MEMORANDUM OF AGREEMENT

For HAVA Funds to Implement the MOVE Act and Improve the Administration of Other Federal Election Activities

This agreement is between the State of Florida, Department of State, Division of Elections ("Department"), R.A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250 and The Honorable Ion V. Sancho, Supervisor of Elections ("Supervisor"), on behalf of Leon County, 315 South Calhoun Street - Suite 110, Tallahassee, Florida 32301-1837. This agreement is effective as of the date fully executed by the parties.

I. GOVERNING LAW

Congress appropriated funds through section 251 of the Help America Vote Act of 2002 (HAVA) to improve the administration of federal election activities. In 2009, Congress authorized further the use of requirements payments from HAVA to implement the provisions of the Military and Overseas Voter Empowerment (MOVE) Act of 2009 (see s. 588 of subtitle H amending section 251(b)(3); Public Law 111-84). Therefore funds are made available through section 251 of the Help America Vote Act of 2002 (HAVA) and the Catalog of Federal Domestic Assistance (CFDA) 90.401, Help America Vote Act Requirements Payments.

II. SCOPE OF USE AND RESTRICTIONS

As more specifically set forth in **paragraph 1 of Attachment A**, which is hereby incorporated by reference, the funds granted shall be used to reimburse for or to advance funds solely for the costs associated with the development or upgrade of an existing online or web-based absentee ballot request and ballot tracking and precinct-finder system as relates to use in federal elections and for the costs attendant with its initial installation/service license fee and maintenance services for a 24-month period. The Supervisor must ensure that these components are coordinated with and linked to the State's Florida Voter Registration System (FVRS) online lookup system and be operational by July 1, 2010.

The Supervisor must comply with all the terms herein and Attachment A. The funds may not be used to support state or federal lobbying activities. However, this lobbying restriction does not affect the right of the Supervisor, or that of any other organization to petition Congress, or any other level of Government, through the use of other resources.

In order to be eligible to receive funds hereunder, a Supervisor must first submit in accordance with **paragraph 2 of Attachment A**, the Certificate of Request for HAVA Funds (Exhibit 1) and the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions (Exhibit 2).

Any change, modification or deviation from the activities or expenses initially provided in support of a request for funds must be reported to the Department for review. The Supervisor

shall return immediately to the Department any funds that remain in excess of the amount needed to comply with paragraph 1 of Attachment A.

III. DISBURSEMENT

Subject to review and approval, the Department may disburse to a county an amount not to exceed thirty-five thousand ($35,000) or 100% of the cost, whichever is less, for development or upgrade, and for the initial installation/service license and maintenance service for a 24-month period. The grant award shall be based on a determination that the documentation sets forth reasonable, allowable and allocable costs. The Department reserves the right to request additional documentation of costs in support of a request.

IV. MONITORING, AUDITS, AND REPORTING

The administration of resources awarded to the Supervisor is subject to monitoring, audits, and reporting as described herein.

A. Monitoring

In addition to reviews of audits conducted in accordance with OMB Circular A-133 (as revised), the Department may provide additional monitoring including on-site visits, and/or other procedures permitted under federal and state law. The Supervisor shall comply and cooperate with any monitoring procedures/processes the Department deems appropriate.

B. Audits

1. Federal audit/OMB Circular A-133 (as revised)

If the Supervisor expends $500,000 ($300,000 *for fiscal years ending before December 31, 2003)* or more in federal awards in its fiscal year, a single or program-specific audit must be conducted in accordance with the provisions of OMB Circular A-133 (as revised). This may be satisfied by an audit of the Supervisor of Elections conducted by the Auditor General in accordance with OMB Circular A-133 (as revised). In determining the federal awards expended in its fiscal year, the Supervisor shall consider <u>all</u> sources of federal awards. **Attachment A** indicates federal resources are being awarded under this Agreement. The determination of amounts of federal awards expended shall be in accordance with the guidelines established by OMB Circular A-133 (as revised). In connection with an audit herein, the Supervisor shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133 (as revised).

If the Supervisor expends less than $500,000 (*$300,000 for fiscal years ending before December 31, 2003)* in federal awards in its fiscal year, an audit pursuant to OMB Circular A-133 (as revised), is optional. If the Supervisor elects to have an audit conducted in accordance with the provisions of OMB Circular A-133 (as revised), the cost of the audit must be paid from non-federal resources (i.e., from sources other than federal entities).

2. Other audits

The Department may conduct a limited scope audit of federal funds as defined by OMB Circular A-133 (as revised) or other financial analysis or review of federal funds as permitted by federal law. In the event the Department determines that such audit analysis, or review is appropriate, the Supervisor agrees to comply with any additional instructions provided by Department staff to the Supervisor regarding such process. If the Department determines that federal funds received under this Agreement were used for any unauthorized purpose or that the Supervisor did not comply with this agreement or state or federal requirements for receipt, expenditure, or accounting, the Supervisor must return or repay these federal funds in an amount sufficient to ensure or obtain compliance, including expenses for any corrective or remedial action. Additionally, the Department may withhold funds, otherwise due, in an amount sufficient to cover any costs associated with the limited scope audit or financial analysis or review to determine or ensure compliance.

The Supervisor further agrees to comply and cooperate with any inspections, reviews, investigations, or audits of federal funds deemed necessary by the Department of State, Chief Financial Officer (CFO) or Auditor General.

For additional guidance to state and federal monitoring and auditing requirements, refer to: http://election.dos.state.fl.us/hava/index.shtml and http://www.eac.gov.

C. Reporting

Copies of financial reporting packages as described in section .320(c), OMB A-133 (as revised) for audits conducted by or on behalf of the Supervisor pursuant to Section IV.B.1 of this agreement, shall be submitted as required by sections .320(d) of such circular to:

Department of State *Division of Elections* *R.A. Gray Building, Ste 316* *500 S. Bronough St.* *Tallahassee, FL 32399-0250*	*Department of State* *Office of Inspector General* *Clifton Building, Ste 320* *2661 Executive Cntr Cir.* *Tallahassee, FL 32399-0250*	*Auditor General's Office* *Room 401, Pepper Bldg* *111 West Madison St.* *Tallahassee, FL* *32399-1450*	*Federal Audit* *Clearinghouse* *Bureau of the Census* *1201 East 10th St.* *Jeffersonville, IN 47132*

Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133 (as revised).

Any reports, management letter, or other required information shall be submitted timely in accordance with OMB Circular A-133 (as revised), the Florida Single Audit Act, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable. When submitting financial reporting packages to the Department for audits conducted in accordance with the aforementioned circular or Rules of the Auditor General, the Supervisor shall include within the information the date the Supervisor received the reporting package.

V. RECORD RETENTION

The Supervisor shall keep and maintain accurate and detailed records (e.g., invoices, receipts, and other documentation) sufficient to identify how and whether expenditures were used for authorized purposes, to support financial reporting, and to conduct audits as may be required or requested. The Supervisor shall retain these records for five fiscal years in accordance with the guidelines of the Department of Financial Services and the Office of the Auditor General, or three years after the date an audit report is issued, whichever is later. The Supervisor shall allow the Department or its designee, CFO, or Auditor General access to such records, including the audit working papers upon request.

Failure to provide adequate documentation shall result in a request to return the funds to the Department.

VI. ENTIRETY OF THE AGREEMENT

All terms and conditions of this agreement are fully set forth in this document and attachments incorporated by reference and shall be governed by the laws of the State of Florida regardless of any conflict of laws provisions. In any proceeding or action brought under this section, the parties agree that the prevailing party will be entitled to its reasonable attorney's fees from the other party. The parties agree that proper venue will be in Leon County, Florida.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their undersigned officials as duly authorized.

County Supervisor of Elections:	Department of State, Division of Elections
By: _____	By: _____
Jon Sancho, Supervisor of Elections	_____
Printed name and title	Printed name and title
_____	_____
Witness	Witness
_____	_____
Date	Date

Please complete, sign and return the Memorandum of Agreement, the Certificate of Request for HAVA Funds and Certification Regarding Debarment and Suspension to:
Joyce Durbin, HAVA Funds Coordinator, Florida Department of State, Division of Elections, R.A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250

ATTACHMENT A to MOA #2009-2010-0001a

Federal Program: Federal Help America Vote Act—Catalog of Federal Domestic Assistance (CFDA) § 90.401 Help America Vote Act Requirements Payments

Compliance requirements applicable to the federal resources awarded under this agreement are as follows:

1. Purpose/Objective. The Supervisor shall only use the funds to implement the MOVE Act and improve the administration of other federal election administration activities by providing a state and locally coordinated online system that allows voters to locate their precinct, to submit online absentee ballot requests and to track absentee ballots online. This also applies to the cost of initial installation/service license fee and maintenance for a 24-month period. The absentee ballot requests and ballot tracking component of the system must offer the following features:

- Allows a voter to submit online absentee ballot requests;
- Allows a UOCAVA voter to designate how he or she wants the absentee ballot to be delivered or transmitted;
- Provides each voter the date his or her absentee ballot request was received;
- Provides each voter the date the absentee ballot was sent;
- Provides each voter the date the absentee ballot was returned back to the election official; and
- Provides each voter the mailing address to which the absentee ballot was sent and for each UOCAVA voter the mailing address, electronic mail address, or facsimile number to which the ballot was sent.

The Supervisor must establish a seamless link between the state's Florida Voter Registration System online registration look-up and the Supervisor's web based absentee ballot request and absentee ballot tracking system and precinct finder. If not already a component for access to absentee ballot request and absentee ballot tracking information, the Supervisor must include a security component including a challenge-response test component (such as CAPTCHA) and anti-phishing software to prevent automated software or other computer generated programs that conduct multiple inquiries into the system. Such system and link must be compliant with the American Disabilities Act and fully operational by July 1, 2010. The Supervisor

2. Certificates. In order to be eligible to receive funds, a Supervisor must first submit the following two forms:

a) Certificate of Request for HAVA Funds (Exhibit 1). If a Supervisor must create a new system or upgrade an existing system to meet the requirements of paragraph 1, the certificate must include supporting documentation (invoices, itemized statements, purchase order, contract, etc.) for the expenditure. Any documentation submitted by the Supervisor must clearly show the costs specifically attributable solely to developing each of the services and establishing and maintaining the link as set forth in paragraph 1., regardless of whether the requirements are met through in-house

development or through outsourcing to a vendor. If the Supervisor already has a system in place that meets some or all of the requirements of paragraph 1, the Supervisor may receive funds as reimbursement to cover the costs expended provided supporting documentation (e.g., executed copy of contract, itemized statements or invoices stamped "paid" or final purchase orders), sufficiently shows the costs attributable to meeting the requirements in paragraph 1.

b) "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions." ED Form GCAS-009 (6/88) (Exhibit-2).[Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35, prohibits the disbursement of federal funds to the intended recipient of such funds or to any sub-recipient thereunder unless such recipient and each sub-recipient, if any, certify that they are not excluded or disqualified from receiving federal funds by any federal department or agency.]

3. Tracking Funds. Unless the funds are to be *disbursed within 10 days of receipt, a Supervisor* who receives the HAVA funds as an advancement must maintain the funds in an interest bearing account until making expenditures to meet the requirements of paragraph 1. The Supervisor must segregate funds for federal election administration activities in a separate account established for such funds. If the Supervisor receives the HAVA funds as a reimbursement for expenditures already made that meet the requirements of paragraph 1., the funds do not need to be placed in a separate interest bearing account.

4. *Financial Reporting.* A Supervisor who receives funds hereunder as an advancement shall submit final documentation (e.g., executed copy of contract, itemized statements or invoices stamped "paid" or final purchase orders), indicating all actual expenditures in support of meeting the requirements of paragraph 1. Such documents are due **on or before September 30, 2010.** Any funds that remain or are in excess of what was needed to meet the requirements of paragraph 1. shall be returned immediately to the Department of State.

5. Copies of any reports or other submissions required by paragraphs 2 and 4 of this Attachment shall be submitted by or on behalf of the Supervisor directly to: Department of State, Division of Elections, HAVA Unit, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250.

State Resources Awarded to the Supervisor Under this Agreement Consist of the Following: N/A

Matching Resources for Federal Programs: N/A

Subject to section 215.97, Florida Statutes (Florida Single Audit Act): N/A

Compliance requirements applicable to state resources awarded pursuant to this Agreement are as follows: *N/A*

Exhibit 1A to MOA #2009-2010-0001a

CERTIFICATE OF REQUEST FOR HAVA FUNDS TO IMPLEMENT THE MOVE ACT AND IMPROVE OTHER FEDERAL ELECTION ACTIVITIES

I, ION SANCHO, LEON County Supervisor of Elections, request section 251 HAVA funds to cover the costs associated with implementation of the MOVE Act and improvement for other federal election administration activities and certify as follows:

1. Our county currently has a web-based system that provides (circle all that apply):

- A precinct finder
- Online absentee ballot request submission
- Online absentee ballot tracking
- A seamless link from the local web-based system to the state's online voter registration look-up
- None of the above

2. The funds will be used to cover or reimburse the costs, if any, associated to develop or upgrade web-based services and/or maintenance for fiscal year 2010 & 2012 as follows:

Services	Advance Funds	Reimbursement	Costs	
Precinct Finder				
Online absentee ballot request submission				
Online absentee ballot tracking				
Seamless link from local web-based system to the state's online voter registration lookup	6434.32		6434.32	FY 2010
Installation/service license and maintenance costs for 24-month period	2024.11		2024.11	FY 2012
		Total	8458.43	

3. A copy of the supporting documentation including invoice(s), itemized statements, purchase order, or contract is attached.

Supervisor of Elections' Signature Date

Please complete, sign and return the Memorandum of Agreement, the Certificate of Request for HAVA Funds and Certification Regarding Debarment and Suspension to:
Joyce Durbin, HAVA Funds Coordinator, Florida Department of State, Division of Elections, R.A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250

CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____
Name and Title of Authorized Representative

_____
Signature Date

Please complete, sign and return the Memorandum of Agreement, the Certificate of Request for HAVA Funds and Certification Regarding Debarment and Suspension to:
Joyce Durbin, HAVA Funds Coordinator, Florida Department of State, Division of Elections,
R.A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250

ED Form GCS-009, 6/88

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone Number).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.