2002 / November 3rd 2002



Gouvernement du Québec

Agreement

An Act respecting elections and referendums
in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEWMETHODS OF VOTING FOR AN ELECTION USING “PERFAS-TAB” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF RAWDON, a legal person established in the public interest, having its head office at 3647, rue Queen, Rawdon, province of Québec, represented by the mayor, Réjean Neveu and the clerk or secretary-treasurer, Ginette Filion under a resolution bearing number 02-315, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL having his main office at 10, rue Pierre-Olivier-Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 02-71, passed at its meeting of February 14th, 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the municipal election of November 3rd, 2002 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.”;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the municipal election held on November 3rd, 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that municipal election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of June 13th, 2002, resolution No. 02-316 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “Electronic ballot box” means an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballot papers and a modem, where necessary.

2.2 “Vote tabulator” means a device that uses an optical scanner to detect a mark made by an elector in the space provided for that purpose on a ballot paper.

2.3 “Memory card” means a memory device that computes and records the marks made by an elector for each of the candidates whose names are printed on the ballot paper and the number of rejected ballot papers according to the subdivisions of the vote tabulator program.

2.4 “Recipient for ballot paper cards” means a box into which the ballot paper cards fall.

2.5 “Transfer box” means the box in which the ballot paper cards are placed once the results of the poll have been compiled.

2.6 “Ballot paper card” means the card on which the ballot papers are printed.

2.7 “Refused ballot paper card” means a ballot paper card the insertion of which in the tabulator is refused.

2.8 “Confidentiality sleeve” means a sleeve designed to receive the ballot paper card.

3. ELECTION

3.1 For the purposes of the municipal election of November 3rd 2002 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

The electronic ballot boxes used must include the following security mechanisms:

(1) a report displaying a total of “zero” must be produced by an electronic ballot box upon being turned on by the senior deputy returning officer on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card, and must record each procedural operation;

(3) the electronic ballot box must not be placed in “end of election” mode while the poll is still under way;

(4) the compilation of results must not be affected by any type of interference once the electronic ballot box has been placed in “election” mode;

(5) each electronic ballot box must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the electronic ballot boxes are connected to a generator;

(6) if a ballot box is defective, the memory card may be removed and transferred immediately into another electronic ballot box in order to allow the procedure to continue.

5. PROGRAMMING

Each memory card used is specially programmed by the firm PG Elections inc. to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“76. The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.” .

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“80. The senior deputy returning officer shall, in particular,

- (1) see to the installation and preparation of the electronic ballot box;
- (2) ensure that the polling is properly conducted and maintain order in the vicinity of the electronic ballot box;
- (3) facilitate the exercise of the right to vote and ensure that voting is secret;
- (4) ensure that the electronic ballot box functions correctly;
- (5) print out the results compiled by the electronic ballot box at the closing of the poll;
- (6) complete an overall statement of votes from the partial statements and the results compiled by the electronic ballot box;
- (7) give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box and the partial statements of votes;
- (8) put the ballot paper cards from the electronic ballot box recipient into the transfer boxes, seal them and give them to the returning officer;
- (9) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the spaces provided for the affixing of the elector’s mark, and go to the polling station in order to obtain another ballot paper card;
- (10) advise the returning officer immediately of any defect in the memory card or the electronic ballot box.

80.1. The assistant to the senior deputy returning officer shall, in particular,

- (1) assist the senior deputy returning officer in the latter’s duties;
- (2) receive any elector referred by the senior deputy returning officer;
- (3) verify the polling booths in the polling place;
- (4) get the pencils and confidentiality sleeves back from the senior deputy returning officer and redistribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular,

- (1) see to the arrangement of the polling station;
- (2) ensure that the polling is properly conducted and maintain order;
- (3) facilitate the exercise of the right to vote and ensure that voting is secret;
- (4) receive proof of identity from electors;
- (5) give electors a ballot paper card, a confidentiality sleeve and a pencil to exercise their right to vote;
- (6) receive from electors any ballot paper cards that are refused by the tabulator and give the electors another ballot paper, and record the occurrence in the poll book.” .

6.4 Discretion of the chief electoral officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

“90.5. Where, during the election period, within the meaning of section 364, it comes to the attention of the chief electoral officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the chief electoral officer may adapt the provision in order to achieve its object.

The chief electoral officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the chief electoral officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.” .

6.5 Notice of election

The following is added after paragraph 7 of section 99 of the Act:

“(8) the fact that the method of voting is voting by means of electronic ballot boxes.” .

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

“**104.** The returning officer shall divide the list of electors into polling subdivisions.

The polling subdivisions shall have a number of electors determined by the returning officer. That number shall not be greater than 750 electors.” .

6.7 Verification of electronic ballot boxes

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

“**§1.1** *Verification of electronic ballot boxes*

173.1. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm Cognicase inc. and the representatives of the candidates.

173.2. During the testing of the electronic ballot boxes, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall mark the memory card with the returning officer’s initials and insert it into the electronic ballot box;

(2) he shall insert into the electronic ballot box a pre-determined number of ballot paper cards, previously marked and tallied manually. The ballot paper cards shall include

(a) a sufficient and pre-determined number of ballot papers correctly marked to indicate a vote for each of the candidates;

(b) a sufficient and pre-determined number of ballot papers that are not correctly marked;

(c) a sufficient and pre-determined number of ballot papers marked to indicate a vote for more than one candidate for the same office;

(d) a sufficient and pre-determined number of blank ballot papers;

(3) he shall place the electronic ballot box in “end of election mode” and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results;

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall initial the seal;

(5) he shall place the tabulator in the travel case and place a seal on it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(6) where an error is detected, the returning officer shall determine with certitude the cause of the error, make the necessary corrections and proceed with a further test, and shall repeat the operation until the optical scanner of the vote tabulator accurately detects the mark made on a ballot paper and until a perfect compilation of results is obtained. Any error or discrepancy observed shall be noted in the test report;

(7) he may not change the programming for the scanning of the mark made by an elector in the space provided for that purpose without supervision from the firm PG Elections inc.” .

6.8 Mobile polling station

The said Act is amended by inserting the following sections after section 175 :

“175.1. The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it.”

175.2. The returning officer shall, before the opening of the advance polling station, give the senior deputy returning officer the ballot box containing the ballot papers from the mobile polling station.

The senior deputy returning officer shall, in the presence of the assistant to the senior deputy returning officer, remove from the ballot box the confidentiality sleeves containing the ballot papers and insert the ballot papers, one by one, in the electronic ballot box.” .

6.9 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act :

“182. After the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book :

- (1) the number of ballot paper cards received from the returning officer ;
- (2) the number of electors who were given a ballot paper card ;
- (3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards ;
- (4) the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the spoiled, refused or cancelled ballot paper cards, the unused ballot paper cards, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

182.1. The senior deputy returning officer, in the presence of the candidates or of their representatives who wish to be present, shall open the recipient of the electronic ballot box and place the ballot paper cards from the recipient in one or more transfer boxes, and seal the transfer boxes. The senior deputy returning officer shall then seal the opening of the electronic ballot box. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals. Next, the senior deputy returning officer shall place the electronic ballot box in its travel case and seal it. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

The senior deputy returning officer shall then give the transfer boxes and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the transfer box or boxes until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the transfer boxes and give each deputy returning officer the poll books, the envelopes containing unused ballot paper cards and the forms. Each deputy returning officer shall open the envelopes and take possession of their contents. The spoiled, refused or cancelled ballot paper cards from the first day shall remain in the transfer boxes, which the senior deputy returning officer shall seal.

The senior deputy returning officer, before the persons present, shall remove the seal from the travel case of the tabulator.

The returning officer, or the person designated by the returning officer, shall give each deputy returning officer the list of electors of grouped polling stations, where applicable.

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the electronic ballot box, place it in an envelope, seal the envelope, place the envelope in a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope. They shall also be placed in a sealed transfer box.

The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

185. From 7: 00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.”

6.10 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic ballot boxes are used in an election, the polling station shall have the number of polling booths determined by the returning officer.”

6.11 Ballot papers

The following is substituted for section 193 of the Act:

“**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed in accordance with the model shown in the Schedule, by reversing process so that, on the obverse, the indications appear in white on a dark-coloured background and each circle provided for the affixing of the elector’s mark appears in white inside an orange circle. Every ballot paper shall contain bar codes.”

Section 195 of the Act is revoked.

6.12 Identification of the candidates

Section 196 of the Act is amended

(1) by substituting the following for the first paragraph:

“**196.** The ballot paper cards shall contain a ballot paper for the office of mayor and the ballot papers for the office or offices of councillor. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse: ” ;

(2) by adding the following after subparagraph 3 of the first paragraph:

“ (4) the offices in question and, where applicable, the number of the seat to be filled. The indications of the offices in question shall correspond to those contained in the nomination papers.”

6.13 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** The ballot paper cards shall contain on the obverse, as shown in the Schedule,

- (1) the name of the municipality;
- (2) the indication “ municipal election” and the date of the poll;
- (3) the ballot papers;
- (4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown in the Schedule,

- (1) a space intended to receive the initials of the deputy returning officer;
- (2) a space intended to receive the number of the polling subdivision;
- (3) the name and address of the printer;
- (4) the bar code.”

6.14 Confidentiality sleeve

The Act is amended by inserting the following after section 197:

“**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through it.”

6.15 Withdrawal of a candidate

Section 198 of the Act is amended by adding the following paragraphs at the end:

“ Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.” .

6.16 **Withdrawal of authorization or recognition**

Section 199 of the Act is amended by adding the following paragraph at the end :

“ Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the party or the ticket from which recognition has been withdrawn.” .

6.17 **Number of electronic ballot boxes**

The following is substituted for section 200 of the Act :

“**200.** The returning officer must ensure that there are as many electronic ballot boxes as polling places available and that a sufficient number of replacement electronic ballot boxes are available in the event of a breakdown or technical deficiency.

The returning officer shall ensure that a sufficient number of transfer boxes are available for each electronic ballot box.” .

6.18 **Provision of polling materials**

Section 204 of the Act is amended by substituting the word “ recipient” for the words “ ballot box” in the second line of the first paragraph.

6.19 **Examination of the electronic ballot box and polling materials**

The following is substituted for section 207 of the Act :

“**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic ballot box for the polling place. The senior deputy returning officer shall ensure that the electronic ballot box displays a total of zero recorded ballot papers by verifying the printed report of the electronic ballot box.

The senior deputy returning officer shall keep the report and show it to any person present who wishes to examine it.

The senior deputy returning officer shall examine the documents and materials provided by the returning officer.

207.1. In the hour preceding the opening of the polling stations, the deputy returning officer and poll clerk shall examine the documents and polling materials provided by the returning officer.

The following is substituted for section 209 of the Act :

“**209.** Immediately before the hour fixed for the opening of the poll, the senior deputy returning officer, before the deputy returning officers, the poll clerks and the representatives of the candidates present, shall ensure that the recipient of the electronic ballot box is empty.

The recipient shall then be sealed by the senior deputy returning officer. The senior deputy returning officer and the representatives present who wish to do so shall affix their initials to the seal. The electronic ballot box shall be placed in such a way that it is in full view of the polling officers and the electors.” .

POLLING PROCEDURE

6.20 **Presence at the polling station**

The following is substituted for the third paragraph of section 214 of the Act :

“ In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.” .

6.21 **Initiailling of ballot papers**

The following is substituted for section 221 of the Act :

“**221.** The deputy returning officer shall give the ballot paper card to which the elector is entitled to each elector admitted to vote, after initiailling the ballot paper card in the space reserved for that purpose and entering the number of the polling subdivision. The deputy returning officer shall also give the elector a confidentiality sleeve and a pencil.

The deputy returning officer shall instruct the elector how to insert the ballot paper card in the confidentiality sleeve after having voted.” .

6.22 Voting

The following is substituted for section 222 of the Act:

“**222.** The elector shall enter the polling booth and, using the pencil given by the deputy returning officer, mark the ballot paper or papers in the space provided for that purpose opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

The elector shall insert the ballot paper card, without folding it, into the confidentiality sleeve in such a way that the deputy returning officer’s initials can be seen.”

6.23 Following the vote

The following is substituted for section 223 of the Act:

“**223.** After marking the ballot paper or papers and inserting the ballot paper card in the confidentiality sleeve, the elector shall leave the polling booth and go to the electronic ballot box.

The elector shall allow the senior deputy returning officer to examine the initials of the deputy returning officer.

The elector or, at the elector’s request, the senior deputy returning officer shall insert the ballot paper card into the electronic ballot box without removing it from the confidentiality sleeve.”

6.24 Automatic acceptance

The Act is amended by inserting the following after section 223:

“**223.1.** The electronic ballot box shall be programmed to accept automatically every ballot paper card that is inserted and that has been given by the deputy returning officer to an elector.

223.2. If a ballot paper card becomes blocked in the recipient receiving ballot paper cards, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall open the recipient, restart the electronic ballot box, close it and seal the recipient again in their presence, before authorizing voting to resume. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal.

The senior deputy returning officer must report to the returning officer the time during which voting was stopped. Mention of that fact shall be made in the poll book.

If a ballot paper card becomes blocked in the tabulator, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall unblock the tabulator and restart the electronic ballot box.”

6.25 Cancelled ballots

The following is substituted for section 224 of the Act:

“**224.** The senior deputy returning officer shall prevent the insertion into the electronic ballot box of any ballot paper card that is not initialled or that is initialled by a person other than the deputy returning officer of a polling station. The elector must return to the polling station.

The deputy returning officer of the polling station in question shall, if his initials are not on the ballot paper, initial it before the persons present, provided that the ballot paper card is *prima facie* a ballot paper card given to the elector by the deputy returning officer that was not initialled by oversight or inadvertence. The elector shall return to insert the ballot paper card into the electronic ballot box.

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall not give the elector a new ballot paper card.

The occurrence shall be recorded in the poll book.”

6.26 Visually impaired person

Section 227 of the Act is amended:

(1) by substituting the following for the second and third paragraphs:

“ The assistant to the senior deputy returning officer shall set up the template and the ballot paper card, give them to the elector, and indicate to the elector the order in which the candidates’ names appear on the ballot papers and the particulars entered under their names, where such is the case.

The senior deputy returning officer shall help the elector insert the ballot paper card into the electronic ballot box.” ; and

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.27 **Compilation of results**

The following is substituted for sections 229 and 230 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall place the electronic ballot box in “end of election” mode and print the results compiled by the electronic ballot box. The representatives assigned to the polling stations at the polling place may be present.

The report on the compiled results shall indicate the total number of ballot paper cards, the number of ballot papers marked to indicate a vote for more than one candidate, the number of blank ballot papers and the number of valid votes for each office.

230. After the closing of the poll, the deputy returning officer of each polling station the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

The poll clerk of the polling station shall enter the following information in the poll book:

- (1) the number of ballot paper cards received from the returning officer;
- (2) the number of electors admitted to vote;
- (3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;
- (4) the names of the persons who have performed duties as election officers or representatives assigned to that station.”

The Act is amended by inserting the following after section 230:

“**230.1.** The senior deputy returning officer shall ensure, before the persons present, that the results entered on the printed report of the electronic ballot box and the total number of unused, spoiled, refused and cancelled ballot paper cards entered on the partial statement of votes of each deputy returning officer correspond to the total number of ballot paper cards issued by the returning officer.

230.2. Using the partial statement or statements of votes, the senior deputy returning officer shall complete an overall statement of votes in a sufficient number so that each representative assigned to a polling station or each candidate can have a copy of it.”

6.28 **Manual counting of the votes**

Sections 231 to 244 of the Act, adapted as required, apply if a manual counting of the votes is necessary.

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Electronic counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

“**233.** The electronic ballot box shall be programmed in such a way as to reject any ballot paper that

- (1) has not been marked;
- (2) has been marked in favour of more than one candidate;
- (3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words those containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.”

6.32 **Rejected ballot papers, procedural omission, valid ballot papers**

Sections 233 to 236 of the Act, adapted as required, shall apply only in the case of a judicial recount.

6.33 **Contested validity**

The following is substituted for section 237 of the Act:

“**237.** The poll clerk, at the request of the senior deputy returning officer, shall enter in the poll book every objection raised by a representative present at the poll in respect of the validity of the results following the printing of the results compiled by an electronic ballot box.”

6.34 **Partial statement of votes, overall statement of votes and copy given to representatives of candidates**

The following is substituted for section 238 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out

(1) the number of ballot paper cards received from the returning officer;

(2) the number of spoiled, refused or cancelled ballot paper cards or those that were not inserted into the electronic ballot box;

(3) the number of unused ballot paper cards.

The deputy returning officer shall make two copies of the partial statement of votes, including a copy that must be given to the senior deputy returning officer.

Using the partial statements of votes and the results compiled by the electronic ballot box, the senior deputy returning officer shall draw up an overall statement of votes.

The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.”.

Section 240 of the Act is revoked.

6.35 **Separate, sealed and initialled envelopes given to the returning officer**

The following is substituted for sections 241, 242 and 243 of the Act:

“**241.** After the closing of the poll, each deputy returning officer shall place in separate envelopes the list of electors, the poll book, the forms, the spoiled, refused or cancelled ballot paper cards and those that were not inserted into the electronic ballot box, the unused ballot paper cards and the partial statement of votes. Each deputy returning officer shall seal the envelopes and place them in a large envelope, seal it and give it to the senior deputy returning officer. The deputy returning officer, the poll clerk and the representatives assigned to the polling station who wish to do so shall initial the seals.

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or their representatives who wish to be present, the senior deputy returning officer shall place the ballot paper cards from the electronic ballot box recipient in one or more envelopes, and then seal and initial the envelope or envelopes. Any representatives or candidates who wish to do so may initial the seal or seals.

The senior deputy returning officer shall place the envelope or envelopes in a transfer box. He shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. The senior deputy returning officer shall seal the envelope, initial it and place it in one of the transfer boxes.

The senior deputy returning officer shall place the large envelope received from the deputy returning officers in one of the transfer boxes.

The senior deputy returning officer shall then seal and initial the transfer boxes, allow the representatives who wish to do so to initial them, and give the boxes to the returning officer.

243. The senior deputy returning officer shall place in an envelope a copy of the overall statement of votes stating the results of the election and the partial statements of votes. The senior deputy returning officer shall then seal and initial the envelope and give it to the returning officer.

The representatives assigned to the polling stations may initial the seal.”.

Section 244 of the Act is revoked.

6.36 **Addition of votes**

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.”.

6.37 **Adjournment of the addition of votes**

The following is substituted for section 248 of the Act:

“248. The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement has been obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results compiled by an electronic ballot box, the returning officer shall, in the presence of the senior deputy returning officer and the candidates concerned or their representatives if they so wish, print out the results using the memory card taken from the transfer box opened in the presence of the persons listed above.” .

6.38 Placing in envelope

The following is substituted for section 249 of the Act:

“249. After printing and examining the results, the returning officer shall place them in an envelope together with the memory card.

The returning officer shall seal the envelope, put the envelope in the transfer box and then seal the box.

The returning officer, the candidates and the representatives present may initial the seals.” .

6.39 New counting of the votes

The following is substituted for section 250 of the Act:

“250. Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.” .

6.40 Notice to the Minister

Section 251 of the Act is amended by substituting the words “overall statement of votes, the report on the results compiled by the electronic ballot box and the ballot paper cards” for the words “statement of votes and the ballot papers” in the first line of the first paragraph.

6.41 Access to ballot papers

The following is substituted for section 261 of the Act:

“261. Except for the purposes of an examination of rejected ballot papers pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the municipality may not issue copies of the ballot papers used, or allow any person to examine the ballot papers, without being required to do so by an order issued by a court or magistrate.” .

6.42 Application for a recount

Section 262 of the Act is amended by substituting the words “an electronic ballot box” for the words “a deputy returning officer, a poll clerk or the returning officer” in the first and second lines of the first paragraph.

7. EXAMINATION OF REJECTED BALLOT PAPERS

Within 120 days from the date on which an election is declared or contested, the returning officer must, at the request of the chief electoral officer or the Minister, examine the rejected ballot papers to ascertain the grounds for rejection. The returning officer must verify the ballot paper cards contained in the transfer boxes.

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the examination to explain the operation of the mechanism for rejecting ballot papers and to answer questions from the participants.

The programming parameters for rejecting ballot papers must be disclosed to the participants.

The examination of the rejected ballot papers shall in no way change the results of the poll or be used in a court to attempt to change the results of the poll.

A report on the examination must be drawn up by the returning officer and include, in particular, the assessment sheet for the grounds for rejection and a copy of the related ballot paper. Any other relevant comment concerning the conduct of the poll must also be included.

Prior to the examination of the rejected ballot papers, the rejected ballot papers must be separated from the other ballot papers, using the electronic ballot box duly programmed by the representative of the firm, and a sufficient number of photocopies must be made for the participants present. The candidates or their representatives may be present during this operation.

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31st, 2004.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general elections or subsequent by-elections provided for in the agreement.

Mention of that fact shall be made in the assessment report.

10. ASSESSMENT REPORT

Within 120 days following the general election held on November 3rd, 2002, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the chief electoral officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points:

- the preparations for the election (choice of the new method of voting, communications plan, etc.);
- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system:
- the cost of adapting election procedures;
- non-recurrent costs likely to be amortized;
- a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected costs of holding the municipal election on November 3rd, 2002 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of ballot papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused;

— a survey of rejected ballot papers, if the survey has been completed.

11. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the municipal election held on November 3rd, 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES:

In Rawdon, this 23rd day of August, 2002

MUNICIPALITY OF RAWDON

By: _____
RÉJEAN NEVEU, *Mayor*

GINETTE FILION, *Secretary-treasurer*

In Québec, on this 3rd day of September 2002

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 19th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL

By: _____
JEAN PRONOVOST, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD

District 1
Georges Leduc

Mairie - Mayor

CANDIDAT, Mairie1 
Appartenance politique

CANDIDAT, Mairie2 
Appartenance politique

CANDIDAT, Mairie3 
Appartenance politique

CANDIDAT, Mairie4 
Appartenance politique

Conseiller - Council

CANDIDAT, Conseil1 
Appartenance politique

CANDIDAT, Conseil2 
Appartenance politique

CANDIDAT, Conseil3 
Appartenance politique

CANDIDAT, Conseil4 
Appartenance politique

CANDIDAT, Conseil5 
Appartenance politique

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Initiales du scrutateur
Initials of the DRO

Ville de ...

Élections municipales / Municipal elections

3 novembre 2002 / November 3rd 2002



Draft Regulations

Draft Regulation

An Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001)

Income support — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting income support, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the draft Regulation is to allow, upon certain conditions, an independent adult or a family that is not already a recipient under the Employment-Assistance Program to receive the special benefit granted in case of fire or disaster. The draft Regulation also provides that the amount granted in lieu of the advance Québec sales tax credit will not have to be repaid if the Minister of Revenue has already been notified of such payment.

Further information may be obtained by contacting Gérard Lescot, Direction du développement des politiques de sécurité du revenu, 425, rue Saint-Amable, 4^e étage, Québec (Québec) G1R 4Z1 by telephone: (418) 646-7221 or by fax: (418) 643-0019.

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 45-day period, to the Minister of State for Social Solidarity and Child and Family Welfare and Minister of Social Solidarity, 425, rue Saint-Amable, 4^e étage, Québec (Québec) G1R 4Z1.

LINDA GOUPIL,
*Minister of State for Social Solidarity and
Child and Family Welfare
Minister of Social Solidarity*

Regulation to amend the Regulation respecting income support*

An Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001, s. 156, pars. 12 and 13, s. 159, par. 1 and s. 160)

1. Section 74 of the Regulation respecting income support is amended by substituting the words “ par un adulte seul ou une famille lors d’ un incendie ou d’ un autre sinistre, for the words “ lors d’ un incendie ou d’ un autre sinistre par l’ adulte seul ou la famille” in the part preceding subparagraph 1 of the first paragraph after the word “ subies” in the French text.

2. The following is inserted after section 184 :

“**184.0.1.** For the purposes of section 100 of the Act, a person is not required to repay the amount of the adjustment received in lieu of the advance Québec sales tax credit under sections 24 and 25 where the claim refers to a period for which the Minister had already notified the Minister of Revenue, in accordance with the Taxation Act, of the amount granted to such person.” .

3. This Regulation comes into force on 1 February 2003.

5337

* The Regulation respecting income support, made by Order in Council 1011-99 dated 1 September 1999 (1999, *G.O.* 2, 2881), was last amended by the Regulations made by Orders in Council 1517-2001 dated 12 December 2001 (2001, *G.O.* 2, 6869), 279-2002 dated 13 March 2002 (2002, *G.O.* 2, 1615) and 627-2002 dated 29 May 2002 (2002, *G.O.* 2, 2600). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2002, updated to 1 March 2002.

Notices

Notice

Ecological Reserves Act
(R.S.Q., c. R-26.1)

Île-Garth ecological reserve — Constitution

Notice is hereby given, in keeping with section 2 of the Ecological Reserves Act, that the Minister of State for Municipal Affairs, Greater Montréal, the Environment and Water and Minister of the Environment intends to propose to the government of Québec, the constitution of the Île-Garth ecological reserve, located in territory of the municipality of Ville de Bois-des-Filion, regional county municipality of Thérèse-De Blainville.

The territory is comprised of lot 1 953 696 of the Québec land register and is known as Île Garth. The ecological reserve project extends over 18 hectares approximately.

Any interested person may share views on the subject within 30 days to the Minister of the State for Municipal Affairs, Greater Montréal, Environment and Water and Minister of the Environment, Mr. André Boisclair, at the following address: 675, boulevard René-Lévesque Est, 30^e étage, Québec (Québec) G1R 5V7.

MADELEINE PAULIN
Deputy minister

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