

AGREEMENT

This Agreement is made this 24th day of January, 2024 (the Effective Date), by and between the Village of Estero, a Florida municipal corporation (the “Village”), and the Office of the Supervisor of Elections of Lee County, Florida, (the “Supervisor”).

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

WHEREAS, the 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;

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

WHEREAS, the Village desires that the Supervisor conduct elections for the Village.

NOW, THEREFORE, for and in consideration of the mutual promises and benefits conferred herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the parties hereto, intending to be legally bound, covenant and agree as follows:

1. Supervisor’s Duties: Supervisor shall conduct such elections for the Village as may be requested by the Village including special, stand-alone, and/or regularly scheduled elections and referenda, on such dates as are mutually agreed upon by The Village and Supervisor, all in accordance with the Florida Election Code, and any applicable Village charter or code provisions. The services to be provided by Supervisor include:
 - 1.1 Supervisor shall prepare ballots, including, as necessary, candidates, referenda questions, 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 is responsible for all statutorily required legal advertising, the cost of which shall be billed to the Village. Supervisor may provide for the publication medium of legal advertising as statutorily permitted by law. Supervisor will provide the Village with a copy of any legal advertisement or mailing that the Village must publish on its official website.
- 1.9 Supervisor must provide dual ballot languages (English and Spanish), and the legal advertising statutorily required of the Supervisor per the Language Minority Provisions of Section 203 of the Voting Rights Act.
- 1.10 Unless the Village provides written notice to the contrary at least one hundred and eighty (180) days prior to the date of any special, stand-alone, or regularly scheduled elections or referenda, the Supervisor shall act as the Election Qualifying Officer. As such the Supervisor shall be responsible for:
 - 1.10.1 Receipt and conditional review of all campaign finance reports in conformity with Florida law;
 - 1.10.2 Maintaining the candidate list for each election;
 - 1.10.3 Production and distribution of candidate packet materials;
 - 1.10.4 Providing election related notary services to campaigns and candidates;
 - 1.10.5 Petition processing and certification;
 - 1.10.6 Post-election campaign finance reconciliation support;
 - 1.10.7 Candidate qualifying instructions;
 - 1.10.8 Preparing and scheduling of the election calendar; and
 - 1.10.9 Determination of the candidate-qualifying period.

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, but not limited to, any charter, code of ordinances, special acts, and any additions or amendments thereto, as necessary for Supervisor to conduct the 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.
- 2.3 Village 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 boundaries (ninety (90) days in the event of the death or removal of the Mayor or a Council member).
- 2.4 Village is responsible for legal advertising statutorily required of the Village and must provide for the publication medium as required by law.
- 2.5 Village shall reimburse Supervisor for all services, supplies, expenses and costs of whatever kind or nature incurred because of or in the conduct of the Village's special or stand-alone elections or referenda. It is not contemplated that elections held in conjunction with federal, state, or county elections would cause Village to reimburse Supervisor for expenses, except those for expenses solely related to Village's elections, including, but not limited to, candidate withdrawal notices to voters, translation, recount, and attorney's fees, which would not have otherwise been incurred by Supervisor.
- 2.6 The Village shall indemnify and hold Supervisor harmless from and against all claims, damages, injuries, litigation, actions or losses, including reasonable attorney's fees and costs, arising out of or resulting from the lawful, non-negligent acts of Supervisor and Supervisor's employees, volunteers or agents, in the performance of Supervisor's lawful duties and the responsibilities under this Agreement, excepting any act or omission committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety or property. The limits to the indemnification set forth above shall be limited to those immunity waiver limits set forth in Florida Statutes § 768.28.
- 2.7 To the extent its insurance provider will authorize, the Village shall name Supervisor as additional insured under the Village's 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 the Village's elections.
- 2.7.1 Subject to Supervisor's approval in any particular instance, which approval shall not be unreasonably withheld, the Village, or the Village's insurer, shall have authority to directly defend, negotiate and participate in any actions or claims for damages arising from the responsibilities of Supervisor under this agreement.

- 2.7.2 No settlement of such claims or actions shall be binding upon Village unless approved by the Village Council.
- 2.8 Village shall name Supervisor as additional insured under the Village's 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 the Village's elections.
- 2.8.1 Subject to Supervisor's approval in any particular instance, which approval shall not be unreasonably withheld, the 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, 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 as is reasonably requested by Village.
4. This Agreement shall become effective on the Effective Date 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 upon thirty (30) days' prior written notice to the other. This Agreement is not cancellable during the period 90 days prior to an election date through the post-election audit.
5. The Village consents to all non-sample Ballot mailing advertisement by the Supervisor without the need for prior approval.
6. Any Sample Ballot mailing for stand-alone, referenda, and/or special elections will only occur upon written request by Village to Supervisor.
7. Determinations regarding decisions on whether to conduct early voting must be included in the Village's official motion, resolution, or ordinance to conduct a stand-alone, referenda, and/or special elections. The Parties agree that failure to do so shall be construed as a decision not to provide early voting.

8. All costs for the enforcement of this Agreement, including reasonable attorney's fees, shall be paid by the losing party to the prevailing party.
9. This Agreement shall not be applicable to elections that are limited solely to freeholders. However, this Agreement shall be applicable to elections related municipal annexation.
10. In the event that any part of this Agreement is determined to be unlawful or unenforceable by a court of competent jurisdiction, said determination shall not invalidate the remaining parts of this Agreement.
11. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach. Every right and remedy of each Party shall be cumulative and either Party, in its sole discretion, may exercise any and all rights or remedies stated in this Agreement or otherwise available at law or in equity.
12. This Agreement contains the entire understanding of the Parties and supersedes all prior understandings or agreements, whether oral or written, implied or explicit, between the Parties relating to the subject matter herein.
13. This Agreement may be modified, amended or extended only by written amendment executed by authorized representatives of both Parties.
14. Pursuant to Florida Statutes § 163.01(11), the Supervisor of Elections shall file a copy of this Agreement, and any subsequent amendments thereto, with the Clerk of the Circuit Court of Lee County.

VILLAGE OF ESTERO

SUPERVISOR OF ELECTIONS

Jon McLain, Mayor

Tommy Doyle, Supervisor of Elections