

**INTERLOCAL AGREEMENT**  
**FOR**  
**FOR THE PURCHASE AND SALE OF VOTING MACHINERY**

**THIS INTERLOCAL AGREEMENT** (the "Agreement") is made by and between Wayne County, Indiana ("Wayne County"), acting by and through its Board of Commissioners of Wayne County; and Williamson County, Texas ("Williamson County"), acting by and through the Williamson County Commissioners Court, and is executed for the sale and purchase of voting machinery.

**RECITALS**

**WHEREAS**, the Board of Commissioners of Wayne County, Indiana, is the purchasing agency for personal property owned and to be purchased or transferred by Wayne County pursuant to the authority set out in the provisions of Indiana Code (IC) 5-22-22, et. seq.; and

**WHEREAS**, the Williamson County Commissioners Court is the contracting body for Williamson County, which is a political subdivision and governmental entity of the State of Texas, and is acting hereunder pursuant to the authority contained in the Interlocal Cooperation Act, Texas Government Code Section 791 et. seq.; and

**WHEREAS**, Wayne County is the owner of certain items of personal property that are no longer needed by Wayne County for governmental purposes consisting of certain *iVotronic* brand voting machines with booths and ancillary supporting equipment, as more particularly described on the attached "Schedule A", which is incorporated herein by reference (the "Voting Machinery"); and

**WHEREAS**, Wayne County has purchased newer voting machines, ancillary supporting equipment and requisite software of a different brand from a different manufacturer and vendor so as to render the Voting Machinery useless to Wayne County and available for disposition by the Board; and

**WHEREAS**, Williamson County has a need for the Voting Machinery and is desirous of purchasing the Voting Machinery from Wayne County in accordance with the terms and conditions set forth herein; and

**NOW, THEREFORE, BE IT RESOLVED** that the Board, on behalf of Wayne County, authorizes the sale of the Voting Machinery to Williamson County and the Williamson County Commissioners Court, on behalf of Williamson County, authorizes the purchase of the Voting Machinery, upon, and subject to, the following terms and conditions:

## **I. FINDINGS**

The recitals set forth above are incorporated herein for all purposes and are found by the parties to be true and correct. It is further found and determined that Wayne County and Williamson County have authorized and approved this Agreement by resolution or appropriate order duly adopted by their respective bodies, and that this Agreement shall be in full force and effect when approved by both parties.

## **II. TERMS AND CONDITIONS OF AGREEMENT**

- A.** Wayne County hereby agrees to sell the Voting Machinery described on the attached "Schedule A" to Williamson County for the consideration set forth below.
- B.** Following the execution of this Agreement by the parties, Wayne County will make the Voting Machinery available for Williamson County or its contracted carrier to pick up the Voting Machinery at the Wayne County Courthouse, Richmond, Indiana.
- C.** Williamson County will pay for all shipment costs associated with the shipment of the Voting Machinery from Wayne County to Williamson County.
- D.** Williamson County agrees to accept the Voting Machinery in their "as is/where is" condition without expressed or implied warranties of any sort other than the warranty of good title, which will pass upon payment of the consideration set out herein; provided, however, Wayne County represents that, to its best knowledge, the Voting Machinery shall be in good working order as of the time Williamson County takes possession of said Voting Machinery.
- E.** Upon request by Williamson County, Wayne County shall provide Williamson County all documentation in its possession relative to the maintenance and repair history of the Voting Machinery, as well as provide any warranty information on the Voting Machinery to the extent such warranty information exists.
- F.** Within ten (10) business days from the date the Voting Machinery is delivered and received in Williamson County, Texas, Williamson County shall have the right to have Elections Systems and Software (ES&S) perform acceptance testing on the Voting Machinery. Williamson County shall provide Wayne County with the results of the acceptance testing immediately upon completion of the testing. In the event that a unit of Voting Machinery does not pass the acceptance testing, such unit will be returned to Wayne County and Williamson County will not be required to purchase such unit.

## **III. CONSIDERATION AND PAYMENT**

- A.** Williamson County shall pay Wayne County FIVE HUNDRED DOLLARS (\$500.00) per unit of Voting Machinery that passes the acceptance testing described herein above. The maximum amount that Williamson County will be obligated to pay for the two hundred fifty-two (252) voting machine units described in Schedule A shall be ONE HUNDRED



TWENTY-SIX THOUSAND DOLLARS (\$126,000.00) provided that all such units pass the acceptance testing performed by ES&S.

- B. Within fifteen (15) business days from the date Williamson County provides Wayne County with the acceptance testing results, Wayne County shall invoice Williamson County for each unit of Voting Machinery that passed said acceptance testing. Williamson County shall thereafter tender payment to Wayne County within fifteen (15) business days from the date Williamson County receives Wayne County's invoice for payment.
- C. Wayne County shall send its invoice for payment to: Williamson County Auditor's Office, Attn: Finance Director, 710 Main Street, Suite 301, Georgetown, Texas 78626.

#### **IV. ASSIGNMENT; SUBCONTRACT; NO THIRD-PARTY BENEFICIARIES**

This Agreement may not be assigned in whole or in part by either party unless the other party gives express permission to do so and enters into a new written agreement with that person or entity. This Agreement is entered into for the sole benefit of the parties. Nothing in this Agreement shall be construed as conferring any rights, benefits, remedies, or claim upon any other persons, firms, corporations, or entities.

#### **V. DEFAULT AND REMEDIES**

- A. Notwithstanding anything herein to the contrary, if either party fails to substantially perform as required by the provision hereunder, and continues in such failure for thirty (30) business days after written notice has been sent to the non-performing party, then such party shall be deemed to be in default under this Agreement.
- B. In the event of default, the non-defaulting party has the right to immediately terminate this Agreement. Each and all of the rights and remedies of the parties hereunder are cumulative to and not in lieu of each and every other such right and remedy and every other right and remedy afforded by law and equity.

#### **VI. NON-APPROPRIATION AND FISCAL FUNDING**

The obligations of the parties under this Agreement do not constitute a general obligation or indebtedness of either party for which such party is obligated to levy, pledge, or collect any form of taxation. It is understood and agreed that Williamson County shall have the right to terminate this Agreement if the governing body of County does not appropriate sufficient funds as determined by Williamson County's budget for the fiscal year in question. In such case, Williamson County may effect such termination by giving written notice of termination to Wayne County. In the event of termination under this provision, the Voting Machinery shall be returned by Williamson County to Wayne County in the same condition that it received the Voting Machinery at no cost to Wayne County.

## VII. NOTICES

Any notice or demand required or permitted to be made hereunder shall be made by certified or registered mail to the addresses set out herein in the respective signature blocks, and shall be deemed to have been received on the third business day after deposit in the U.S. mail.

## VIII. AMENDMENT; NO WAIVER; SEVERABILITY

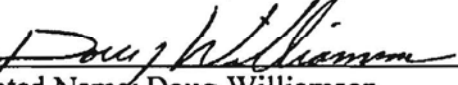
Amendments to or modification of this Agreement, if any, shall be in writing and signed by authorized representatives of the parties. Lack of enforcement of any right under this Agreement by either party shall not constitute a waiver of that right or any other in the future. The terms and conditions of this Agreement supersede all other agreements, written or oral, between the parties regarding the subject matter of this Agreement. Should a court of competent jurisdiction find any part of this Agreement to be invalid or unlawful, the remainder of this Agreement shall remain in full force and effect, consistent with the original intent of the parties.

## IX. NO ORAL AGREEMENTS

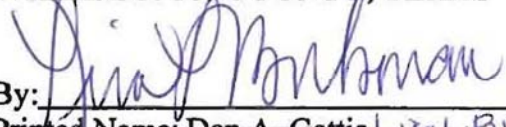
The parties agree that this Agreement (and the appended attachments) contains all representations, understandings, contracts, and agreements between the parties regarding the subject matter of this Agreement. Any other writings, understandings, oral representations or contracts shall be deemed to be terminated, void, and ineffective.

Executed to be effective the \_\_\_\_ day of the month of \_\_\_\_\_, 20\_\_.

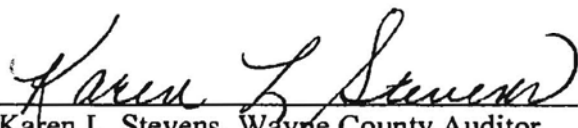
### BOARD OF COMMISSIONERS OF WAYNE COUNTY, INDIANA

By:   
Printed Name: Doug Williamson  
Title: President  
Address: Wayne County Admin. Bldg.  
401 East Main Street  
Richmond, Indiana 47374

### WILLIAMSON COUNTY, TEXAS

By:   
Printed Name: Dan A. Gattis *Lizbeth Williamson*  
Title: Williamson County Judge *Presiding Commissioner*  
Address: 710 Main Street, Suite 101  
Georgetown, Texas 78626

Attest:

  
Karen L. Stevens, Wayne County Auditor

Attachments  
Schedule A

## SCHEDULE A

### LISTING OF VOTING MACHINERY

The Voting Machinery shall consist of ES&S 15" *iVotonic* voting machines with booths, Hardware Revision 1.1, as follows:

- Four (4) Supervisor Units
  - Sixty-one (61) ADA Units
  - One hundred eighty-seven (187) non-ADA Units
- (Total of Two Hundred Fifty-two (252) Units @ \$500.00 per Unit)

Also included at no additional charge to Williamson County:

- One hundred seventy-seven (177) red PEB's
- Sixty-four (64) yellow PEB's