

## **AGREEMENT FOR ELECTION SERVICES**

This Agreement is made this 5<sup>th</sup> day of October, 2016, by and between the Village of Estero, Florida ("Village") and Sharon Harrington, the Supervisor of Elections of Lee County, Florida, ("Supervisor").

WHEREAS, Village is required to provide for the conduct of its elections; and

WHEREAS, Supervisor as the lawfully elected constitutional officer of Lee County, Florida, is the official custodian of the registration books and has the exclusive control of matters pertaining to the registration of electors; and

WHEREAS, Supervisor is willing to conduct elections for the Village subject to the terms and conditions set forth in this Agreement; and

WHEREAS, Village desires that the Supervisor conduct elections for the Village; and

WHEREAS, information in the form of a Question and Answer page has been provided by the Supervisor and is attached hereto as an addendum.

NOW, THEREFORE, in consideration of the promises and covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Supervisor's Duties: Supervisor shall conduct such elections for Village as may be requested by Village including Special Elections, on such dates as are mutually agreed upon by Village and Supervisor, all in accordance with the Florida Election Code, the Village Charter and any applicable Village ordinances. The services to be provided by Supervisor include:

- 1.1 Supervisor shall prepare ballots, including, as necessary, candidates, referenda and instructions to voters.
- 1.2 Supervisor shall provide, operate and maintain voting and tabulation equipment necessary for Village elections.
- 1.3 Supervisor shall provide such personnel as are necessary to: conduct village elections, tabulate the vote and provide results to the Village.
- 1.4 Supervisor shall provide operating supplies necessary to conduct village elections.
- 1.5 Supervisor shall perform all functions necessary to the distribution, processing and counting of mail ballots.
- 1.6 Supervisor shall provide adequate polling place facilities for each village precinct.

- 1.7 Supervisor shall advise and assist the Canvassing Board as needed.
- 1.8 Supervisor shall conference with Village to prepare for Village election at least 120 days prior to such election at which time the Supervisor will begin consulting with the Village Clerk regarding proposed polling locations, voting machine and support staff ratios and standards (no less than 2 scanners per precinct and 3 scanners per early voting site). Supervisor will also provide an initial cost estimate for the election as well as estimates for specific voting methods (election day, early voting, and vote-by-mail) and any additional special requirements requested by the Village.
- 1.9 In support of the Village's role as qualifying officer pursuant to paragraph 2.5 of this Agreement, Supervisor shall certify all required qualification signatures to the Village, at the candidate or petitioner's expense, for any candidate or petition for referenda seeking qualification for any proposed Village elections.

2. Village's Duties:

- 2.1 Village shall immediately notify, continually advise, and provide written copies of all provisions of law pertaining to elections within the village, including the Village Charter, Village Code of Ordinances, Special Acts and any additions or amendments thereto, as necessary for Supervisor to conduct Village's elections.
- 2.2 Village shall notify Supervisor in writing, and get Supervisor's consent thereto, at least one-hundred twenty (120) days in advance of all election dates and such notice shall include the qualifying periods applicable thereto. (This requirement may be reduced to ninety (90) days in the event of death or removal of the Mayor or a Village Council Member).
- 2.3 Village shall provide Supervisor within twenty-four (24) hours of close of election qualifying period: (a) a copy of the proposed Resolution calling for the election, designating qualified candidates, and providing legally sufficient ballot language for any referenda items (a) Resolution; and (b) a copy of the original Oath of Candidate designating each candidate's name as it is to appear on the ballot. Village shall provide the adopted Resolution within twenty-four (24) hours of its adoption.

- 2.4 Pursuant to paragraph 1.8 of this Agreement, the Village Clerk shall conference with Supervisor at least one hundred twenty (120) days prior to the scheduled election and on, or before, that date, provide an up-to-date map clearly indicating official village and voting district boundaries (ninety (90) days in the event of the death or removal of the Mayor or a Council member).
- 2.5 Village shall serve as qualifying officer to accept qualification papers and fees and to perform such administrative tasks as are necessary to such function, including receipt and preservation of records filed pursuant to candidate financial reporting requirements.
- 2.6 Village shall reimburse Supervisor for all services, supplies, expenses and costs of whatever kind or nature incurred as a result of or in the conduct of the Village's elections; however, it is not contemplated that village elections held in conjunction with federal, state, or county elections would cause Village to reimburse Supervisor for expenses, except those expenses solely related to Village's elections which would not have otherwise been incurred by Supervisor.
- 2.7 To the extent permitted by Section 768.28, Florida Statutes, Village shall indemnify and hold Supervisor harmless from and against all claims, damages, injuries, litigation, actions or losses including reasonable attorney's fees arising out of or resulting from the acts of Supervisor, in the performance of her lawful duties and the responsibilities under this Agreement. Provided, however, that the Supervisor and Village as agencies or subdivisions of the State of Florida, as defined in Section 768.28 agree to be fully responsible for their own negligent or tortious acts or omissions which result in claims or suits against the other, and agree to be liable for any damages proximately caused by such acts or omissions to the extent set in Section 768.28. Furthermore, nothing in this Agreement nor any action taken by the Supervisor or the Village that arises out of this Agreement shall constitute or be construed as a waiver of the sovereign immunity of either party.
- 2.8 Village shall name Supervisor as additional insured under Village property and casualty insurance policies, including but not limited to general liability,

with respect to all activities of Supervisor relating to or arising out of the conduct of village elections.

2.8.1 Subject to Supervisor's approval in any particular instance, which approval shall not be unreasonably withheld, Village Attorney, or designee, shall have authority to defend, negotiate and participate in any actions or claims for damages arising from the responsibilities of Supervisor under this agreement, or provide for defense of such actions or claims through its Risk Management Pool or other appropriate firm.

2.8.2 No settlement of such claims or actions shall be binding upon Village unless approved by the Village Council.

3. Expenses and compensation: Upon completion of election services for any election, Supervisor shall provide an invoice to the Village detailing the costs incurred by Supervisor in conducting the election for Village. Reimbursement shall be made within thirty (30) days to Supervisor for such costs consistent with Chapter 100 and Section 97.021(14), Florida Statutes, including but not limited to the following: printing, labor, poll workers, rent, postage, transportation, forms, supplies, communication and use of tabulation equipment. Supervisor will provide such verification of expenses and third-party invoices as is reasonably requested by Village.

4. Term: This Agreement shall become effective on the date of its execution by both parties and shall continue in effect for one (1) year from such date. The Agreement shall be automatically extended from year to year unless either party provides written notice of its intent to terminate at least six (6) months prior to the month in which a village election is scheduled.

5. All costs for collection and enforcement of this Agreement including reasonable attorney's fees shall be paid by the losing party to the prevailing party.

6. Where used herein references to Village or Supervisor shall include the officers, agents and employees of each.

7. This Agreement shall not be applicable to elections which are limited solely to freeholders.

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

9. This Agreement shall become effective on the date first above written. This Agreement and any subsequent amendments thereto, shall be filed with the Clerk of the Circuit Court of Lee County, Florida.

Witnesses:

SUPERVISOR OF ELECTIONS

\_\_\_\_\_  
1st Witness

By: \_\_\_\_\_  
Sharon L. Harrington

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
2nd Witness

\_\_\_\_\_  
Printed Name

VILLAGE OF ESTERO, FLORIDA

By: \_\_\_\_\_  
Nick Batos, Village Mayor

Attest:

\_\_\_\_\_  
Kathy Hall, MMC, Village Clerk

Approved as to Form:

\_\_\_\_\_  
Burt Saunders, Esq., Village Attorney

## ADDENDUM

### Q & A

How much would they save by adopting an ordinance which allows for an election to be on the same date as the Presidential Preference Primary?

- If the Village of Estero would hold its election in conjunction with the Presidential Preference Primary, there would be no cost for that election. Direct costs would be applied to all other elections not held on the same day as the PPP.

Is the rule about no municipal elections on federal or state election days a statutory rule/regulation or is it a rule created by the Supervisor of Elections.

- The rule about no municipal elections on federal or state election days is at the discretion of the Supervisor with the contract to conduct the Village of Estero elections stating that the election must be held on a mutually agreed upon date. We do not conduct any municipal elections on countywide elections other than on the PPP as mentioned above.

With respect to polling locations and equipment, it is my understanding that there are no specifically mandated guidelines and that each Supervisor's office uses its reasonable discretion. However, the Village Council is concerned that since the upcoming elections are outside of the typical federal and state cycle that there may not be adequate equipment and wish to avoid lines for local voting. Would it be possible to add some specific language regarding these concerns – perhaps whatever internal standards your office would typically rely on in these instances?

- There will be an adequate supply of voting equipment for each of the Estero precincts regardless of whether they have their election with the PPP which is a countywide election, or at another time when we are conducting just their municipal elections. After the 2012 election we added an additional 100 units in the field which provides for no less than 2 scanners per precinct and 3 per early voting site.

Finally, on the qualifying provisions, since the Village does not have the resources to confirm the signature requirements for the petitioners seeking qualification is there a means by which we can flush that out more clearly with respect to the Supervisor's office confirming signatures for the candidate – my experience is that is a service the candidate pays for and then the scrubbed lists are sent to the municipality for final qualification?

- Signature verification on candidate petitions is done by the Supervisor of Elections. Candidates can bring their petitions to the Main Office and pay the signature verification fee of \$ .10 per petition. We will verify candidate-petition signatures and certify the number of valid signatures to the Village Clerk. The Village Clerk will then use the certification provided by the Supervisor in the qualifying process to determine whether the candidate will need to pay a filing fee or they have provided the required number of petitions with valid signatures in lieu of paying the fee.

Cost Estimates – I understand from Burt that the 2017 budget is based on a \$3 and \$5 dollar per voter approximation with \$3 dollars being for regular election day polling and \$5 dollars for early election and mail-in or absentee voters. Am I correct in these assumptions, if possible we would like to provide that basis in the estimate provision of the Agreement as it will help the Council decide on whether early voting is cost effective.

- The City of Sanibel and the Town of Fort Myers Beach will hold expenses that can be shared by each municipality, for example: required legal advertising in a newspaper of general circulation (News-Press) of the Canvassing Board Meetings Schedules, voter registration book closing notices, the sample ballots and staff overtime for Election Day, however, some election costs will be specific to the Village election.

- In accordance with Section 97.021(13) Florida Statutes, “election costs” include, but are not limited to: *expenditures for all paper supplies such as envelopes, instructions to voters, affidavits, reports, ballot cards, ballot booklets for absent electors, ballot language translation, outgoing postage, return postage, notices to voters; advertisements for registration book closings, testing of voting equipment, sample ballots, and polling places; forms used to qualify candidates (when necessary or required); polling site rental and equipment delivery and pickup, poll worker staffing and training, polling place signage set-up and removal; data processing time and supplies; election records retention; labor costs, staff overtime; designation and cost for operation of early voting sites (if requested by the Village); including those costs uniquely associated with vote-by-mail ballot preparation, poll workers, and election night canvass.*
- The Village currently has 26,480 registered voters. We estimate election costs at approximately \$3.00 per voter. The estimate *does not* include shared costs for legal advertising. The Village’s portion of shared legal advertising costs may be as high as \$6,000. Additionally, if the Village places referendums on the ballot, the Village is responsible for separate advertising its referendums in accordance with Section 100.342, Florida Statutes once in 5<sup>th</sup> week and once in the 3<sup>rd</sup> week before the day of the election in a newspaper of general circulation.

Also, how soon does the Village need to make a decision on early voting?

- If the Village elects to hold early voting, the cost may be as high a \$5.00 per voter in addition to shared legal advertising costs and is based on the designation of (1) one early voting site. The cost per voter increases with the designation of additional sites. You can use these numbers ( $\$3.00/\$5.00 \times 26,480 + \$6,000$ ) as an approximate amount when figuring the cost of the 2017 Village election. The Village’s shared and actual election costs will be supported by invoices post-certification of the Village election.
- The Supervisor of Elections requires 120-day notice by way of resolution of the governing body of the Village wherein the Village calls for the March 7, 2017 and authorizes the Supervisor of Elections to conduct the Village election. The deadline to submit the resolution is Monday, November 7, 2016.