



**2015
VOTE PROCESSING EQUIPMENT
USE AGREEMENT AND
ELECTIONS SERVICES CONTRACT
FOR MUNICIPAL ELECTIONS**

This Vote Processing Equipment Use Agreement and Elections Services Contract (hereinafter referred to as the "Agreement") is hereby entered into by and between the **Orange County Supervisor of Elections Office**, (hereinafter referred to as "SOE") and the **City of Orlando, Florida**, (hereinafter referred to as "MUNICIPALITY").

RECITALS:

WHEREAS, pursuant to Section 101.34, Florida Statutes, SOE is the legal custodian of certified vote processing equipment owned by Orange County, Florida and is hereby charged with the responsibility for custody and maintenance of said equipment; and,

WHEREAS, MUNICIPALITY desires, or is otherwise statutorily obligated, to conduct an election that requires the use of vote processing equipment to count ballots; and,

WHEREAS, All vote processing equipment requires specially trained and knowledgeable individuals to program, operate and maintain said equipment; and,

WHEREAS, The Orange County Board of County Commissioners has authorized SOE to provide any necessary terms and conditions for the use of such voting equipment; and,

WHEREAS, SOE can provide the necessary personnel to program, operate and maintain said equipment; and,

WHEREAS, MUNICIPALITY hereby acknowledges full responsibility for any and all applicable requirements under the Florida Election Code and any provisions of the city charter or municipal ordinances which may not be addressed or included in this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, terms and conditions stated herein SOE and MUNICIPALITY agree as follows:

SECTION 1. Recitals. The above recitals are true and correct and incorporated herein.

SECTION 2. Agreement. SOE shall provide to MUNICIPALITY such necessary vote processing equipment and services according to the terms and conditions stated in this Agreement, for the purposes of conducting a General Election to be held on Tuesday, November 3, 2015 and, if necessary, a Run-off Election to be held on Tuesday, December 1, 2015, along with the necessary equipment and services to facilitate any early voting sites and polling places as may be necessary and agreed upon by the parties.

SECTION 3. Operation and Programming Services.

DS200 For each election, MUNICIPALITY shall pay SOE One Hundred Fifty Dollars (\$150.00) for the programming and maintenance of any DS200 tabulator and Seventy-five Dollars (\$75.00) for each additional tabulator that is identically programmed. For early voting, MUNICIPALITY shall pay SOE Seventy-five Dollars (\$75.00) for the programming, maintenance and operation of each DS200 tabulator that is identically programmed and operated as the DS200 tabulators that are programmed for Election Day. In addition there is a Five Dollar (\$5.00 per precinct fee for Election night results modeming).

ADA Voting Equipment For each election, MUNICIPALITY shall pay SOE One Hundred Fifty Dollars (\$150.00) for the programming and maintenance of the ADA Voting Equipment and Seventy-five Dollars (\$75.00) for each additional ADA machine that is identically programmed. For early voting, MUNICIPALITY shall pay SOE Seventy-five Dollars (\$75.00) for the programming, maintenance and operation of each ADA machine that is identically programmed and operated as the ADA machines that are programmed for Election Day.

ABSENTEE COUNTING For each election, MUNICIPALITY shall pay SOE Two Hundred Dollars (\$200.00) for the programming, maintenance and operation of any M650 Absentee Ballot Counting equipment. Such fee shall include up to four (4) hours of processing time, election set-up and coordination, programming of high speed ballot counting equipment and processing of envelopes through the automatic envelope openers. For each additional hour needed to provide the services described in this paragraph, MUNICIPALITY shall pay SOE Fifty Dollars (\$50.00) per hour.

Electronic Check-in For each election, MUNICIPALITY shall pay SOE Seventy Five Dollars (\$75.00) per precinct for database set-up and maintenance of the Epoll Books and Help Desk tablet. (includes 2 ePoll Books & 1 Help Desk tablet) Additional fees related to electronic check-in include Forty-One Dollars (\$41.00) per precinct for Internet air card access and Seventy-Five (\$75.00) per each additional tablet.

Repairs For any election, all maintenance, repairs or other troubleshooting services for vote processing equipment, including any processors or laptops, will be performed exclusively by SOE and such services are included in all stated charges. However, SOE does reserve the right to seek reimbursement from MUNICIPALITY for any repairs or maintenance caused by any negligent or unauthorized acts by any employee or representative of MUNICIPALITY.

SECTION 4. Additional Early Voting Services for Off-Site

Check in Stations For each early voting site other than the Office of the SOE, MUNICIPALITY shall pay SOE Three Hundred Seventy-Five Dollars (\$375.00) for the program and functionality of two (2) check-in station tablets including the downloading or uploading of any necessary data. Additional fees related to Early Voting check-in include Forty-One Dollars (\$41.00) per Early Voting site for Internet air card access and Seventy-Five (\$75.00) per each additional tablet. These charges are per election.

Printers For each early voting site other than the Office of the SOE, MUNICIPALITY shall pay SOE One Hundred Seventy-Five Dollars (\$175.00) for the programming, configuration and set-up of any connected printer. These charges are per election, and all charges will be actual costs incurred.

Delivery For each early voting site other than the Office of the SOE, MUNICIPALITY shall pay SOE Two Hundred Dollars (\$200.00) for the delivery, set-up and/or pick-up of any early voting equipment. These charges are per election.

SECTION 5. Other Election Charges.

Supplies For each election, MUNICIPALITY shall pay SOE for consumable precinct supplies at a rate of One Hundred Fifty Dollars (\$150.00) for each precinct and each Early Voting site. MUNICIPALITY shall return precinct supplies to Office of SOE no later than the day after the election. MUNICIPALITY shall also identify and provide a secure place for precinct clerk(s) to return supplies and voted and unvoted ballots on election night.

PAPER PL/PR For each election, MUNICIPALITY shall pay SOE the actual costs incurred to produce, print and bind back-up paper Poll Lists/Precinct Registers ("PL/PR"), including any paper or delivery costs. SOE shall have sole discretion in selecting a third party vendor to perform the requisite printing and binding services.

Telephone For each election, MUNICIPALITY shall pay SOE for any actual costs incurred by SOE from a third party telecommunications provider for the set-up, activation, use and deactivation of any cell phones which in the SOE's sole discretion are necessitated at any voting site. Selection of the third party telecommunications provider shall be at the sole discretion of SOE.

Indexes For any Street Indexes ordered or required, MUNICIPALITY shall pay SOE Nine Dollars (\$9.00) as a set-up services fee plus Twenty-five Cents (\$.25) for each printed page.

Absentees For each election, MUNICIPALITY shall pay SOE One Dollar and Seventy-five Cents (\$1.75) for each absentee ballot request processed plus actual postage costs. MUNICIPALITY shall also pay SOE Ten Cents (\$.10) for each absentee ballot signature verified.

Early Voting MUNICIPALITY shall reimburse SOE for any overtime hours by SOE staff due to weekend hours for Early Voting locations including any hours accrued by SOE staff at the Offices of SOE. SOE may elect to evenly apportion the costs for early voting overtime hours among various municipalities, if appropriate, but in no event shall SOE be obligated to apportion such costs. SOE shall insure that experienced SOE personnel staff each Early Voting site, in accordance with Florida law.

Notices For each election, MUNICIPALITY shall pay SOE Twenty-five Cents (\$.25) for each Notice of Election that is mailed to each eligible voter plus actual postage costs. SOE shall consult with MUNICIPALITY prior to mailing such notices.

Fee Schedule For each election, MUNICIPALITY shall pay SOE for any other goods or services not specifically provided for in this Agreement but that may be described or listed in the latest Municipal Fee Schedule as distributed to MUNICIPALITY. MUNICIPALITY agrees that the Municipal Fee Schedule and the prices contained therein are subject to change with notice to MUNICIPALITY.

Other For each election and upon proper notice to MUNICIPALITY, MUNICIPALITY shall pay SOE for any other election services not contemplated herein which may be needed to conduct an orderly election.

SECTION 6. Term. For each election, the terms of this Agreement begins with ballot layout and concludes when ballots have been processed, election results have been certified, all vote processing equipment has been returned to the SOE's warehouse and an audit, if applicable, has been completed. In the event of an election contest or challenge, SOE agrees to cooperate in providing any public records which the SOE maintains or otherwise controls.

SECTION 7. Applicable Requirements of Florida's Election Code. MUNICIPALITY shall properly call the election in accordance with any Florida Statutes, applicable charter provisions or city ordinances. MUNICIPALITY agrees that the Municipal Clerk is responsible for the conduct of the city's elections and for insuring compliance with all applicable Florida Statutes, including the Florida Election Code and any municipal charter provisions and ordinances. Any obligations or duties not set forth in this Agreement shall be the sole responsibility of MUNICIPALITY.

SECTION 8. Notice and Advertisement of Elections. MUNICIPALITY shall prepare and arrange for publication of all legal advertising required by state and federal statutes, city charter & city ordinances. MUNICIPALITY agrees that all advertisements of elections conducted in Orange County shall be published in both English and Spanish and that MUNICIPALITY shall be responsible for the accurate and complete translation of any such notices. SOE shall, if available, provide samples of required advertising upon request.

SECTION 9. Qualifying of Candidates. MUNICIPALITY may provide qualifying packets to candidates. MUNICIPALITY shall accept and process all qualifying papers and fees. For audio ballots, MUNICIPALITY shall collect pronunciation guides from candidates at the time of qualifying and shall submit them to SOE at the close of qualifying.

If petitions are part of qualifying process, MUNICIPALITY shall pay to SOE ten (10) cents per name checked to verify any signatures on qualifying petitions. SOE agrees to verify any signatures for any qualifying petitions submitted by MUNICIPALITY.

In no event shall SOE issue any recommendations or make any legal determinations as to the qualifications or eligibility of any candidate for municipal office.

SECTION 10. Printing of Ballots and Ballot Services. MUNICIPALITY shall place an order for a sufficient quantity of ballots to include absentees, provisional ballots and precincts, with a third party printer as selected exclusively by SOE. MUNICIPALITY shall provide prompt payment to the third party printer for the cost of any printed ballots or election materials.

MUNICIPALITY shall furnish, immediately upon the conclusion of the qualifying period, all ballot information in English and Spanish including the name(s) of the candidate(s) as they are to appear on the ballot; the name of the Municipality; the name of the election; the title of office and/or referendum title; explanation; and questions.

SOE agrees to provide the layout of the ballot(s) based on the information furnished by MUNICIPALITY and deliver ballot layout to the approved printer. MUNICIPALITY will place ballot order with printer. Both SOE and MUNICIPALITY must sign off on ballot proof(s).

Once test ballots are received from the printer, SOE will test all vote processing equipment in accordance with the standards established by the Florida Division of Elections and any applicable Florida Statutes. Upon receipt of the printed ballots from the printer SOE shall receive, securely store and account for all ballots until disbursed to poll clerks.

SOE shall also control and limit all access to un-voted ballots while in the possession of SOE.

SECTION 11. Poll Workers. SOE will select poll workers from a group of experienced poll workers. SOE will assign back-up poll workers to be available on Election morning. SOE will train all poll workers in accordance with the Florida Election Code and other guidelines, procedures or regulations as followed or adopted for the conduct of elections in Orange County. Clerk for MUNICIPALITY, or a representative, shall be in attendance for poll worker training sessions if requested by SOE. SOE shall distribute all necessary supplies and ballots at poll worker training sessions. MUNICIPALITY shall pay poll workers directly for their services at pay rates previously established by SOE.

SOE will select and train early voting staff. SOE will pay early voting staff directly for their services. MUNICIPALITY will be billed for any overtime charges incurred due to Early Voting.

SECTION 12. Selection of Polling Places and Early Voting Sites. SOE shall approve any Polling Place(s) and Early Voting site(s) intended for use of as a voting location. Each location shall meet necessary ADA requirements. MUNICIPALITY shall conduct an onsite inspection of all polling places, including any early voting locations used other than the Office of SOE, and confirm that such locations are accessible to disabled and elderly voters. SOE reserves the right to select a suitable alternative if any proposed site fails to meet with SOE approval. MUNICIPALITY shall provide a list of proposed polling places and early voting sites no later than ninety (90) days prior to the date of the election. MUNICIPALITY shall pay any rental fees or usage fees directly to the polling place. If any of the polling places require accessibility ramps, MUNICIPALITY or SOE will arrange for building and installation of such ramps, any costs incurred will be billed to MUNICIPALITY.

MUNICIPALITY shall notify SOE in writing if any tables or chairs will be required. Note that each polling place must, as determined by SOE, provide a minimum number of tables and chairs. MUNICIPALITY shall pay any rental fees incurred by SOE for tables and chairs.

SECTION 13. Sample Ballots. Upon request by MUNICIPALITY, SOE shall layout, check and deliver sample ballot layout to a third party vendor for distribution to registered voters. MUNICIPALITY shall review the sample ballots and confirm the accuracy of the election date, office, candidate names, polling place and all other information contained therein. SOE shall coordinate the mailing of the sample ballots to all registered voters in the municipality prior to the election including accurate polling place information. MUNICIPALITY shall reimburse SOE for all costs incurred in producing and mailing sample ballots.

SECTION 14. Absentee Ballots. MUNICIPALITY shall refer all requests for absentee

ballots to SOE. Unless MUNICIPALITY or the Clerk for MUNICIPALITY provides written directions to the contrary, SOE agrees to accept all requests for absentee ballots by telephone, mail, or in person. SOE also agrees to mail absentee & overseas ballots as requested by registered voters, receive and securely store any voted absentee ballots, verify the signatures on any returned voted absentee ballot certificates and to account for all absentee ballots.

MUNICIPALITY shall provide adequate assistance for the opening and handling of absentee ballots during the counting process and shall coordinate a date for the opening and counting of such absentee ballots with SOE.

- SECTION 15. Transportation of Elections Equipment and Supplies. SOE will be responsible for delivery and pick up of any voting equipment. One day prior to Election Day, voting equipment will be delivered by SOE, or a third party representative of SOE. One day after Election Day, voting equipment will be picked up by SOE, or a third party representative of SOE. MUNICIPALITY shall reimburse SOE, for any and all costs incurred for equipment delivery and pickup. SOE shall have full discretion and authority to hire and employ any outside third parties to assist with or perform delivery and pick-up of voting equipment. MUNICIPALITY IS NOT PERMITTED TO DELIVER ANY ELECTIONS EQUIPMENT.
- SECTION 16. Location and Storage of Voting Equipment. All voting equipment shall be stored, maintained and located in a well-protected, secure, temperature-controlled and indoor room or facility. Once the voting equipment is delivered to a voting site or early voting site, no equipment shall be relocated without the prior written approval of SOE.
- SECTION 17. Canvassing of Election Results. MUNICIPALITY shall schedule and coordinate the date on which the municipal canvassing board is to assemble to canvass the results of the election. If applicable, MUNICIPALITY shall coordinate for the use of SOE facilities to conduct the canvassing board activities. MUNICIPALITY shall notice and advertise, as needed, the dates of any canvassing board meetings. MUNICIPALITY shall convene the canvassing board to determine which voted absentee ballots are to be tabulated. MUNICIPALITY shall provide for collection of results from each precinct(s).
- SECTION 18. Audits. MUNICIPALITY shall provide necessary personnel to conduct the audit as prescribed by law. MUNICIPALITY agrees to pay SOE for any additional costs as may be necessary, including overtime expenses, for conducting the audit.
- SECTION 19. Post-Election Records Retention. SOE shall process affirmation forms and sort, inventory and pack all election materials for pick up by the Municipal Clerk for retention and disposition. MUNICIPALITY shall

store or cause to be stored all necessary election records and ballots until expiration of the retention period as prescribed by applicable Florida Statutes and rules.

SECTION 20. Voter History. MUNICIPALITY and SOE will make mutually acceptable arrangements for recording voter history. The date selected for undertaking this activity may occur subsequent to the conclusion of all election dates and outside of the terms of this agreement but both parties agree to work toward recording voter history in a timely manner.

SECTION 21. Other Necessary Costs. Any additional costs or fees that may be incurred by SOE in compliance with the Florida Election Code and as a direct result of either any Election, if necessary, that are not specified in this contract shall be paid for by MUNICIPALITY at rates and fees as established by SOE. Examples of such additional costs or reimbursements include, but are not limited to, the following:

- A. Recounts – Any expenditure for conducting a recount, including any overtime expenses for reprogramming voting equipment, and other expenses as may be necessary to conduct a recount; and,
- B. Attorney's Fees and Costs - Actual attorney's fees and costs incurred by SOE for research on any matter directly related to City of Orlando's Municipal Elections shall be invoiced by SOE for reimbursement by MUNICIPALITY.

SECTION 22. Hold Harmless Covenant. MUNICIPALITY shall at all times hereafter indemnify, hold harmless and, at SOE's option, defend or pay for an attorney selected by SOE to defend SOE, its officers, agents, and employees against any and all claims, damages, injuries, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, arising out of or resulting from any or all acts of omission or commission of or by the MUNICIPALITY, its officers, agents, or employees, with respect to any election conducted pursuant to this Agreement. If any election contest pleadings, administrative challenges or other legal challenges or appeals arise in a City of Orlando race, MUNICIPALITY agrees to provide SOE with a courtesy defense at no charge to the SOE provided that there is no active negligence alleged regarding the SOE in the pleadings and there is no conflict of interest between MUNICIPALITY and the SSOE's interests or that SOE elects to waive such conflict.

Parties recognize that SOE is a state agency or subdivision as defined in Section 768.28, Florida Statutes and that nothing herein is intended to serve as a waiver of sovereign immunity by SOE or MUNICIPALITY for acts or omissions to which sovereign immunity applies. Furthermore, nothing herein shall be construed as consent by SOE, as a state agency

or subdivision of the State of Florida, to be sued by third parties in any matter arising out of any contract.

SECTION 23. Entirety and Amendments. The Agreement embodies the entire agreement between SOE and MUNICIPALITY and supersedes all prior agreements and understandings relating to the conduct of elections. No modification, amendment or alteration to this Agreement shall be effective or binding unless submitted in writing and executed by duly authorized representatives of both SOE and MUNICIPALITY.

SECTION 24. Effective Date. The Effective Date of this Agreement shall be the latest date of execution by duly authorized representatives of SOE and MUNICIPALITY as shown on the signature page hereto.

IN WITNESS WHEREOF, we, the undersigned, do hereby state that we have the authority to bind and obligate as promised herein, SOE and MUNICIPALITY for purposes of executing this Agreement on the dates set forth below.

Signature

Signature

Bill Cowles
Name (Printed or Typed)

Name (Printed or Typed)

Orange County Supervisor of Elections
Title

Title

Date

Date

Witness Signature

Witness Signature

Witness Name (Printed or Typed)

Witness Name (Printed or Typed)

Approved as to form and legality for the use and reliance of the City of Orlando, Florida on this ____ day of _____, 2015.

City Attorney