

Council Agenda Report

Date: April 11, 2106

Prepared and
Submitted by: Sandra Tripp-Jones, City Manager

SUBJECT: Contract with Dorchester County Elections Board for 2016 municipal elections

Recommendation: That Council approve and authorize the Mayor to execute a Dorchester County Board of Elections Service and Equipment Lease Agreement for the June 2016 municipal primary election and July 2016 municipal election, in a total amount not to exceed \$40,000 (for both).

The City 2016 municipal elections for Mayor and Commissioners for all wards are scheduled as follows:

Primary Election:	June 14, 2016
Election:	July 12, 2016

The candidate filing period ends April 29, 2016. To date we have candidates for all five wards. Elections are planned to be held at Governor's Hall (Sailwinds).

This year the State has advised Counties that they must charge municipalities to use voting machines that are leased by Counties and are partially subsidized by the State. As a consequence the costs of elections that are conducted by the County have increased. The cost of the last election was about \$20,000. The Dorchester County Elections Director is not able to provide an exact quote for the elections as there are several variables, including the number of primary wards. Addenda 1 and 2 of the Agreement show cost items. The Elections Director Gwendolyn Dales has provided a not to exceed estimate of \$ 40,000.00 for the two elections. The actual costs may be under that.

Fiscal Impact:

The current budget (2016) has \$20,000 budgeted for elections and the proposed 2017 budget will contain an additional \$20,000.

BOARD MEMBERS

JANET M. LIVINGSTON
PRESIDENT

THOMAS M. CORKRAN
VICE PRESIDENT

MICHAEL W. DETMER
SECRETARY

WILLIAM E. BATSON
SUBSTITUTE

VACANT
SUBSTITUTE



GWENDOLYN H. DALES
ELECTION DIRECTOR

VACANT
ELECTION SUPERVISOR

KIMBERLY K. JONES
ELECTION INFORMATION SYSTEMS
SPECIALIST

HUBERT H. WRIGHT, IV
ATTORNEY

**DORCHESTER COUNTY
BOARD OF ELECTIONS**

**DORCHESTER COUNTY BOARD OF ELECTIONS SERVICE AND EQUIPMENT
LEASE AGREEMENT WITH THE CITY OF CAMBRIDGE**

THIS EQUIPMENT LEASE made in duplicate this ____ day of March 2016, by and between the Dorchester County Board of Elections (hereinafter referred to as the Board) and Commissioners of the City of Cambridge, a Municipal Government (hereinafter referred to as "Lessee").

RECITALS

WHEREAS, Lessee desires to lease electronic poll books, and/or other equipment and services from the Board for the Lessee's 2016 Cambridge Municipal Primary and General elections, scheduled for June 14, 2016 and July 12, 2016, respectively; and

WHEREAS, the Board has been permitted by the State of Maryland, through the Maryland State Board of Elections (SBE), to lease the electronic poll books and other equipment to Maryland Municipal Governments for the purposes of municipal elections; and

WHEREAS, the parties desire to enter into this Service and Equipment Lease Agreement, which defines their respective rights, duties, and liabilities relating to the electronic poll books, and election equipment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Board and Lessee hereby agree as follows:

1. OBLIGATIONS OF THE BOARD

- 1.1 The Board agrees to lease to the Lessee and the Lessee agrees to lease from the Board, 6 electronic poll books and the Board agrees to use (free of charge) 1 Ballot Marking Device (BMD) and 3 DS200 Scanning Units (DS200) for the period of June 14, 2016 through June 15, 2016 and July 12, 2016 through July 13, 2016, at the following location:

**Governor's Hall @ Sailwinds
200 Byrn Street
Cambridge, MD 21613**

- 1.2 The Board will provide the BMD and 3 DS200s at no cost if and only if the BMD and DS200s are released from the 2016 Presidential Primary election, otherwise, the Lessee agrees to lease that equipment and pay transportation costs from ES&S to conduct the 2016 Cambridge Municipal Primary and General elections.
- 1.3 The Board will provide the materials necessary for Lessee to properly use the BMD, DS200, and electronic poll books to conduct the 2016 Cambridge Municipal Primary and General elections, including but not limited to, Supervisor Cards, power strips, extension cords and supply bags.
- 1.4 The Board agrees to provide to the Lessee the additional services listed in **Addendum 1**, for the costs specified therein.
- 1.5 The Lessee agrees to pay ES&S for Paper Ballot Layout, Electronic Screen Layout, Programming Services, Voice Files per Equipment Type and Other Services listed in **Addendum 2**, for the costs specified therein. ES&S shall bill the Lessee directly for such services and the Board will work to prepare the units for the elections, and Lessee agrees to pay such bills promptly upon receipt.
- 1.6 The Lessee agrees to pay all parties involved in a timely manner and the total cost should not exceed \$20,000 per election

2. OBLIGATIONS OF THE LESSEE

- 2.1 Lessee agrees to secure and control all items provided under this Equipment Lease Agreement in accordance with guidance and direction issued by the Maryland State Board of Elections (“SBE”) and/or the Board.
- 2.2 Lessee agrees to conduct the Elections in accordance with guidance and direction issued by SBE and/or the Board.
- 2.3 Lessee agrees to provide all power and telecommunications necessary for proper operation of the voting equipment.
- 2.4 Lessee agrees to pay to Signature Space the cost of transporting the BMD, DS200s and electronic poll books from the Board’s warehouse at 824 Fairmount Avenue, Cambridge, Maryland 21613, to the designated polling location and returning them to the Board’s warehouse. Signature Space shall bill the Lessee directly for such transportation and the Board will work to prepare the units and electronic poll books for the elections, and Lessee agrees to pay such bills promptly upon receipt. The designated polling location is: Governors’ Hall at Sailwinds, 200 Byrn Street, Cambridge, Maryland 21613.

- 2.5 Lessee agrees that the BMD, DS200s, and electronic poll books provided under the Lease shall be used only for election purposes.
- 2.6 Lessee agrees that the BMD, DS200s, and electronic poll books and/or other equipment provided under this Lease, shall be located at the polling place specified above, and may be inspected at this location by SBE and/or the Board between the hours of 7:00 a.m. and 7:00 p.m., Tuesday, June 14, 2016 and July 12, 2016, for the 2016 Cambridge Municipal Primary and General elections.
- 2.7 Lessee agrees that when the 2016 Cambridge Municipal Primary and General elections are being conducted, the BMD, DS200s, electronic poll books, and/or any other equipment provided under this Lease, shall be under the visual supervision of a chief election judge. At all other times, the BMD, DS200s, and electronic poll books provided under this Lease, shall be closed and sealed, and stored in an access-controlled area whereby only authorized personnel have access.
- 2.8 Lessee agrees that it shall not sublease or otherwise make available to any other person or entity the BMD, DS200s, and electronic poll books provided under this Lease.
- 2.9 Lessee shall keep a record of and report the Ballot Status Accounting Report on each DS200 used in the 2016 Cambridge Municipal Primary and General elections to the Board. Said records shall be taken when the DS200s are unsealed before use, as well as after the DS200s units have been used before being resealed.
- 2.10 Lessee designates Sandra E. Tripp-Jones as Lessee's single point of contact for purposes of this Lease and the use of BMD, DS200s, and electronic poll books or services provided under this Lease.

3. CONDUCT OF ELECTION

Subject to the other agreement between the Lessee and Board regarding the Board's responsibility for portion of the City of Cambridge elections.

- 3.1 All aspects of the elections being conducted by Lessee are the sole responsibility of Lessee. Nothing in this Agreement may be construed to make the State of Maryland (the "State"), the SBE, and/or the Board responsible for these elections. Neither the State, the SBE, nor the Board, is responsible for the administration or supervision of, or any costs associated with, conducting these elections.
- 3.2 Lessee agrees to indemnify the Board, SBE, and the State against any and all liability for any suits, actions, or claims of any character arising from or relating to the Lease or use by Lessee of any equipment provided under this Lease.

- 3.3 Delivery and return of the BMD, DS200s, and electronic poll books will be scheduled by the Board. Other equipment provided under this Lease Agreement will be delivered and returned by persons designated by the Board.
- 3.4 Lessee shall be liable for any loss of or damage to the BMD, DS200s, electronic poll books, and/or any other equipment provided under this Lease, for any time that such equipment is within the control of Lessee or its agents. Lessee will not be responsible for loss of or damages to any items while they are in the control of the Board.
- 3.5 Lessee expressly acknowledges and agrees to respect the intellectual property rights of SBE in the system components, and will not make any use of those components or documents and materials generated through the use of the components that the State would not be permitted to make under the contract between SBE. All documents and materials prepared by a system solely for purposes of the Election shall be the sole property of Lessee and shall be available to Lessee at any time, and Lessee may use such documents and materials without restriction, or compensation, except as provided elsewhere in this Agreement or in separate agreements between Lessee and the Board.
- 3.6 Lessee is insured by Local Government Insurance Trust (insurance company), in Accordance with State Board Municipal Information requirements. **Addendum 3** to this Lease is the certificate of insurance naming the SBE and the Board as additional loss payees.

4 MISCELLANEOUS

- 4.1 This Lease is entered into under the Law of Maryland and shall be construed, applied and performed in accordance with the laws of the State of Maryland, including, but not limited to, the laws, ordinances, and regulations of Dorchester County, Maryland. The Maryland Uniform Computer Information Transactions Act, Commercial Law Article, Title 22, Annotated Code of Maryland, does not apply.
- 4.2 All parties to this Agreement consent to jurisdiction and venue in the court system for Dorchester County, Maryland.
- 4.3 This Agreement, which includes services delineated by the Municipal Election Questionnaire, attached hereto as **Addendum 4**, constitutes the entire agreement between the parties, with respect to this subject matter, supersedes all previous communications, representations and understandings, whether oral, written, electronic or otherwise, and may be amended only by a written document that is signed by an authorized representative of the Board and Lessee.

- 4.4 If any part of this Agreement is found by a court of competent jurisdiction to be invalid, unenforceable or voidable, such invalidity, enforceability or voidability shall not affect the validity or enforceability of the remainder of the Agreement.
- 4.5 In the event that the Lease of the BMD, DS200s, and electronic poll books and/or other equipment leased pursuant to this Lease conflicts with, or limits the use of said equipment by the Board for any election conducted under the Election Law Article, the Board may declare this Lease null and void and of no further effect, without liability of any kind. If the Board declares this Lease void, Lessee shall immediately return said equipment to the Board at the direction of the Board.

IN WITNESS WHEREOF, the Board (Lessor) and the Lessee have caused this Agreement to be executed, in duplicate, by their respective authorized officer or agent:

For Lessee:

By: _____
(Signature of authorized officer or agent)

Sandra E. Tripp-Jones

City Manager for the City of Cambridge

(Date) _____

For the Lessor:

Dorchester County Board of Elections

By: _____
(Signature of authorized officer or agent)

Janet M. Livingston

Board President

(Date) _____



**CERTIFICATE OF POOL COVERAGE
 LOCAL GOVERNMENT INSURANCE TRUST
 ENABLING LEGISLATION AUTHORITY OF
 LOCAL GOVERNMENTS TO POOL
 INSURANCE CODE §19-602, MD. CODE ANN.**

CERTIFICATE HOLDER:

State of Maryland Elections Board, Dorchester County
 Elections Board

TRUST PARTICIPANT:

City of Cambridge
 P.O. Box 255
 Cambridge MD 21613
 Policy # PLP-155000-2015/16-07

COVERAGE PERIOD: Effective 12:01 A.M. E.S.T. on 7-1-2015 to Expire at 12:01 A.M. E.S.T. on 7-1-2016.

CERTIFICATE HOLDER SHOWN ABOVE INCLUDED AS: Proof of Coverage

Coverage	Deductible	Limit
Property	\$1,000 Each Occurrence	\$80,894,198.51
General Liability	\$0 Each Occurrence	\$1,000,000 Each Occurrence \$3,000,000 Annual Aggregate Limit
Auto Liability	\$0 Each Occurrence	\$1,000,000 Each Occurrence

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the documents as issued by the Local Government Insurance Trust. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of pool coverage is issued or may pertain, the coverage afforded by the Local Government Insurance Trust documents described herein is subject to all the terms, exclusions and conditions therein. Should any of the applicable documents be canceled before the date shown, the Local Government Insurance Trust will endeavor to mail 45 days written notice to the certificate holder, but failure to do so shall not impose obligation or liability of any kind upon the trust or its representatives.

ADDITIONAL INFORMATION: Evidencing coverage regarding use of voting machines for elections.

Certificate holder listed as additional insured when requested ATIMA for only State and Local Governments including Public Entities of Maryland as dictated in Conditions Item Q of the Primary Liability Scope of Coverage and must be subject to: 1) the Local Government Tort Claims Act limitations on liability as set forth in Md. Cts. & Jud. Proc. Code Ann., § 5-301, et. Seq., or 2) the Maryland Tort Claims Act limitations on liability as set forth in Md. State Gov't. Code Ann., § 12-101, et seq.; 3) the County Boards of Education limitations on liability as set forth in Md. Educ. Code Ann., § 4-101, et seq.

Authorized Representative
 LOCAL GOVERNMENT INSURANCE TRUST

5-13-2015

ISSUE DATE

Cert # 8910



**CERTIFICATE OF POOL COVERAGE
 LOCAL GOVERNMENT INSURANCE TRUST
 ENABLING LEGISLATION AUTHORITY OF
 LOCAL GOVERNMENTS TO POOL
 INSURANCE CODE §19-602, MD. CODE ANN.**

CERTIFICATE HOLDER:

Dorchester County
 501 Court Lane
 Room 108
 Cambridge, Maryland 21613

TRUST PARTICIPANT:

City of Cambridge
 P.O. Box 255
 Cambridge MD 21613
 Policy # PLP-155000-2015/16-07

COVERAGE PERIOD: Effective 12.01 A.M. E.S.T. on 7-1-2015 to Expire at 12.01 A.M. E.S.T. on 7-1-2016.

CERTIFICATE HOLDER SHOWN ABOVE INCLUDED AS: Proof of Coverage

Coverage	Deductible	Limit
Property	\$1,000 Each Occurrence	\$80,894,198.51
General Liability	\$0 Each Occurrence	\$1,000,000 Each Occurrence \$3,000,000 Annual Aggregate Limit
Coverage A - Bodily Injury and Property Damage	\$0 Each Occurrence	\$1,000,000 Each Occurrence \$3,000,000 Annual Aggregate Limit
Collision	\$500 Each Claim	Actual Cash Value or Cost of Repairs which ever is less
Comprehensive - All Other	\$250 Each Claim	Actual Cash Value or Cost of Repairs which ever is less
Auto Liability	\$0 Each Occurrence	\$1,000,000 Each Occurrence

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the documents as issued by the Local Government Insurance Trust. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of pool coverage is issued or may pertain, the coverage afforded by the Local Government Insurance Trust documents described herein is subject to all the terms, exclusions and conditions therein. Should any of the applicable documents be canceled before the date shown, the Local Government Insurance Trust will endeavor to mail 45 days written notice to the certificate holder, but failure to do so shall not impose obligation or liability of any kind upon the trust or its representatives.

ADDITIONAL INFORMATION: Evidencing liability insurance coverage regarding the ALS Program with the county.

5-13-2015

ISSUE DATE
 Cert # 8899

Authorized Representative
 LOCAL GOVERNMENT INSURANCE TRUST