

## INTERLOCAL AGREEMENT FOR ELECTION SERVICES

By and Among the City of Naples, Collier County and the Collier County Supervisor of Elections

This Agreement for Election Services (Agreement) is for the February 2, 2010, City Council Election, and is by and among the City of Naples ("City"), Collier County, by and through the Collier County Board of County Commissioners ("County") as owners of the County's voting and ballot tabulation equipment, and the Collier County Supervisor of Elections ("Supervisor"), as custodian of the County's voting and ballot tabulation equipment.

### WITNESSETH

In consideration of the premises and covenants set out below, and for \$10 and other valuable consideration in hand received by the County and the City, it is hereby acknowledged and agreed by the parties hereto as follows:

1. This Agreement is entered into pursuant to the provisions of the Florida Interlocal Cooperation Act of 1969, set forth in §163.01, et seq., *Fla. Stat.*, and is further authorized pursuant to the parties' respective home rule powers granted by the Florida Constitution.
2. The City represents that under the terms of the City Charter, the City is responsible for the conduct of all its municipal elections except when the City chooses to call a special election to be held by mail ballot. Nothing in this Agreement shall be construed to imply that the County or the Supervisor interpreted the provisions of the City's charter or interfered in any way with the City's exercise of its home rule powers pursuant to the conduct of the City election.
3. To facilitate the City's conduct of its February 2, 2010 election, the Supervisor shall do those items enumerated in Exhibit A identified as s.19.1, Security Procedures for Stand Alone Municipal Elections of Collier County.
4. The City shall provide to the Supervisor and the Florida Attorney General a copy of the City's letter of submission and response to and from the U.S. Department of Justice relative to "any change [made by the City] affecting voting, even though it appears to be minor or indirect." See 28 C.F.R. Part 51. Such copy shall be provided no later than 5:00 p.m. on the fourth day preceding the election.
5. Subject to the terms of this Agreement, the County agrees to lease the following items to the City for use at the polls in its election:
  - 28 DS200 optical scanners (2 per polling place plus 4 backups)
  - 28 EViDs with battery backups (2 per polling place plus 4 backups)
  - 14 iVotronic ADA units with booths (1 per polling place plus 2 backups)
  - 12 compacs (1 per each ADA unit)
  - 28 PEBs (1 red and 1 green per ADA unit)
  - 12 laptop computers (only if needed)
  - 12 precinct signs with flags
  - 12 precinct file caddy and supplies
  - 72 voting booths (6 per polling place)
  - 12 cell phones for Clerks

These quantities do *not* include early voting. The Supervisor shall provide the cell phones.

6. The City shall be responsible for obtaining executed Facility Use Agreements with the twelve polling sites and providing copies to the Supervisor.

7. The Supervisor shall prepare and inspect all voting equipment and supplies to be used in the election. This includes the installation, activation and testing of the modem lines at the polling site.

8. The Supervisor shall coordinate and oversee the timely delivery and return of all voting equipment and supplies used in the election. The City shall reimburse the Supervisor for any direct costs associated with the delivery or movement of equipment or supplies.

9. The Supervisor shall provide all oaths, forms, and training materials to the City's Election Workers. Deputies need to be sworn in by the Sheriff's Office.

10. No later than the day following the election, the Supervisor shall pick-up the equipment used in the City's election.

11. The City shall use the County's certified tabulating systems, and pay directly to the Supervisor all costs for programming, on-site election support, and any repairs required as a result of the City's use.

12. Nothing in this Agreement shall require the County or the Supervisor to arrange for the acquisition of additional equipment for use by the City at its poll sites should such equipment not already be in the County's inventory.

13. Neither the County nor the Supervisor shall be held accountable for voting equipment or supply needs not contained within this Agreement. Requests by the City to modify or change this agreement regarding voting equipment and supplies must be in writing and timely. Whether such requests will or will not be honored shall be at the sole discretion of the Supervisor. The Supervisor will be reimbursed the actual costs of any changes or modification made to this Agreement.

14. Subject to the terms of this Agreement, the County agrees to lease to the City the ballot tabulation equipment components enumerated herein:

- **Model M650 Tabulator**
- **Unity Election System including**
- **Data Manager**
- **Ballot Image Manager**
- **Hardware Programming Manager**
- **Data Acquisition Manager**
- **iVotronic Image Manager**
- **Reporting Manager**

15. The County agrees to lease the foregoing ballot tabulation equipment to the City subject to the following additional conditions:

- The City shall utilize the services of the staff of the Supervisor to program the system for ballot tabulation of the City election.
- The City shall not remove the ballot tabulation equipment from the Collier County Government Center where it is in the Supervisor's custody or take any action, which would jeopardize the security of the system or interrupt the custody chain.
- The City shall be present for the Logic & Accuracy Test at 9:00 a.m. on Monday, eight days prior to the election at the office of the Supervisor.

- The Supervisor shall arrange for storage of the Logic & Accuracy Test.
- The City's failure to comply with any of these provisions, as determined by the Supervisor, shall constitute adequate grounds for termination of this Agreement for convenience by the Supervisor, on behalf of the Supervisor and the County, upon five (5) calendar days notice from the Supervisor to the City. However, any such termination for convenience by the Supervisor shall not relieve the City from fully complying with any of its outstanding obligations under this Agreement.

16. The Supervisor's office shall be and is solely responsible for the content and format of any affidavits and training materials used in the course of its election.

17. The Supervisor shall be responsible for any training of City's election workers, and the development of its training materials. The City Clerk or her representative will attend and complete at least one full training session. The City shall be liable for all actions taken by the City's election workers during the course of its election day. The City shall enforce §102.031(4) and (5), *Fla. Stat.* (2008), which provides:

(4)(a) No person, political committee, committee of continuous existence, or other group or organization may solicit voters inside the polling place or within 100 feet of the entrance to any polling place, or polling room where the polling place is also a polling room, or early voting site. Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries.

(b) For the purpose of this subsection, the terms "solicit" or "solicitation" shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item. The terms "solicit" or "solicitation" shall not be construed to prohibit exit polling.

(c) Each supervisor of elections shall inform the clerk of the area within which soliciting is unlawful, based on the particular characteristics of that polling place. The supervisor or the clerk may take any reasonable action necessary to ensure order at the polling places, including, but not limited to, having disruptive and unruly persons removed by law enforcement officers from the polling room or place or from the 100-foot zone surrounding the polling place.

(5) No photography is permitted in the polling room or early voting area.

The Supervisor shall train all deputies on the above-referenced rule, and the City shall be responsible for resolving all issues arising from the enforcement of the same.

18. The Supervisor shall be responsible for all activity relating to absentee ballots, including processing requests, addressing envelopes, mailing absentee ballots, verifying signatures on cast absentee ballots, and preparing accepted ballots for tabulation. Such work shall be conducted in conformity with Florida law and at the direction of the City Canvassing Board. The City shall be responsible for all direct costs associated with processing absentee ballots.

19. The Supervisor shall prepare and advertise bilingually the voter registration book closing in accordance with general law and obtain an Affidavit of Publication for same. Said advertisement shall subsequently be billed to the City, which shall be responsible for payment. With the sole exception of the voter registration book closing advertisement, the City shall publish bilingual advertisements for all required election notices in a newspaper of general circulation within the County.

20. The Supervisor shall be responsible for retention and destruction of all election materials in conformity with applicable State and Federal laws.

21. To lease voting units, and other supplies listed within this contract, the fee shall be \$100 per voting unit (\$100 x 28 DS200s = \$2,800; \$100 x 14 ADA units = \$1,400). The fee shall cover replacement parts and shipping necessary to repair any damages to the County's voting unit or equipment leased to the City. In the event the cost of such replacement parts exceeds the amount of the fee, the City shall reimburse the County for the difference. The fee of \$4,200.00 shall be paid to the Supervisor no less than 45 days prior to election day. The City agrees to pay for training, tabulation equipment, and ballot setup, in the amount of \$2,400.00. Additional charges may apply for Spanish translation at a rate of \$ .25 to \$ .50 per word with a minimum charge of \$25.00. The Supervisor will bill this amount after the election.

22. Within ten calendar days of the City election date, the City shall provide any replacement parts or equipment that were lost, stolen, or damaged while in the City's possession.

23. If the Supervisor's actual City election costs exceed the amount of the fee, the City shall pay the Supervisor's bill within ten calendar days of its receipt. Rates for the Supervisor's bill shall be actual costs associated with the following:

- Advertising the voter registration book closing
- Actual Staff labor costs for work unique and peculiar to the City's election
- \$.15 per page for 8.5" x 11" or 8.5" x 14" copies
- \$.20 per page for duplexed copies
- Any expenditure required to conduct the City's election and paid for by the Supervisor.

24. Notwithstanding all provisions for payment set forth in this Agreement, the City shall be responsible for all costs associated with manpower, equipment, postage, and any other election costs, whether or not specifically set forth in this Agreement.

25. Nothing in this Agreement relieves the City of its responsibility to develop security procedures for its election. The County and Supervisor responsibility for security regarding the City's election are limited to those items contained in the attached Exhibit A.

26. The County and the Supervisor have no liability for costs or expenses or other liability incurred by the City in preparation for this election should the U.S. Department of Justice note an objection in its response to the Mayor's request. Further, should there be a response noting an objection which would delay or prohibit the conduct of the election, the City is not relieved of any related financial obligation owed to the County and Supervisor arising from fees, goods and services, or other costs and expenses whether or not specifically set forth in this Agreement, incurred by the Supervisor up to the time the City notifies the Supervisor in writing of the Department of Justice objection.

27. The City shall obtain an insurance policy which shall name the County as additionally insured or agree to provide coverage through the City's self-insurance and shall assure that the County will have no financial obligation which includes the City's responsibility for paying any deductible for any damages to the County's voting and ballot tabulating equipment and systems used in a City election. A copy of the City's Certificate of Insurance or a resolution identifying the County as an additional insured shall be provided to the County within ten business days of the City executing this agreement.

28. In the event there is an election protest, contest, or sequestration order arising from the City's election involving any component of the County's voting system and/or equipment which would preclude its further use until the matter has been resolved by the courts, and the County has an election scheduled where the equipment must be used, the City shall make a \$25,000 security deposit to Collier County within four calendar days of the issuance of the sequestration order for the tabulation component and an additional \$25,000 if voting units are

involved. The unused balance on the security deposit shall be returned to the City when the legal matter has been resolved and the equipment has been returned.

29. The City shall arrange for candidates, candidate supporters, and members of the press to congregate and await election results in a suitable and publicly accessible meeting area such as the County Commission meeting room, City Hall, or other comparable location. The Supervisor retains exclusive control of secured areas within the Elections Office throughout the election.

30. With the exception of activities relating directly to the Supervisor's determinations regarding voter registration and eligibility, and to the extent permitted by law, the City shall pay for the Supervisor's selection of defense counsel and indemnify and hold harmless the County, the Supervisor, their officers, agents, and employees, from and against any and all actions, in law or in equity, from liability or claims for damages, injuries, losses, and expenses including attorney's fees, to any person or property which may result now or in the future from City's activities associated with this City election, arising out of or resulting from any and all acts of omission or commission relating to the City's election or the City's responsibility under this Agreement. Further, to the extent permitted by law, the City shall pay for the Supervisor's selection of defense counsel and indemnify and hold harmless the County, the Supervisor, their officers, agents and employees, from and against any and all actions, in law or in equity, from liability or claims for damages, injuries, losses, and expenses, to any person or persons authorized by the City, its employees, or agents to participate in the City election when not otherwise authorized or eligible, or from events relating expressly to City election activity.

31. All costs, including attorney's fees and court costs, shall be paid by the City for:

- a. Litigation involving payment due to the County or Supervisor and for collection for any judgment recorded against the City, and
- b. Litigation involving the City's election whether brought by an elector, the U.S. Department of Justice, or others.

32. This Agreement shall be valid only for the City's election held February 2, 2010.

33. In the event any part of this Agreement is determined to be unenforceable by a court of competent jurisdiction, said ruling shall not invalidate the remaining parts of the Agreement.

IN WITNESS WHEREOF, the parties hereto authorize this Agreement and affix their hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the City Council of the City of Naples, and this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the Collier County Board of County Commissioners and the Supervisor of Elections of Collier County.

ATTEST:  
Dwight E. Brock, Clerk

Collier County Board of County  
Commissioners

\_\_\_\_\_  
, Deputy Clerk

\_\_\_\_\_  
Donna Fiala, Chairwoman

Approved as to form and legal sufficiency  
for the County:

Supervisor of Elections of Collier County

\_\_\_\_\_  
Scott Teach  
Deputy County Attorney

\_\_\_\_\_  
Jennifer J. Edwards, Supervisor of Elections

ATTEST:

City of Naples

\_\_\_\_\_  
Tara Norman, City Clerk  
City of Naples

\_\_\_\_\_  
Bill Barnett, Mayor

Approved as to form and legal sufficiency  
for the City:

\_\_\_\_\_  
Robert Pritt, City of Naples Attorney

**Exhibit A**  
Collier County, Florida

**§ 19.1 SECURITY PROCEDURES FOR A STAND ALONE MUNICIPAL ELECTION**

1. The Supervisor shall advertise the registration book closing.
2. The City shall advertise the Notice of Election, a sample ballot, and all canvassing board meetings.
3. The Supervisor will provide the City with a precinct-by-precinct demographics report within seven days of registration book closing.
4. On the 4th day preceding election day, the Elections Office will run the computer sort to produce precinct registers for use in the City's election. This is not required for mail ballot elections or if EViDs are being used.
5. Any request for additional equipment or supplies outside the scope of this agreement must be done sufficiently in advance of the need, at the determination of the Supervisor. The County shall not be required to provide equipment it does not have nor shall it be required to provide all equipment requested.
6. The Supervisor shall arrange the delivery and pick-up of all election equipment and supplies.
7. Any election equipment in the possession of the City shall be returned to the County no later than the day after the election. The equipment shall be in the same condition as when it was received by the City.
8. The Supervisor will, prior to the canvass of votes, provide all absentee ballot services needed to conduct the City election. This includes signature verification.
9. If the City leases the County's ballot tabulation system, only the Supervisor's security procedures for building and system access shall apply. The City shall be responsible for all other security measures for its procedures and supplies.
10. The Supervisor shall be responsible for retention and destruction of all election materials in conformity with applicable State and Federal laws. The City is responsible for any direct costs associated with the same.
11. All candidate information, amendments, and referendums must be submitted to the Supervisor no later than the 42<sup>nd</sup> day prior to election day, the last day of qualifying.
12. The Supervisor will invoice the City of Naples all costs associated with producing the audio ballot.
13. Elections costs shall include, but not be limited to, expenditures for all supplies including envelopes, instructions to voters, affidavits, precinct registers, if used, reports, ballots, postage, notices to voters, advertisements, testing of equipment, sample ballots, data processing time and supplies, delivery and retrieval of equipment, records retention and labor costs, including those costs uniquely associated with absentee ballot preparation and canvassing of the same. These costs will be the responsibility of the City and billed to the City.
14. The cost of polling place rentals shall be the responsibility of the City.
15. The Supervisor shall be responsible for issuing checks to all election workers and the City shall reimburse the Supervisor for these costs.