

Agenda Item No. C-3

VILLAGE OF ROYAL PALM BEACH
Agenda Item Summary

AGENDA ITEM: Approval and authorization for the Mayor to execute “Agreement for Vote Processing Equipment Use and Election Services by the between the Palm Beach County Supervisor of Elections and the Village of Royal Palm Beach”.

ISSUE: It is the desire of the Village and the SOE to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Election Code are followed during municipal elections.

RECOMMENDED ACTION: Motion to Approve

Initiator	Village Manager Approval	Agenda Date	Village Council Action
Village Clerk		12/17/09	

**AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES
BY AND BETWEEN
THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND THE “VILLAGE OF
ROYAL PALM BEACH”**

THIS AGREEMENT, is made and entered into this ___ day of December, 2009, effective January 1, 2010, by and between the Palm Beach County Supervisor of Elections, an elected county officer pursuant to Article VIII, Sec.1(d) of the *Florida Constitution*, hereinafter referred to as the “**SOE**”, and the Village of Royal Palm Beach, a municipal corporation, chartered and organized in accordance with the laws of the State of Florida, hereinafter referred to as the “Municipality”.

WITNESSETH:

WHEREAS, Chapters 97 to 106, *Florida Statutes*, constitute the Florida Election Code (the “Code”) which applies to municipalities where expressly so stated; and

WHEREAS, Sec 100.3605, *Florida Statutes*, states that “[T]he Florida Election Code, chapters 97-106 shall govern the conduct of a municipality’s election in the absence of an applicable special act, charter, or ordinance provision”; and

WHEREAS, the Municipality and the SOE desire to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Code are followed during municipal elections; and

WHEREAS, the SOE and the Municipality wish to enter into this Agreement to set out the terms of this coordinated program.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained to be kept and performed by the parties hereto, and for the mutual benefit of the Municipality, its constituents and the SOE, it is agreed as follows:

1. **PURPOSE:**

The purpose of this Agreement is to set forth the terms and conditions under which services will be provided by the SOE and staff to the Municipality for municipal elections and to set forth the responsibilities of both parties so that there is a clear understanding of the rights and responsibilities of all parties. Such rights and responsibilities shall apply to the General, Run-Off, Special and Recount elections as necessary as well as the Post Election Audit, unless otherwise stated hereinbelow.

2. **DATE OF GENERAL MUNICIPAL ELECTION:**

The date of the Municipality’s General Municipal election is March 9, 2009. It is hereby acknowledged and agreed that if the date listed is the same as most other municipalities in March or November, there will be a cost sharing among municipalities for costs incurred by the SOE. Such costs shall be allocated on a pro-rata share basis; otherwise, it is hereby acknowledged and agreed upon by the municipality that it is responsible for all costs of the election, incurred by the

office of the SOE.

3. **FEES AND CHARGES TO BE PAID BY THE MUNICIPALITY:**

The SOE hereby agrees not to charge Municipality for taxpayer purchased equipment and supplies; (i.e. voting machines, tables, chairs, etc.) and associated maintenance and contract fees related to such equipment in return for which the Municipality hereby agrees not to charge the SOE for polling places within its dominion and control. Examples of municipal elections charges related to certain services performed by the SOE to be passed through to the Municipality on a shared pro rata basis for all municipalities holding elections on a general election day (i.e. 2nd Tuesday in March or November) are attached hereto as Exhibit A; Examples of total costs to small, medium and large municipalities are attached hereto as Exhibit B.

4. **RESPONSIBILITIES OF BOTH THE MUNICIPALITY AND THE SOE FOR MUNICIPAL ELECTIONS:**

A. Notice and Advertisement

(1) **Municipality**

- (a) Properly call and advertise the election according to statutes and charter at its own expense.
- (b) Issue a resolution or ordinance to the SOE requesting that the Supervisor of Elections conduct the municipality's election and act as a member of the Municipality's Canvassing Board.

(2) **SOE**

- (a) Publish legal notices for Logic & Accuracy testing, absentee ballot canvass, Post Election Audit and news releases on book closing.

B. Qualifying Candidates

(1) **Municipality**

- (a) Provide qualifying packets to candidates and accept and process all qualifying papers and fees.
- (b) Collect Name and Pronunciation Guides from the candidates at the time of qualifying and submit to SOE.
- (c) Respond to all candidate inquiries and questions.
- (d) Respond to all legal inquiries and questions.
- (e) Respond to all media inquiries.

(2) **SOE**

- (a) Verify signatures on any qualifying petitions submitted by candidates and notify the Municipality of such results upon the close of the candidate qualifying deadline.

C. Ballots

(1) Municipality

- (a) Review, amend (if necessary) and approve ballot proof prepared by SOE.
- (b) Place an order with the SOE for a sufficient quantity of ballots as applicable.
- * (c) Pay ballot design costs to the SOE as incurred.
- (d) Pay the ballot printer directly for the cost of said ballots.
- * (e) Reimburse the SOE for costs incurred for translation and audio recording of ballot.
- * (f) Reimburse SOE for preparation of Absentee Ballot, Edge layout and Sample Ballot.

(2) SOE

- (a) Layout, check, proof and delivery ballot layout to the printer.
- (b) Receive, securely store and account for all ballots until disbursed to polling places.
- (c) Contract to have audio recorded for Touch Screen ballot.
- (d) Control all access to unvoted ballots while in the possession of the SOE.

D. Equipment Testing

(1) Municipality

- (a) Provide that a representative will be present during the Logic and Accuracy testing as noticed by SOE.

(2) SOE

- (a) Develop a unique test script and manually mark ballots to be used in public Logic & Accuracy test.
- (b) Conduct public Logic & Accuracy test.

E. Early Voting – Optional

(1) Municipality (NA)

- * (a) Reimburse the SOE for staff overtime hours due to weekend and/or evening hours for Early Voting.
- * (b) Pay SOE for Early Voting supplies.
- (c) Contract with, schedule and pay poll workers directly.
- (d) Deliver voted ballots to SOE daily at a location designated by SOE.
- (e) Designate Early Voting sites thirty (30) days prior to each Election and notify SOE in writing of locations.

(2) SOE

- (a) Prepare and provide all supplies needed for each Early Voting site.
- (b) Provide the Municipality with a list of poll workers.
- (c) Train poll workers.
- (d) Provide staffing to accept voted ballots daily at a location designated by SOE.

F. Absentee Voting

(1) Municipality

- * (a) Reimburse SOE for all postage costs incurred at the current postal rate.
- * (b) Pay SOE for materials and handling of each absentee ballot.
- * (c) Pay SOE \$.10 per absentee ballot for verifying signatures on returned voted ballot certificates.
- (d) Refer all requests for absentee ballots to SOE.

(2) SOE

- (a) Determine eligibility and compile Absentee Ballot file.
- (b) Accept all requests for Absentee Ballots by telephone, mail or in person.
- (c) Prepare and mail Absentee Ballots.
- (d) Deliver Absentee Ballots to the Post Office.
- (e) Receive voted Absentee Ballots.
- (f) Verify signatures on returned voted Absentee Ballot certificates.
- (g) Prepare and open Absentee Ballots for tabulation.
- (h) Account for all Absentee Ballots.
- (i) Notify Absentee Ballot voter and provisional voters of the disposition of the Canvassing Board as required by law.
- (j) Record Absentee Ballot returns to voter history.
- (k) Conduct public testing of Logic and Accuracy for Absentee Ballot tabulating equipment.
- (l) Provide qualified staff to operate tabulation equipment to count Absentee Ballots.

G. Polling Places

(1) Municipality

- (a) Arrange for the use of an adequate number of polling places.
- (b) Confirm polling place accessibility and ADA compliance.
- (c) Notify SOE in writing thirty (30) days prior to election of the need for tables and chairs if necessary.
- (d) Notify SOE of polling locations to be used.
- (e) Notify the SOE not less than 30 days prior to the election that a polling place will be moved to another site.
- (f) Notify voters, as required by law, if their regular polling place is to be temporarily relocated.

(2) SOE

- (a) Provide the Municipality with a list of polling places and SOE contract.
- (b) Provide tables and chairs upon written notice from the Municipality when required.
- (c) Provide polling place supplies, i.e. signs, cones, etc.
- (d) Notify voters and the Municipality of permanent polling place change.

H. Precinct Supplies

(1) Municipality

- * (a) Pay SOE for precinct supplies provided.
- * (b) Provide a secure place for precinct clerks to return supplies and voted ballots on election night.
- * (c) Pay SOE for the production of Precinct Registers.
- * (d) Pay directly to the SOE's contracted moving company to have voting equipment delivered and picked up from polling place no later than the day before the election and returned after the election.

(2) SOE

- (a) Provide Precinct Registers for each polling place location.
- (b) Provide Master CD compilation of registered voters for precinct advisors.
- (c) Provide certification of registered voters after book closing.
- (d) Prepare equipment, cabinets and routing of voting equipment delivery.
- (e) Provide laptop computer at each polling place.
- (f) Provide CD of voter file database for each polling place.
- (g) Provide poll worker Clerks with cell phones.
- (h) Provide Provisional Ballot envelopes and affidavit forms for each polling place.
- (i) Provide secrecy sleeves in a number and amount appropriate for each polling place.

I. Poll Workers

(1) Municipality

- (a) Contact, contract with and pay poll workers directly.
- (b) Schedule and notify poll workers of training classes.
- * (c) Reimburse SOE for expenses incurred for delivery and pick up of equipment to training locations.
- * (d) Reimburse SOE for expenses incurred in printing training material.
- * (e) Reimburse SOE for expenses incurred for trainers to train poll workers.
- * (f) Reimburse SOE for expenses incurred for contracted training locations.

(2) SOE

- (a) Provide the Municipality with a list of current poll workers.
- (b) Develop poll worker training schedule.
- (c) Plan and contract for training classes and locations.
- (d) Contract with and pay trainers to train poll workers.
- (e) Provide printed training materials for poll workers.

J. Election Day Support

(1) Municipality

- (a) Verify that all polling places are available to poll workers no later than 6:00 a.m. and open for voting promptly at 7:00 a.m. on Election Day.
- (b) Ensure that all polling places remain open until 7:00 p.m. or until all voters who are

in line to vote at 7:00 p.m. have completed voting
*(c) Reimburse SOE for all phone bank costs.

(2) SOE

- (a) Assist in finding poll worker replacements if needed.
- (b) Provide technical support personnel as needed.
- (c) Provide phone bank support to respond to poll workers and voters on Election Day.

K. Ballot Tabulation/Counting of Election Results

(1) Municipality

- (a) Deliver all voted ballots and other necessary election related items to a place designated by the SOE after the polling places have closed on Election Day.
- (b) Deliver **all** voting machine cartridges to a place designated by the SOE after the polling places have closed on Election Day.
- *(c) Reimburse the SOE for any staff overtime and other expenses in relation to the tabulation and processing of ballots on Election Day.
- (d) Act as member of Canvassing Board.

(2) SOE

- (a) Provide technical staff and required equipment to administer tabulation and election results.
- (b) Assist and act as a member of the Municipality's Canvassing Board (optional).
- (c) Post election results on SOE WEB site and provide the same to Channel 20.
- (d) Provide the Municipal Clerk with unofficial election results upon conclusion of tabulation and canvassing of ballots cast on Election Day.

L. Post Election Day

(1) Municipality (No Responsibilities)

(2) SOE

- (a) Provide the Municipal Clerk with an official certification of election results.
- (b) Store all necessary election records and ballots until the expiration of retention period prescribed by statutes.
- (c) Process polling place affirmation forms.
- (d) Sort, inventory, pack and store all election materials for retention and disposition.
- (e) Notify voters of the disposition of their Absentee or Provisional Ballots after the determination by the Canvassing Board, as required by law.
- (f) Respond to public records requests regarding records kept on behalf of the Municipality.
- (g) Record voting history for each voter who voted on Election Day.

M. Audit

(1) Municipality

- (a) Provide that the Municipal Clerk will be responsible for the administration of the

audit.

*(b) Reimburse SOE for any staff overtime or other related expenses as may result from conducting the manual audit.

(2) **SOE**

- (a) Organize precinct information to allow the Municipal Clerk to randomly select the race and precinct(s) that shall be audited.
- (b) Organize and prepare ballots for manual audit.
- (c) Provide SOE staff to conduct manual audit.
- (d) Ascertain and publically post manual audit result to SOE WEB site.

N. Recount

(1) **Municipality**

- (a) Provide that the Municipal Clerk will be responsible for the administration of the Recount, with support and guidance from the SOE.
- (b) Act as a member of the Canvassing Board.
- (c) Notify the candidates of the time and date of the Recount.
- (d) Post public notice(s) of the Recount with the time and location.
- (e) Cause to have the Recount recorded and minutes kept and approved by the Canvassing Board.
- (f) Review with the Canvassing Board and the counting teams the statutes and rules of the Division of Elections, specifically Rule 1S-2.031. Recount Procedures; and Rule 1S-2.027. Standards for Determining Voter's Choice on a Ballot.
- *(g) Reimburse the SOE for all staff salaries/overtime, facility and other expenses required to conduct the Recount.

(2) **SOE**

- (a) Post public notice(s) of the Recount with the time and location.
- (b) Test tabulating equipment as required by Sec. 101.5612, *Florida Statutes*.
- (c) Provide counting teams for examining out stacked ballots.
- (d) Prepare and organize ballots for Recount processing.
- (e) Tabulate ballots and provide professional staff for equipment operations.
- (f) Provide official certification as determined by the Canvassing Board.

* all items to be paid or reimbursed to the SOE will be paid by the Municipality within thirty (30) days of receipt of an invoice from the SOE with documentation verifying the charges.

5. INDEMNITY:

Each party to this agreement shall be liable for its own actions and negligence. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless SOE against any actions, claims or damages arising out of the Municipality's negligence in connection with its performance under this Agreement; and the SOE shall indemnify, defend and hold harmless the Municipality against any actions, claims or damages arising out of the negligence of the office of the SOE in connection with its performance under this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth at

Sec. 768.28, *Florida Statutes*. In no case shall such limits for the Municipality extend beyond \$100,000 for any one person or beyond \$200,000 for any judgment which, when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional acts or omissions. Notwithstanding the above, the Municipality shall defend legal challenges relating to its municipal election and shall be fully responsible for all legal costs for such defense of the Municipality and the SOE. The Municipality shall be responsible for damages, if any, assessed by virtue of such a lawsuit, up to the monetary limits provided for hereinabove without recourse to the SOE.

6. TERM:

This Agreement shall begin on the effective date January 1, 2010 and continue for a term of one year in order to cover Special Elections, if any. It shall be automatically renewed in accordance with the same terms and conditions as set forth herein upon the adoption of a Resolution by the Municipality requesting the SOE to conduct the municipality's election for the applicable year or may be modified by mutual agreement of the parties.

7. CHANGE IN LAW:

In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

8. NOTICES:

All formal notices affecting the provisions of this Agreement may be delivered in person or be sent by facsimile, registered mail, or by a recognized overnight courier such as FedEx, to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For the SOE:	For the Municipality:
Supervisor of Elections 240 S. Military Trail West Palm Beach, Florida 33415 Attention: Susan Bucher	Village of Royal Palm Beach 1050 Royal Palm Beach Boulevard Royal Palm Beach, FL 33411 Attention: Village Manager

9. SEVERABILITY:

If any clause, section, or provision of this Agreement shall be declared to be unconstitutional, invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

10. NO MODIFICATION EXCEPT IN WRITING:

This is the complete and final agreement between the parties. No representations other than those

set forth herein shall be binding upon the parties. No modification of this agreement shall be effective unless submitted in writing and signed by both parties, or their duly authorized representatives.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective January 1, 2010.

As to the SOE:

WITNESSES:

**SUPERVISOR OF ELECTIONS
PALM BEACH COUNTY**

Susan Bucher

Date: _____, 2009

As to the MUNICIPALITY:

ATTEST:

VILLAGE OF ROYAL PALM BEACH

Diane DiSanto, Village Clerk

David A. Lodwick, Mayor

(Affix Village Seal)

Date: _____, 2009

Palm Beach County Supervisor of Elections Office

Summary of Activity For Municipal Elections

	<u>Costs</u>	
<u>ABSENTEE BALLOTS</u>	<u>\$3.75</u>	Cost per AB Ballot processed
* Process Absentee Ballot Requests	0.45	
* Prepare and mail Absentee Ballots (machine use, staff time, voter file, postage), record/verify absentee ballot returns, prepare/opening of absentee ballots for tabulation	2.25	
* Provide absentee voting - prep and mailing	1.00	
* Notification to Absentee Ballot and provisional voters on the disposition of Canvassing Board	0.05	
<u>MUNICIPAL PACKAGE</u>	<u>\$2,338</u>	Cost per Municipal
* Arrange for translating, printing and recording of audio ballot	127	
* Provide polling place supplies – signs, cones, tables, chairs, etc.	25	
* Assist in finding poll worker replacements	54	
* Develop master CD compilation for precinct advisors	72	
* Provide certification of registered voters after book closing	60	
* Prepare Absentee Ballot, Edge layout and Sample Ballot	264	
* Publish legal notices for L&A testing, canvass and post elections and news releases on book closing, absentee ballots and other election related news	180	
* L&A test - development of a unique test script, manual ballot marking, pretesting for comparisons and pulling equipment for public tests	193	
* Election Day support (SOE staff and phone bank)	133	
* Election night support (SOE staff, vote tabulation and vote certification)	710	
* Assist municipality with canvass of Absentee Ballots, schedule canvass and act as member of Canvassing Board	290	
* Post election results on WEB site and Channel 20	94	
* Interface with candidates, press, city staff, city attorneys regarding Election Law	121	
* Conduct mandatory audit post election	14	
<u>PRECINCT SERVICES</u>	<u>\$155</u>	Cost per precinct
* Copy of current polling place contract	0.15	
* Provide Clerks with cell phone, precinct registers, affidavits, bags,etc.	20.00	
* Delivery and Pick up of voting equipment to training locations	8.46	
* Prepare precinct scanners and ADA Touch screen equipment	3.32	
* Prepare equipment cabinets and routing of voter equipment	14.65	
* Copy of current poll workers	0.15	
* Create and retain voting history (post elections)	25.61	
* Plan training class locations/train pollworkers/provide printed training materials	68.33	
* Provide laptop computers for Precinct Advisors	13.93	
* Provide CD of voter file database for Precinct Advisors	0.50	
<u>OPTIONAL SERVICES</u>		
* Registered Voters List, Mailing Labels, checks and verifications		
* Petition Signatures		
* EV Ballot printing costs (Runbeck BOD)		
* Early voting support		
* Run-offs, re-counts, costs, location, procedures,		
* Court challenges, legal expenses		
* Hire temporary staff as required		

PALM BEACH COUNTY SUPERVISOR OF ELECTIONS

Municipal Elections Charges

EXAMPLE OF MUNICIPAL COSTS *

<u>MUNICIPALITY</u>	<u>MUNICIPAL PACKAGE</u>	<u>ABSENTEE BALLOTS</u>		<u>PRECINCTS</u>		<u>TOTAL COST</u>
		<u># ballots</u>	<u>@3.75</u>	<u># precincts</u>	<u>@ \$155</u>	
HAVERHILL	\$2,338	40	\$150	4	\$620	\$3,108
RIVIERA BEACH	\$2,338	1,209	\$4,534	16	\$2,480	\$9,352
BOCA RATON	\$2,338	3,304	\$12,390	47	\$7,285	\$22,013

* The volume of Absentee Ballots and precincts is based on 2009 election data

* Costs do not include costs currently absorbed by municipalities i.e.; pollworker payroll, precinct rentals, advertising, security, and equipment delivery