



Staff Report

Agenda Item: Yavapai County Elections Vote-By-Mail Services Agreement – Approval of a Vote-By-Mail Services Agreement with Yavapai County Elections Department.

Staff Contact: Kathy Bainbridge, Town Clerk

Meeting Date: October 13, 2009

Background: Yavapai County Elections Department has requested an update to their Vote-By-Mail Services Agreement. The Council approved Resolution # 1302, for Vote-By-Mail in the 2010 Elections at the July 28, 2009, Special Council Meeting. To have Yavapai County Elections Department provide elections services for the Town the Town must approve Vote-By-Mail.

Recommendation: Approval of a Vote-By-Mail Services Agreement with Yavapai County Elections Department.

VOTE-BY-MAIL ELECTION SERVICES AGREEMENT

THIS AGREEMENT, by and between the YAVAPAI COUNTY BOARD OF SUPERVISORS and the YAVAPAI COUNTY RECORDER (collectively the "COUNTY") and _____, (the "JURISDICTION")

WHEREAS, pursuant to A.R.S. §16-408 (D) The governing body of any election district authorized to conduct an election may enter into an agreement with a County Board of Supervisors and County Recorder for election services with the contracted cost of such special elections to be a charge against the election district; and

WHEREAS, The COUNTY is willing to provide election services to election districts wishing to conduct "vote-by-mail" elections, but, with the exception of biennial primary and general elections, will not provide election services to districts wishing to conduct polling-place elections unless a polling-place election is expressly required by state or federal statute; and

WHEREAS, the JURISDICTION wishes to enter into an agreement with the COUNTY for the provision of elections services subject to the terms and conditions set forth herein.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Provision of Election Services. The COUNTY hereby agrees to provide election services to the JURISDICTION for all consolidated election dates during the effective term of this Agreement. The Agreement shall apply to all categories of elections including, but not limited to primaries, general elections, special elections, bond elections and override elections. Services to be provided by the COUNTY, and those that remain the responsibility of the JURISDICTION, are set forth in the Elections Task Schedule attached to this Agreement as Exhibit 1.

2. Limitation on Eligible Elections. It is understood and agreed that the services to be provided pursuant to this Agreement shall be provided exclusively for "vote-by-mail" elections with the exception of biennial primary and general elections and elections expressly required by state or federal statute to be conducted at polling places. It shall be the responsibility of the JURISDICTION to establish the legal basis for a requirement that an election is required by state statute to be conducted at polling places. The COUNTY may in its sole discretion, decline to provide services for any election that it concludes is not required to be conducted at polling places.

3. Compensation.

a. Fees. The JURISDICTION shall compensate the COUNTY for election services provided pursuant to this Agreement in accordance with the fees set forth in the Election Fee Schedule attached to this Agreement as Exhibit 2. The fee schedule is for base services only. Any additional services required by the JURISDICTION will result in additional charges. Additional services include, but are not limited to, the following: recount, write-ins, hand count audit, court preparation, court appearances, inclusion of notice with ballot mailings or any service which will cause the COUNTY to incur increased costs or expenses. In the event that additional services are requested, the COUNTY shall provide fixed or unit pricing information to the JURISDICTION prior to a commitment by either party with respect to the provision of such additional services. For any additional services provided, a written supplemental schedule shall be prepared showing the scope of additional services and costs therefore. COUNTY reserves the right to adjust election-service fees as shown in Exhibit 2 or otherwise at any time during the effective term of this Agreement notice of which will be posted on the COUNTY's website.

b. Late Fees. Payment for all costs associated with the provision of service pursuant to this Agreement shall be made in full no later than 30 days following the date of the election. In the event that the required payment is not made by the due date deadline specified herein, the COUNTY shall impose a late charge of 2% of the unpaid balance for each 30-day period or portion thereof following the specified deadline for which any portion of the required payment, included unpaid late charges, remains unpaid.

c. Termination. Failure to make payments as required by this Section shall be deemed a material breach of this Agreement and shall be grounds for termination of this Agreement pursuant to Section 6 of this Agreement.

4. Conduct of Elections; Indemnification. While the COUNTY will use its best efforts to provide election services pursuant to this Agreement in a capable and competent manner, it shall ultimately be the responsibility of the JURISDICTION to confirm that all legal requirements have been met and that all other activities related to a given election are carried out as required. The COUNTY will provide to the JURISDICTION in advance all forms, schedules, documents and other information pertaining to each election conducted pursuant to this Agreement for the JURISDICTION's review and approval. The JURISDICTION shall provide to the COUNTY all informational materials or other election-related documents generated by the JURISDICTION for review and approval by the COUNTY prior to the distribution of such materials or documents. The JURISDICTION hereby agrees to save, hold harmless and indemnify the COUNTY, its officers, employees and agents from any and all claims, lawsuits, judgments or other costs arising out of either Party's performance pursuant to this Agreement.

5. Term of Agreement. This Agreement shall be effective as of _____ and shall continue in full force and effect until terminated as provided herein.

6. Termination

- a. **Unilateral Termination.** This Agreement may be terminated by either Party upon 30 days written notice to the other Party of intent to terminate, provided, however, that the Agreement may not be unilaterally terminated by either party within 90 days of the date of an election for which the COUNTY would otherwise be providing services pursuant to this Agreement.
- b. **Termination by Mutual Agreement.** This Agreement may be terminated at any time by mutual agreement of the Parties.
- c. **Termination for Breach.** In the event of a breach of any term or condition of this agreement, the Party claiming breach shall provide written notice to the other Party specifying the factual basis for the claim that a breach has occurred. If the breach is not remedied within fifteen (15) days of receipt of notice by the Breaching Party, the Non-breaching Party may terminate this Agreement without further notice.

7. Conflict of Interest. This Agreement is subject to the ARS §38-511 pertaining to conflicts of interest, the pertinent provisions of which are incorporated by reference herein.

8. Contact Information. Communications regarding services provided pursuant to this Agreement shall be directed to the following:

| | |
|--|------------------------|
| COUNTY: | JURISDICTION: |
| Lynn Constabile | Contact: _____ |
| Yavapai County Elections Director | Title: _____ |
| 1015 Fair Street, Room 228 | Mailing Address: _____ |
| Prescott, AZ 86305 | _____ |
| Phone: (928) 771-3250 | Phone: _____ |
| Fax: (928) 771-3446 | Fax: _____ |
| E-mail: lynn.constabile@co.yavapai.az.us | E-mail: _____ |

APPROVALS

| | |
|-------------------------|----------------------|
| COUNTY: | JURISDICTION: |
| _____ | Name _____ |
| Ana Wayman-Trujillo | Date _____ |
| Yavapai County Recorder | Title _____ |
| _____ | |
| Lynn A. Constabile | |
| Elections Director | |
| Date _____ | |

**VOTE BY MAIL ELECTION SERVICES AGREEMENT
ELECTIONS TASK SCHEDULE**

Responsibilities for the conduct of elections pursuant to the Yavapai County Vote-by-Mail Services Agreement are allocated as follows:

| TASK | | TO BE PERFORMED BY: | |
|---|---------------------------------------|---------------------|--------------|
| | | COUNTY | JURISDICTION |
| Pre-clearance with DOJ, if applicable (Copy of submission to be forwarded to Election's office) | | | X * |
| Call of Election (Should be forwarded to Election's office for review) | | | X * |
| Legal Advertising, Notices, etc. (also, non-resident voters) | | | X * |
| Contact Printer; Order ballots or labels (bills will be forwarded to jurisdiction) | | X | |
| Final Approval on ballot proof (County needs copy of approval) | | | X ** |
| If applicable, obtain polling places and poll workers (bills will be forwarded to jurisdiction) | | X | |
| L & A Test notice to the newspaper (Jurisdiction will be notified in writing) | | X | |
| Perform L & A testing (Representative of Jurisdiction will be present) | | X | |
| Mailing of Ballots or Early Ballots (Vote by Mail ballots will be mailed to all qualified electors beginning three weeks prior to election day) | | X | |
| Processing of ballots | | X | |
| Signature Verification - | Ballot affidavit signature comparison | X | |
| Signature Verification - | Provisional ballots | X | |

** For a countywide election, the County is responsible for this task.*

*** For a countywide election, jurisdiction is only responsible for proofing their portion of the ballot.*

PERFORMANCE OF TASKS AS OUTLINED ABOVE MAY HAVE SIGNIFICANT IMPACTS ON THE CONDUCT OF AN ELECTION AND MAY HAVE SIGNIFICANT LEGAL CONSEQUENCES AS WELL. PARTICIPATING JURISDICTIONS ARE ADVISED TO:

1. CAREFULLY REVIEW THE ALLOCATION OF TASKS AND TO DIRECT ANY QUESTIONS TO THE YAVAPAI COUNTY ELECTIONS DEPARTMENT.
2. MAINTAIN CLOSE CONTACT WITH THE YAVAPAI COUNTY ELECTIONS DEPARTMENT PRIOR TO, DURING AND AFTER ELECTIONS.
3. REFER ANY QUESTIONS REGARDING ELECTION-RELATED LEGAL ISSUES TO THE JURISDICTION'S LEGAL COUNSEL.

**VOTE BY MAIL ELECTION SERVICES AGREEMENT
ELECTIONS FEE SCHEDULE**

Effective for Fiscal Year 2009/2010 the following fees will apply to elections conducted by Yavapai County.

Fiscal Year 2009 / 2010

Pursuant to ARS 11-251.06 and 48-819 the following is the fee schedule for services provided to the fire districts and other special districts by Yavapai County.

| Elections/Voter Registration: | Fees | Per |
|---|--------------------|-----------------------|
| Director | \$52.00 | HR |
| Registrar of Voters | \$40.00 | HR |
| Records Technician | \$27.00 | HR |
| Records Clerk | \$25.00 | HR |
| Vote by Mail: (Includes Voter Registration & Election charges) | \$ 1.75 | Per Reg. Voter |
| Discount for jurisdictions who provide help and/or no charge polling sites. | \$ 1.50 | Per Reg. Voter |
| Polling Place Election: | \$ 2.85 | Per Reg. Voter |
| Rental of polling places, poll workers, and printing of ballots | ACTUAL COST | |
| Miscellaneous/Statutory Fees: | | |
| Signature Verification | \$0.50 | NAME |
| Precinct Registers | \$50.00 | EACH |
| Authorized Countywide Voter Registration list per name on disk | \$0.01 | NAME |
| Authorized Countywide Voter Registration list per name on paper | \$0.05 | NAME |
| Early Voting Packet (includes signature verification) | \$2.25 | EACH |
| Processing Provision Ballots | \$2.50 | EACH |
| Processing "Conditional" Provisional Ballots | \$5.00 | EACH |
| General Election Ballot | \$ 0.35 | Per Reg. Voter |

Fees are subject to change upon approval by Yavapai County. Revised schedules will supersede prior schedules and be incorporated into Election Services Agreements in effect at the time of revision. Upon approval, Yavapai County will post a copy of the revised schedule on its website.