

REVISED

Agenda Item #:

SA-4

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 4, 2007	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Regular
	<input type="checkbox"/>	Ordinance	<input type="checkbox"/>	Public Hearing

Department:
Submitted By: Administration
Submitted For: Administration

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Tri-Party Agreement with the Palm Beach County Supervisor of Elections ("Supervisor of Elections") and Sequoia Voting Systems, Inc., ("Sequoia") for the purchase of optical scan voting equipment in the amount of \$5,521,000.

Summary: Upon recommendation of the Supervisor of Elections, the BCC, at its October 16, 2007 meeting, adopted Resolution R-2007-1861 designating Sequoia as the only source certified by the State of Florida from which "suitable" voting equipment may be obtained. This recommendation was based upon Sequoia optical scanners being the only ones compatible with the County's current voting system, which was manufactured by and procured from Sequoia. Through the negotiation process, a Tri-Party Agreement was reached with the Supervisor of Elections and Sequoia for the purchase of 910 Optech Insight Plus Tabulators at a cost of \$5,521,000. Sequoia also agreed to provide an additional 91 optical scanners to the County at no cost in return for the County's attempt to pay for the 910 Optech Insight Plus tabulators within 15 business day of delivery. Further, Sequoia agreed to a trade-in option that will provide the County with a credit of 50% of the purchase price for items traded before December 5, 2009, and a credit of 33% of the purchase price for items traded between December 5, 2009 and December 5, 2010. Countywide (GB)

Background and Justification: Currently, the County owns a voting system, inclusive of tabulation equipment, components, etc., that was manufactured by and procured from Sequoia. This year, the Florida Legislature passed a law prohibiting touch screen voting equipment and mandating the use of optical scan based voting systems effective July 1, 2008. Since the Sequoia optical scanners are the only ones compatible with the County's current voting system, the Supervisor of Elections recommended that the optical scan voting equipment be purchased from Sequoia as a sole source. Based upon this recommendation, the BCC adopted Resolution R-2007-1861 on October 16, 2007 designating Sequoia as a sole source. Sequoia's optical scan based voting equipment has been certified by the State of Florida as mandated in Section 101.294(1), Florida Statutes. Through the negotiation process, a Tri-Party Agreement was drafted in order to set forth the responsibilities of the County, the Supervisor of Elections, and Sequoia. The Agreement provides for the County's purchase of 910 Optech Insight Plus Tabulators from Sequoia at a cost of \$5,521,000. Sequoia has further agreed to provide an additional 91 Optech Insight Plus Tabulators to the County at no cost in return for attempting to pay for the 910 Optech Insight Plus tabulators within 15 business days of delivery. Also, Sequoia has agreed to a trade-in option that will provide the County with a credit of 50% of the purchase price for items traded before December 5, 2009, and a credit of 33% of the purchase price for items traded between December 5, 2009 and December 5, 2010.

Attachment:

1. Agreement
2. Resolution R-2007- 1861

Recommended by:

Department Director

Date

Approved by:

Baldwin

Assistant County Administrator

11/26/07

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	20__
Capital Expenditures	<u>5,521,000</u>	_____	_____	_____	_____
Operating Costs	<u>4,416,000</u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>1,105,000</u>	_____	_____	_____	_____
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes X No _____
 Budget Account No.: Fund 1171 Department 180 Unit 1101
 Object 5607 Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

State Grant \$4,416,000
 County Funds 1,105,000

The State Grant funds were received in September, 2007

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Elizabeth Blasen 11/26/07 OFMB CN 11/26/07
[Signature] 11/27/07 Contract Dev. and Control 11/27/07

B. Legal Sufficiency:

[Signature] 11/28/07
 Assistant County Attorney

This Contract complies with our contract review requirements.
 At the time of our review, the required proof of insurance was not available.

C. Other Department Review:

 Department Director

AGREEMENT BETWEEN

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AND

PALM BEACH COUNTY SUPERVISOR OF ELECTIONS

AND

SEQUOIA VOTING SYSTEMS, INC.

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- ATTACHMENT 1: DESCRIPTION OF PRODUCT AND PRICING
ATTACHMENT 2: ADDITIONAL SERVICES
ATTACHMENT 3: DISCLOSURE OF OWNERSHIP INTERESTS
ATTACHMENT 4: CERTIFICATION OF SEQUOIA BY STATE OF FLORIDA

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, (the "Effective Date") by and between the Palm Beach County Board of County Commissioners ("County"), located at 301 North Olive Avenue, West Palm Beach, FL 33401, the Palm Beach County Supervisor of Elections ("SOE"), located at 240 South Military Trail, West Palm Beach, FL 33415 (collectively referred to as "Customer") and Sequoia Voting Systems, Inc. ("Sequoia"), located at 717 – 17th Street, Suite 310, Denver, CO 80202.

RECITALS

WHEREAS, Sequoia is in the business of providing voting and election equipment; and

WHEREAS, in 2007, the Florida Legislature passed a law prohibiting touch screen voting equipment and mandating the use of optical scan based voting systems effective July 1, 2008; and

WHEREAS, the County, pursuant to Section 101.294(1), F.S., is mandated to purchase voting equipment that has been certified for use by the State of Florida; and

WHEREAS, the County currently owns and the SOE currently uses a voting system, inclusive of tabulation equipment, components, etc., that was manufactured by and procured from Sequoia; and

WHEREAS, the SOE has recommended that the County purchase optical scan based voting equipment from Sequoia due to Sequoia having the only optical scanners certified by the State of Florida that are compatible with the County's existing voting system; and

WHEREAS, the Customer and Sequoia desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits and promises set forth in this Agreement, the parties agree as follows.

AGREEMENT

1. AGREEMENT

A. General

This Agreement shall consist of the terms and conditions set forth herein together with Attachments 1, 2, 3 and 4, which are specifically incorporated herein and made a part of this Agreement. In the event of any conflicts or differences between a term or condition in the body of this Agreement and a term or condition contained in any Attachment to this Agreement, or if such term and condition in the body of this Agreement cannot be mutually complied with or performed simultaneously with an obligation or term or condition of an Attachment, the term and condition in such Attachment, to the extent inconsistent, shall control.

B. Term

This Agreement shall commence upon the Effective Date set forth hereinabove and shall remain in full force and effect for a period of two (2) years, or as extended by the parties hereto.

2. SALE AND PURCHASE OF PRODUCT

A. Product

In accordance with the terms and conditions set forth in this Agreement, County agrees to purchase the equipment listed on Attachment 1 to this Agreement and SOE agrees to operate

same in accordance with the Documentation as provided by Sequoia to Customer for the operation of the equipment (collectively referred to as "Product").

B. Services

The services as set forth on Attachment 2 of this Agreement shall be provided by Sequoia at no cost to Customer.

C. Purchase Price

The total purchase price for the Product, as described in Attachment 1 of this Agreement, is Five Million Five Hundred Twenty-One Thousand and 00/100 (\$5,521,000.00) Dollars. Said purchase price includes the County's purchase of Nine Hundred and Ten (910) Optech Insight Plus Tabulators without Modems and Ballot Box.

D. Delivery

On or before December 20, 2007, Sequoia shall deliver the Product in its entirety, inclusive of the Nine Hundred and Ten (910) Optech Insight Plus Tabulators without Modems and Ballot Box as set forth hereinabove and the Ninety-One (91) Optech Insight Plus Tabulators without Modems and Ballot Box as set forth hereinbelow, to the location(s) designated by the SOE. Said delivery date(s) and time(s) shall be mutually agreed upon by the SOE and Sequoia.

E. Payment

Upon each delivery, Sequoia shall submit an itemized invoice listing the Product that was delivered and for which payment is sought. The SOE shall review the invoice(s) submitted by Sequoia. Once approved, the SOE shall forward the approved invoice(s) to the Palm Beach County Clerk and Comptroller's Office ("Clerk and Comptroller") for payment. The Customer and the Clerk and Comptroller shall make every attempt to pay Sequoia within fifteen (15) business days of approval of said invoice by the SOE. In consideration for the expedient payment process by the Customer and the Clerk and Controller, Sequoia agrees to provide and deliver Ninety-One (91) Optech Insight Plus Tabulators without Modems and Ballot Box to Customer. Sequoia shall submit all invoices to the SOE at 240 South Military Trail, West Palm Beach, FL 33415, or to such other entity or address that the Customer may specify in writing.

F. Risk of Loss and Title Transfer

All shipping, insurance and risk of loss shall be the sole responsibility of Sequoia. The FOB point shall be the delivery location(s) designated by the SOE. Risk of loss shall pass to Customer upon delivery of the Product to the SOE. Title to the Product shall pass to the County upon acceptance of the Product in accordance with Section 2.G. below.

G. Testing and Acceptance of Product

Notwithstanding the payment provisions as set forth in Paragraph E. above, the County shall retain Ten Percent (10%) of the total Contract Price until the SOE has tested and accepted the Product in its entirety. The SOE shall complete testing of the Product in its entirety within sixty (60) days of Sequoia making its final delivery to the SOE. Upon testing the Product and determining that it functions in accordance with the manuals and documentation as provided by Sequoia, the SOE shall accept the Product. The Customer and the Clerk and Comptroller shall endeavor to pay Sequoia the remaining ten percent (10%) of the total purchase price within fifteen (15) days of acceptance of the Product in its entirety by the SOE.

H. Option to Purchase Additional Product

Subsequent to the expiration of this Agreement, County shall have the option to purchase additional items of the Product listed on Attachment 1 of this Agreement at the price set forth

therein. The purchase price for the Product shall not increase by more than Ten Percent (10%) annually.

I. Trade-in Option

County shall have the option to trade-in Optech Insight Plus Tabulators, Additional Cartridges, 400-C Absentee Counters and Memory Pack Readers purchased under this Agreement in exchange for a credit towards the purchase of new products from Sequoia (whether currently existing or developed in the future by Sequoia). The credit to County for such trade-in shall be calculated as follows:

- i. For the period from December 4, 2007 through December 4, 2009, the credit will equal Fifty Percent (50%) of the Purchase Price of the traded items under this Agreement.
- ii. For the period from December 5, 2009 through December 5, 2010, the credit will equal Thirty-Three Percent (33%) of the Purchase Price of the traded items under this Agreement.

3. FIRMWARE LICENSE

The Product incorporates software and logic which constitutes an Intellectual Property Right, previously or currently owned by Sequoia, as defined in and pursuant to Paragraph 17 below. Sequoia hereby grants to the Customer a personal, non-exclusive, non-transferable limited license to use the Firmware solely with and exclusively for the operation of the Product for the conduct of elections by the Customer, as contemplated by this Agreement. The Customer shall not, and shall not permit any third party to, reverse engineer, disassemble, decompile, decipher, analyze, or modify the Firmware or any software or upgrades in whole and in part without the prior written authorization of Sequoia. Unless expressly required to do so in a written amendment to this Agreement signed by Sequoia, Sequoia has no obligation to modify or update the Firmware to meet any future requirements, legal or otherwise.

4. PATENT AND COPYRIGHT PROTECTION

A. Indemnity

Subject to Paragraph 4.B. below, Sequoia shall, at its own expense, defend Customer against any claim asserted by any third party that the Product, software or Firmware ("collectively referred to as "Equipment") infringes a registered United States patent or copyright of that third party (an "Infringement Claim"). Customer agrees to promptly provide written notice to Sequoia upon Customer becoming aware of an actual or possible Infringement Claim

B. Conditions

Sequoia shall have no liability for any Infringement Claim or alleged Infringement Claim based on: (i) use of a superseded or modified release of the software or portion thereof, if such infringement would have been avoided by the use of a current unmodified release of the software; (ii) use of the Product in a manner not authorized by Sequoia or for a purpose other than Customer's use in accordance with this Agreement; (iii) use of software that has been altered by Customer or any person other than Sequoia; or (iv) the combination, operation, or use of the Equipment with other equipment project or software not furnished by Sequoia, if such infringement would have been avoided by use of Sequoia's Equipment or alone.

C. Infringement

In the event Customer's use of all or any portion of the Equipment (i) becomes, or in Sequoia's reasonable opinion is likely to become, the subject of an Infringement Claim (the "Infringing Component"); or (ii) Sequoia is unable to successfully defend against an Infringement Claim, Sequoia may within a reasonable time and at its option and expense: (a)

obtain for Customer the continuing right to use the Infringing Component; (b) alter the Infringing Component or replace it with a functional equivalent so long as it no longer infringes; or, (c) if neither (a) nor (b) is commercially reasonable, on not less than ninety (90) days' prior written notice to County, repurchase the infringing component and refund to County an amount equal to the purchase price for the infringing component.

5. DOCUMENTATION

Sequoia shall provide complete documentation for the utilization of all Equipment as referenced hereinabove, inclusive of upgrades to said Equipment, at the time of delivery. The Documentation is subject to the confidentiality requirements as set forth hereinbelow and in conjunction with Florida law, and shall not be copied or reproduced, in whole or in part, without the prior written consent of Sequoia. Notwithstanding the above, sequoia grants to the SOE the right to copy or otherwise reproduce, for training or other internal purposes only, portions of the documentation at no additional cost, provided that Sequoia's statement of copyright be included in each copy.

6. TAXATION

County is exempt from payment of Florida State Sales and Use Taxes. Upon request, County shall provide a copy of its certificate establishing its exemption. Sequoia shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, and is not authorized to use the County's Tax Exemption Number in securing such materials. Sequoia shall be responsible for payment of taxes on Sequoia's income and withholding of payroll taxes on Sequoia's employees as required by law.

7. LIMITED PARTS WARRANTY

A. Terms of Limited Parts Warranty

1. For a period of two years from the Effective Date of this Agreement ("Warranty Period"), Sequoia warrants that the Product shall function in accordance with the Documentation. In the event that the Product fails to function in accordance with the Documentation, Sequoia shall provide replacement parts to Customer as may be necessary to cause the Product to function accordingly. Replacement parts shall be provided at Sequoia's expense during the Warranty Period.
2. In the event of a warranty claim, the SOE shall return any defective components of the Product to Sequoia during the Warranty Period. Defective components shall not be returned to Sequoia until the SOE has received from Sequoia a Return Material Authorization Number ("RMA") and shipping instructions. Sequoia shall send RMA and shipping instructions to the SOE within three (3) business days after receiving notice of said defect. Defective components shall be shipped by the SOE to Sequoia at Sequoia's expense pursuant to the RMA and Sequoia's shipping instructions. Replacement parts shall be sent to the SOE by Sequoia (i) within thirty (30) days of receipt by Sequoia or, (ii) where feasible, within fourteen (14) days prior to an election. The SOE shall be solely responsible for removal and reinstallation of any replaced components.

F. General

During the Warranty Period, Sequoia shall provide telephone support to answer questions concerning the use or repair of the Product from Monday through and including Friday between the hours of 8:00 a.m. and 5:00 p.m. ET.

C. Limitations

Notwithstanding any other terms or provisions of this Agreement, Sequoia is not obligated to repair or replace, and Sequoia's warranty obligations under this Paragraph 7 shall not be applicable to, any of the following:

1. paper, seals, batteries, or other consumable parts or supplies,
2. products which have been repaired or altered by persons other than those expressly approved in writing by Sequoia,
3. products from which the serial numbers have been removed, defaced or changed,
4. products damaged as a result of accident, disaster, theft, vandalism, neglect, abuse, use of any product for a purpose other than the purpose for which it is designed or use not in accordance with Documentation furnished by Sequoia,
5. products which have been subjected to physical, mechanical or electrical stress or alteration or any conversion by persons other than those expressly approved in writing by Sequoia,
6. products used by any person other than Customer's employees or persons under Customer's direct supervision,
7. products that in Sequoia's reasonable opinion cannot be repaired to a maintainable condition.

D. Warranty Disclaimer

Sequoia disclaims all other warranties, either express or implied, not expressly and specifically set forth herein including, without limitation, the implied warranties of fitness for a particular purpose and merchantability.

8. INDEMNIFICATION

A. By Sequoia

Sequoia hereby agrees to defend, indemnify, protect, and hold Customer harmless from and against any and all third party claims for damages (including, without limitation, court costs and reasonable attorneys' fees), incurred as a result of injury to any person or damage to property, including, without limitation, injury to Sequoia's employees, agents or officers to the extent caused by the negligent or intentional misconduct of Sequoia or its employees in performing under this Agreement.

9. INSURANCE

A. Insurance Required

During the performance of and throughout the term of this Agreement, Sequoia shall maintain in full force and effect the following insurance coverage:

1. Worker's Compensation

Sequoia shall maintain during the term of this Agreement, Workers' Compensation Insurance, including Employers' Liability Coverage, in accordance with Florida Statute Chapter 440. Coverage shall be provided on a primary basis.

2. Commercial General Liability

Sequoia agrees to maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall not contain any endorsement(s) excluding nor limiting Premises/Operations, Personal Injury, Product/Completed Operations, Contractual Liability, Severability of Interests or Cross Liability. Coverage shall be provided on a primary basis.

3. Business Automobile Liability

Sequoia agrees to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Sequoia does not own automobiles, Sequoia agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. Coverage shall be provided on a primary basis.

B. Additional Insured

Sequoia agrees to endorse County as an Additional insured with a CG026 Additional insured – Designated Person or Organization endorsement to the Commercial General Liability policy. The additional insured shall read “Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents”. Coverage shall be provided on a primary basis.

C. Waiver of Subrogation

Sequoia agrees by entering into this Agreement to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Sequoia to enter into a pre-loss agreement to waive subrogation without an endorsement, then Sequoia agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition specifically prohibiting such an endorsement, or voids coverage should Sequoia enter into such an agreement on a pre-loss basis.

D. Certificate(s) of Insurance

Sequoia agrees to provide County with a Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify County due to cancellation (10 days for nonpayment of premium) or non-renewal of coverage. The Certificate Holder address shall read: Palm Beach County c/o Purchasing Department, 50 South Military Trail, Suite 110, West Palm Beach, FL 33415.

10. ASSIGNMENT

Sequoia shall not assign, convey or transfer any right or interest under this Agreement without the prior written consent of the Customer. Notwithstanding the foregoing, Sequoia may assign this Agreement to any entity owned or controlled by, or under common control with Sequoia and/or Smartmatic Corporation. In no case shall such consent relieve Sequoia from its obligations or change the terms of this Agreement.

11. SUBCONTRACTING

Notwithstanding Section 10 above, Sequoia may, at Sequoia's option, subcontract or otherwise delegate Sequoia's duties under this Agreement; however, Sequoia shall at all times remain responsible for compliance with the terms and conditions under this Agreement.

12. SEVERABILITY

If any term or provision of this Agreement, or the application thereof, to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms and provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

13. NONDISCRIMINATION

Sequoia warrants and represents that it is an equal opportunity employer which does not discriminate on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

14. EXCUSABLE DELAYS

- A. Sequoia shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of Sequoia or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.
- B. Upon Sequoia's request, the Customer shall consider the facts and extent of any failure to perform the work and, if Sequoia's failure to perform was without it or its subcontractors fault or negligence, the affected terms or conditions of this Agreement may be revised accordingly.

15. HEADINGS NOT CONTROLLING

Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

16. LIMITATION OF SEQUOIA'S LIABILITY

Sequoia's total aggregate liability for any loss, damage, costs or expenses under or in connection with this Agreement, howsoever arising, including without limitation, loss, damage, costs or expenses caused by breach of contract, negligence, strict liability, or breach of statutory or any other duty shall in no circumstances exceed the Purchase Price as set forth in Paragraph 2.C of this Agreement. Sequoia shall not be liable for any loss of profits, loss of business, loss of data, loss of use or any other indirect, incidental, special or consequential loss or damage whatsoever, howsoever arising, incurred by County or any Third Party, whether in an action in contract, negligence or other tort, even if the parties or their representatives have been advised of the possibility of such damages.

17. INTELLECTUAL PROPERTY RIGHTS

Each party shall retain its rights in any Intellectual Property Rights owned by or licensed to it prior to the Effective Date. As permitted by Florida Law, all Development Intellectual Property Rights, whether or not developed by Sequoia, will be owned exclusively by Sequoia; provided, however that Customer, provided it has not breached this Agreement, shall have a personal non-exclusive, non-transferable license to the use of such Development Intellectual Property Rights in accordance with this Agreement and the License Agreement solely as necessary for Customer to use the Equipment in the manner contemplated by this Agreement. For purposes of this Agreement, "Intellectual Property Rights" shall mean rights in inventions, know-how, patents, registered designs, design rights, trade names, trademarks, service marks, trade secrets, copyrights, semiconductor design rights, mask works and topography rights whether or not registered and including any application to register any of the same, and all rights or forms of protection of a

similar nature or having equivalent effect which may subsist anywhere in the world.

"Development Intellectual Property Rights" shall mean any Intellectual Property Rights created or coming into being as a result of Sequoia's performance under this Agreement.

18. EMPLOYEES

During the term of this Agreement and for a period of two (2) years following expiration or termination of this Agreement, Customer shall not directly or indirectly, solicit for employment, employ, engage or contract with any person who is employed or contracted by Sequoia at any time during the term of this Agreement. If a person who is employed or contracted by Sequoia seeks to be employed or contracted by Customer prior to the expiration or termination of this Agreement Customer shall promptly advise Sequoia in writing. Customer agrees that the restrictions set forth in this Paragraph are fair and reasonable and are in addition to and not in substitution for any similar restrictions in any other agreements between the parties.

19. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by Sequoia shall also act as the execution of a truth-in-negotiation certificate certifying that the rates, charges and costs used to determine the pricing provided for in this Agreement are accurate, complete and current as of the Effective Date of the Agreement and no higher than those charged to Sequoia's most favored customer for the same or substantially similar service.

20. DUE AUTHORIZATION

Customer and Sequoia each represent to the other that this Agreement has been duly authorized and executed on behalf of each party, and is a legally binding obligation of each party. County represents that all funds necessary for it to satisfy its payment obligations hereunder have been duly appropriated and authorized.

21. TERMINATION

This Agreement may be terminated by any non-breaching party upon thirty (30) days written notice to the party breaching the terms or conditions of this Agreement who fails to cure such breach within thirty (30) days of receipt of written notice from a non-breaching party, or within a reasonable shorter or longer period of time as determined by a non-breaching party. In the event this Agreement is terminated for any reason, all amounts owing to Sequoia accrued prior to such termination shall be due and payable. Such termination shall not affect the rights of the parties accrued prior to the date of termination nor the accrual of interest on, and Sequoia's rights to collect, any amounts due Sequoia. The termination rights under this Agreement are in addition to and not in lieu of all other remedies available to any party by law, equity or otherwise, all of which remedies are reserved and each of which may be exercised simultaneously or in the alternative.

22. CONFIDENTIALITY

Customer acknowledges that during the course of Sequoia's performance under this Agreement, information concerning Sequoia's pricing, products, software, Firmware, trade secrets, finances, financial data, technical data, physical objects, samples and other information which is competitively sensitive and proprietary, may be disclosed to Customer orally or in writing, in tangible or intangible form (collectively, the "Information"). It is Sequoia's position that such Information (including, without limitation, all software, Firmware and Documentation provided by Sequoia) (i) constitutes confidential and proprietary trade secrets, disclosure of which would materially injure Sequoia's business and competitive position, and (ii) contains security features and protocols which, if

disclosed, could jeopardize the security of the voting system and facilitate election tampering, and (iii) is exempt from disclosure under, the terms of any applicable freedom of information, open public records act or similar statute ("FOIA Statute"). Customer therefore agrees, to the maximum extent permitted by law, to keep confidential and not to disclose any of the Information to any other person or entity, or use such Information for any purpose other than as expressly permitted by this Agreement. The SOE shall limit disclosure to employees of the SOE having a need to know to perform their duties to the SOE who have agreed in writing to be bound by the restrictions of this Paragraph. In the event Customer receives a request for Customer shall endeavor to inform Sequoia of such request within ten (10) days of Customer's knowledge or such shorter period as deemed necessary in order for Sequoia to determine it's opposition to such disclosure. In the event Customer is nonetheless required by law to disclose any of the Information, Customer shall give written notice to Sequoia at the earlier of (i) ten (10) business days prior to disclosure or (ii) such longer or shorter period as may be required by applicable law.

23. ENTIRE AGREEMENT

This Agreement, inclusive of Attachments 1, 2, 3 and 4, is the entire agreement between the parties and supersedes any other agreements between the parties hereto. This Agreement may be amended only by written agreement executed by all parties.

24. NOTICES

Any notice given under the provisions of this Agreement shall be in writing and shall be sent by via overnight courier and by either certified or registered mail, to:

FOR COUNTY: Director
Office of Financial Management and Budget
Palm Beach County
301 N. Olive Avenue, 7th Floor
West Palm Beach, FL 33401

FOR SOE: Supervisor Of Elections
Palm Beach County
240 S. Military Trail
West Palm Beach, FL 33415

FOR SEQUOIA: President
Sequoia Voting Systems, Inc.
717 -- 17th Street, Suite 310,
Denver, CO 80202.

25. PROJECT MANAGERS - COORDINATION OF PROJECT

Each party shall appoint a project manager for all administrative activities associated with this Agreement. Each project manager shall ensure that copies of all written communications relating to this Agreement are copied to the other project managers.

26. LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

27. DISPUTE RESOLUTION

Upon the written request of a party, the project managers will meet, in person or by teleconference, to discuss the problem and negotiate in good faith in an effort to resolve the dispute. If the project managers cannot resolve the dispute within ten (10) business days, the dispute shall be escalated to the Vice President of Operations of Sequoia, the Supervisor of Elections of Palm Beach County, and the Palm Beach County Assistant County Administrator for review and resolution. Except where clearly prevented by the area in dispute, the parties agree to continue performing their respective obligations under this Agreement while the dispute is being resolved unless and until such obligations are suspended, terminated or expire in accordance with the provisions hereof.

28. RELATIONSHIP OF THE PARTIES

Customer and Sequoia agree that under this Agreement:

- A. Both parties are independent of each other;
- B. Neither party is a legal representative, agent, employee, or partner of the other;
- C. Neither party will represent or act on behalf of the other, unless previously mutually agreed to in writing; and
- D. Sequoia remains free to enter into similar agreements with others and to market its products and services to others.

29. NO THIRD PARTY BENEFICIARIES

Sequoia and Customer agree that this Agreement is not intended to confer any rights or benefits on any third party, and that there are no third party beneficiaries of this Agreement or any part or specific provision of this Agreement, and no third party shall have any right to enforce this Agreement or any provision hereof. Anything herein to the contrary notwithstanding, Customer may loan Equipment within the County of Palm Beach, Florida to municipalities, special districts, home owner associations, or other entities that currently utilize the voting machine and equipment as approved by the SOE.

30. COMPLIANCE WITH LAW

Sequoia warrants that the Product complies with all applicable laws and governmental regulations ("Laws") existing and in effect on the date of this Agreement ("Current Laws"). If in the future Current Laws are changed or interpreted or enforced in a manner not in effect on the date of this Agreement, or if new applicable laws should be enacted (all of the foregoing being collectively referred to as "Future Laws"), Sequoia shall not be obligated to cause the Equipment to comply with Future Laws. Notwithstanding the foregoing, Sequoia will cause the Equipment to comply with Future Laws, but only if (i) Sequoia deems changes to the Equipment are necessary to comply with Future Laws to be technically and commercially feasible and (ii) Sequoia receives as compensation for such changes in an amount acceptable to Sequoia. All modifications of the Equipment shall constitute Development Intellectual Property Rights owned by Sequoia pursuant to Paragraph 17 hereinabove.

31. NO TRANSFER

- A. The Customer agrees that (i) the Equipment consists of and contains trade secrets and other proprietary and confidential Intellectual Property Rights (as defined in this Agreement) that are the sole and exclusive property of Sequoia, and (ii) the Customer is prohibited by this Agreement from in any way transferring, assigning, or otherwise conveying to any third party

the Firmware or Documentation or any license rights granted to the Customer therein, and (iii) transfer of the Equipment or any component thereof to any third party may compromise Sequoia's Intellectual Property Rights in such Equipment, through the potential of reverse engineering or otherwise. In light of the foregoing, the Customer agrees that the Customer shall not, and shall not agree to or permit, transfer or conveyance in any manner whatsoever of any of the Equipment. However, the Customer may sell or transfer the Product only upon full compliance with Sequoia's right of first refusal as set forth hereinbelow. Furthermore, in the event that Sequoia does not exercise Sequoia's right to purchase to the Equipment pursuant to right of first refusal, the Customer will transfer or convey the Equipment, or any part thereof, only to a state of the United States or to an agency or political subdivision of such state having jurisdiction over the conduct of elections (a "Government Entity").

- B. The Customer hereby grants to Sequoia a right of first refusal (hereinafter referred to as the "First Refusal Right") to purchase all of the Customer's right, title and interest in and to the Product, or such portion of it as the County intends to sell. In the event the Customer receives a bona fide written offer (as defined below) from any Government Entity to purchase the Product, or any portion thereof, which the Customer desires to accept, Sequoia may elect to purchase the Product, or the portion thereof which the County intends to sell, on the terms and conditions contained in the written offer (except for the time within which to close the transaction). The Customer shall provide to Sequoia notice and an exact copy of the written offer, and allow Sequoia sixty (60) calendar days subsequent to Sequoia's receipt of same to determine whether or not to purchase the Product from the Customer. In the event Sequoia elects to purchase the Product, Customer shall sell the Product to Sequoia, who shall close the transaction within ninety (90) calendar following the expiration of the aforesaid sixty (60) day period.
- C. "A bona fide written offer" shall be deemed to include (but is not limited to) the following:
- (i) a gift or gratuitous transfer of the Product, or any portion thereof, by the Customer,
 - (ii) transfer to any entity controlled by or under common control with the Customer or transfers of co-ownership interests in the Product,
 - (iii) grants of licenses,
 - (iv) sale and leaseback financings, synthetic leases, or any other off balance sheet financing,
 - (v) other financing transactions of any nature no matter the structure, including financing arrangements which include lender acquisition rights.
- D. The County acknowledges and will so advise any Government Entity purchasing the Product that such Government Entity would need to obtain a license from Sequoia with respect to the Firmware and Documentation in order to use the Product.

32. PUBLIC ENTITY CRIMES

As provided in Section 287.132-133, F.S., by entering into this Agreement or performing any work in furtherance hereof, Sequoia certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133(3)(a).

33. CRIMINAL HISTORY RECORDS CHECK

Sequoia shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if Sequoia's employees or subcontractors are required under this contract to enter a "critical facility" as identified in Resolution R-2003-1274. Sequoia acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although Sequoia agrees to pay for all

applicable FDLE/FBI fees required for criminal history record checks, Sequoia shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

34. REGULATIONS; LICENSING REQUIREMENTS

Sequoia shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. Sequoia is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

35. CONFLICT OF INTEREST

Sequoia shall fully complete and execute Attachment 3 "Disclosure of Ownership Interests" attached hereto. Sequoia represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance or services required hereunder, as provided for in Chapter 112, Part III, Florida statutes. Sequoia further represents that no person having any conflict of interest shall be employed for said performance or services.

Sequoia shall promptly notify the Customer's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence, or appear to influence, Sequoia's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that Sequoia may undertake and request an opinion of the Customer as to whether the association, interest or circumstance would, in the opinion of the Customer, constitute a conflict of interest if entered into by Sequoia. The Customer agrees to notify Sequoia of its opinion by certified mail within thirty (30) days of receipt of notification by Sequoia. If, in the opinion of the Customer, the prospective business association, interest or circumstance would not constitute a conflict of interest by Sequoia, the Customer shall so state in the notification and Sequoia shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the Customer by Sequoia under the terms of this Agreement.

36. ARREARS

Sequoia shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Sequoia further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

37. INDEPENDENT CONTRACTOR RELATIONSHIP

Sequoia is, and shall be, in the performance of all work, services, and activities under this Agreement, an Independent Contractor and not an employee, agent or servant of the Customer. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to Sequoia's sole direction, supervision, and control. Sequoia shall exercise control over the means and manner in which it and its employees perform the work, and in all respects Sequoia's relationship, and the relationship of its employees to the Customer shall be that of an Independent Contractor and not as employees or agents of the Customer.

38. CONTINGENT FEE

Sequoia warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Sequoia, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Sequoia, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

39. 2012 COMPLIANCE GUARANTEE

In order to meet the 2012 requirement for “paper ballot only voting” as mandated by the Florida Legislature, Sequoia shall have at least one (1) option certified by the State of Florida available for purchase by Palm Beach County. Said option(s) shall be presented to County on or before May 1, 2011 for review. If Sequoia does not meet this deadline, then Sequoia must reimburse to County One Hundred Percent (100%) of the Contract Purchase Price for the Optech Insight Plus Vote Tabulators.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the County and has hereunto set its hand the day and year above written.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chair

WITNESSES:

PALM BEACH COUNTY
SUPERVISOR OF ELECTIONS

Signature

Name (Type or Print)

By: _____
A.W. Anderson
Supervisor of Elections

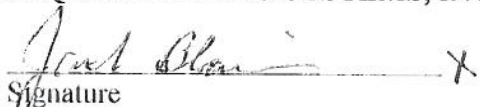
Signature

Name (Type or Print)

WITNESSES:

SEQUOIA VOTING SYSTEMS, INC.


Signature

 X
Signature

PHIL FOSTER
Name (Type or Print)

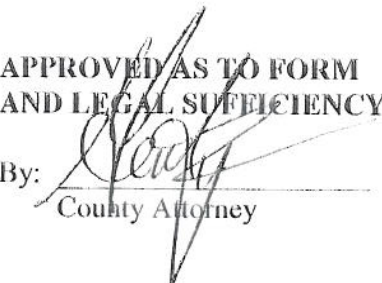
JACK BLAINE
Name (Type or Print)


Signature

President / CEO
Title

HOWARD CRANE
Name (Type or Print)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney

ATTACHMENT 1: DESCRIPTION OF PRODUCT AND PRICING

Optech Insight Plus without Modems & Ballot Box Optical Scan Vote Tabulators	Quantity	Selling Price Per Unit	Total Sales Price
Optech Insight Plus Tabulators without Modems and Ballot Box	910	\$5,350	\$4,868,500
Additional Memory Packs	300	\$250	\$75,000
Battery Packs	100	\$250	\$25,000
Sequoia 400-C Optical Scan Voting System			
Sequoia 400-C Absentee Counter	5	\$85,000	\$425,000
Upgrade Existing 400-C Counters to 2002 Compliance	4	\$15,000	\$60,000
WinEDS Central System Hardware			
Memory Pack Readers	15	\$4,500	\$67,500
Freight			
Inside Delivery			Included
Total			\$5,521,000

ATTACHMENT 2: ADDITIONAL SERVICES

Project Implementation Services and Support Primary and General Election 2008 Project Management & Technical Support:

Sequoia shall provide full service implementation for the Primary and General 2008 Elections beginning at inception of this contract to include:

- a. Assignment of Project/Account Manager
- b. Acceptance Testing Support for Optech Insight and 400-C (two days).
- c. Logic and Accuracy (Pre-LAT) Support: 1 Technician (3 days).
- d. Election Day Technical Support (Insight/400c): 1 technician (3 days)
- e. Election Day Technical Support (Wineds): 1 technician (3 days).
- f. Unlimited Phone Support: 8:00 a.m. – 5:00 p.m.
- g. Unlimited Top-Tier Election Day/Night Phone Support
- h. Election Day Services and Support: See Attached

Training:

Sequoia shall provide training to the SOE based upon the following schedule at no cost to the Customer. The dates and locations of the training are subject to agreement between the SOE and Sequoia.

Product	Course	Number of Days	Site - Location
400C	Acceptance Test Training	1	County
	Operations and General Maintenance	2	County
	Advance Technician Training	2	Sequoia
Insight	Acceptance Test Training	1	County
	Precinct Based	2 or 3	County
WinEDS	Upgrade Training		
	WinEDS I - Tally and Pre-LAT	2	Sequoia
	WinEDS II - Ballot & Election Setup	3	Sequoia
BPS II			
	General Operating Procedures	3	County
	Follow up (right before election)	3	County
Poll worker	Train the Trainer & Observation	3	County

ATTACHMENT 3: DISCLOSURE OF OWNERSHIP INTERESTS

**TO: PALM BEACH COUNTY CHIEF OFFICER,
OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE**

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

BEFORE ME, the undersigned authority, this day personally appeared, _____ hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant appears herein as the _____ of Sequoia Voting Systems, Inc. The Affiant represented herein seeks to do business with Palm Beach County through its Board of County Commissioners.
2. Affiant's address is _____.
3. The following is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater interest in the Affiant's corporation, partnership, or other principal. Disclosure does not apply to nonprofit corporations, government agencies, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County and the Board of County Commissioners. Affiant further acknowledges that he is authorized to execute this document on behalf of Sequoia Voting Systems, Inc.
5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Affiant Signature

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by _____, [] who is personally known to me or [] who has produced _____ as identification and who did take an oath.

Notary Public

(OVER)

(Print Notary Name)

ATTACHMENT 4: CERTIFICATION OF SEQUOIA BY STATE OF FLORIDA

Certification Sequoia Voting Systems, Inc. Sequoia Voting Systems, Release 3.1.077, Version 1

On this date, the Department of State certifies "Sequoia Voting Systems, Release 3.1.077, Version 1", submitted by Sequoia Voting Systems, Inc., for purchase or use by County and Municipal Governments of the State of Florida. This voting system consists of:

Election Management System:

- WinEDS application, version 3.1.077
 - WinEDS Database Setup, version 3.1.077
 - Election Reporting, version 1.1.28
- Ballot Printing System II (BPS), version 3, release 401.
- BPS/WinEDS Bridge, version 3.1.19D
- AVC EDGE Cartridge Reader / Programmer (Part No. 460-40070-00)
 - w/ COTS device driver as indicated on product label
- *Optional* Sycard PCCextend 70A (replacement for the EDGE Cartridge Reader / Programmer)
- Memory Pack Reader (MPR)
 - w/firmware version 2.15
- *Optional* SPR Host 1.0.10
- COTS software
 - Windows Server 2003 and/or
 - Windows XP
 - Microsoft Visio 2002 (Standard Edition) with SR-1 or later
 - Microsoft Office 2002 (Standard Edition) or later
 - Microsoft SQL Server 2000 with Service Pack 4 or later
 - *Optional* Adobe Acrobat 5.0 or later

Precinct Count:

- Optech Insight and/or Insight Plus
 - w/ firmware versions HPX 1.44, APX 2.12
 - *Optional* modem
 - w/ firmware version CPX 1.14
 - Insight Plastic Ballot Box
- *ADA polling equipment:*
 - AVC EDGE I and/or EDGE II
 - w/ firmware version 5.1.12
 - *Auxiliary equipment for EDGE I or II:*
 - AVC EDGE Card Activator, version D
 - w/ firmware version 5.1.09
 - AVC EDGE Audio Component, Revision D
 - w/ firmware version 7.5
 - *Optional* AVC EDGE Auxiliary Power Unit

Central / Absentee Count:

- Optech 400-C Ballot Counter, Model 3.00P
 - w/ WinETP firmware version 1.14.3

This certification is granted pursuant to Section 101.5605, Florida Statutes, Rule 15-5.001, Florida Administrative Code, and DS-DE 101, effective 1-12-05.



Certification # 070907-SEQUOIA-01

Given under my hand, and the Great Seal of the State of Florida at Tallahassee, the Capitol, this Seventh day of September, A.D. 2007.

A handwritten signature in black ink, appearing to read "Amy E. Tuck".

Amy E. Tuck, Esq.
Director
Division of Elections, Department of State
State of Florida

MARSH**CERTIFICATE OF INSURANCE**CERTIFICATE NUMBER
ATL-001342098-01PRODUCER
Marsh USA Inc.
P O Box 459010
Sunrise, FL 33345-9010

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

339951-ALL-07-08

INSURED
SEQUOIA VOTING SYSTEMS
7677 OAKPORT STREET
SUITE #800
OAKLAND, CA 94621**COMPANIES AFFORDING COVERAGE**COMPANY
A ST. PAUL FIRE & MARINECOMPANY
B TRAVELERS CASUALTY & SURETY COCOMPANY
CCOMPANY
D**COVERAGES** This certificate supersedes and replaces any previously issued certificate for the policy period noted below.

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR OWNER'S & CONTRACTOR'S PROT	TE06804212	04/15/07	04/15/08	GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 PERSONAL & ADV INJURY \$ 1,000,000 EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 500,000 MED EXP (Any one person) \$ 10,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	TE06804212	04/15/07	04/15/08	COMBINED SINGLE LIMIT \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY \$ EACH ACCIDENT \$ AGGREGATE \$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input checked="" type="checkbox"/> INCL <input type="checkbox"/> EXCL	HACR-UB-2006L61-3-07	04/15/07	04/15/08	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER EL EACH ACCIDENT \$ 1,000,000 EL DISEASE-POLICY LIMIT \$ 1,000,000 EL DISEASE-EACH EMPLOYEE \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Palm Beach County Board of Commissioners is included as additional insured as respects General Liability as required by contract or agreement.

CERTIFICATE HOLDERPalm Beach County Board of Commissioners
301 North Olive Avenue
West Palm Beach, FL 33401**CANCELLATION**

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES, OR THE ISSUER OF THIS CERTIFICATE

MARSH USA INC.

BY: Carmen Gordon

MAR1(3/02)

VALID AS OF: 11/27/07

RESOLUTION NO. R-2007-1861

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR SOLE SOURCE DETERMINATION; PROVIDING FOR APPROVAL OF NEGOTIATION BETWEEN DR. ARTHUR ANDERSON, SUPERVISOR OF ELECTIONS AND SEQUOIA VOTING SYSTEMS, INC; PROVIDING FOR TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DIVISION OF ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2007, the Florida Legislature passed a law prohibiting touch screen voting equipment and mandating the use of optical scan based voting systems effective July 1, 2008; and

WHEREAS, the Supervisor of Elections (hereinafter "Supervisor") investigated and evaluated optical scan based voting systems that could serve the particular needs of Palm Beach County; and

WHEREAS, the Supervisor determined that there is but a single source from which suitable voting equipment can be obtained; and

WHEREAS, this single source, Sequoia Voting Systems, Inc., manufactures the optical scan based voting system; which, based upon the determination of the Supervisor, is the only optical scan based voting system certified by the State of Florida that is compatible to the current voting system owned by the County, inclusive of tabulation equipment, components, etc.; and

WHEREAS, based on this authorization, the Supervisor will negotiate an agreement with Sequoia Voting Systems which will take effect upon the provision of funding by the Board of County Commissioners.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The Recitals set forth herein are true and correct and form a part of this Resolution.
2. The Board of County Commissioners of Palm Beach County, based solely upon the advice and consent of the Supervisor as set forth in the Recitals, hereby determines that Sequoia Voting Systems is the sole source certified by the State of Florida that is compatible with the County's existing voting system, inclusive of tabulation equipment, components, etc.
3. As to each of the actions and factual determinations set forth in this Resolution, the Board of County Commissioners relies solely upon the advice and consent of the Supervisor, recognizing fully the election-related authorities, duties and obligations imposed upon the Supervisor by Florida law, including by not limited to the independence of the Supervisor in matters relating to purchase of equipment as set forth in section 129.202(2), Florida Statutes (2006).
4. A certified copy of this resolution shall be transmitted to the State of Florida Division of Elections within ten days of its effective date and shall accompany certification by the Chairperson of the Board of County Commissioners indicating the conditions requiring an exception to the competitive sealed bidding and the competitive sealed proposal requirements set forth in section 101.293, Florida Statutes (2006).
5. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was offered by Commissioner Marcus who moved for its adoption. The motion was seconded by Commissioner Aaronson, and upon being put to a vote, the vote was as follows:

Commissioner Addie I. Greene, Chairperson	-	Aye
Commissioner Jeff Koons, Vice-Chair	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Robert J. Kanjian	-	Aye
Commissioner Mary McCarty	-	Aye
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Absent

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of October 2007.

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk and Comptroller

By Nancy Parcell
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By

DMNeman
County Attorney