COUNTY DEPARTMENT AGENDA REQUEST

Department:	Elections	Presenter(s):	Thomas L. Sawyer, if needed
Meeting Date:	Thursday, August 26, 2010	Type of Request:	Consent

Wording for the Agenda:

Approval of staff's recommendation that the County enter into the "Third Amendment to the Intergovernmental Agreement" between Fayette County and the Secretary of State's Office which will provide for the addition of bar code scanners which will expedite the voting process.

Background/History/Details:

In 2002, counties in Georgia entered into agreements with the Secretary of State's Office who furnished electronic voting equipment that would be consistent throughout the State. The first time the new equipment was used in Georgia was for the November, 2002 General Election.

Since that time, additions and updates have been made to the equipment. Changes require an amendment to the original Intergovernmental Agreement. This amendment to the original agreement will be the third. The request under consideration would allow the State to issue bar code scanners to Fayette County to be used at the polls when a voter first "checks in" to vote. If the voter's source of identification is a Georgia Drivers License, it will have a bar code on the back which, when scanned, would bring up the voter's information onto a screen used by the poll worker. This will eliminate some of the steps traditionally used when appearing to vote. If the voter's ID is not a Georgia Drivers License, his/her information will be entered in the traditional way. A sampling of bar code scanners were tested during the Primary Election in July. Fayette County will receive a total of 72 scanners to be used throughout the entire County, beginning in November.

There is no cost to the County for these scanners. The County Attorney has reviewed the Amendment document.

What action are you seeking from the Board of Commissioners?

Approval for the County to enter into the "Third Amendment to the Intergovernmental Agreement" with the Secretary of State's Office which will provide 72 bar code scanners to Fayette County intended to assist in expediting the voting process.

If this item requires funding, please describe:

No cost to Fayette County.

Has this issue come before the Commissioners in the past?		If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance		Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

THIRD AMENDMENT TO THE
INTERGOVERNMENTAL AGREEMENT

This Third Amendment to the Intergovernmental Agreement is made this _____ day of _____ 2010, by and between the Secretary of State of the State of Georgia and _____ County (hereinafter "County").

WHEREAS, the Secretary of State, as authorized by the General Assembly, provided a uniform Voting System to the County for the casting and counting of electoral votes in County, State and Federal elections in the State of Georgia;

WHEREAS, the County and the Secretary of State entered into a certain Intergovernmental Agreement for the loan and use of the Voting System by the County for the November, 2, 2002, General Election and each subsequent election thereafter;

WHEREAS, the original Voting System included an encoder for the programming of voter access cards for use on Election Day;

WHEREAS the Secretary of State, in 2005, upgraded the encoder to include an enhanced encoder component known as ExpressPoll for programming voter access cards, and for assessing and collecting voter information electronically at the polling precinct for credit for voting purposes;

WHEREAS, the Secretary of State has identified and acquired Bar Code Scanners that will serve as an enhancement to the current Voting System;

WHEREAS, the Secretary of State has determined the allotment of the Bar Code Scanners for each county based on the current allotment of ExpressPoll units.

NOW, THEREFORE, the Secretary of State shall provide the County with its allotment of the Bar Code Scanners described herein along with certain services subject to the terms and conditions set forth herein;

1. Scope of Agreement

1.1. Pursuant to O.C.G.A. § 21-2-300, the Secretary of State is tendering the loan of the County's allotment of the Bar Code Scanners described herein, and the County is borrowing the Bar Code Scanners for use in the July 2010 General Primary Election and other elections thereafter as are held from time to time, for a term not to exceed 50 years. The loan of the Voting System is revocable at the will of the Secretary of State and subject at all times to the direction of the Secretary of State to return or permit modification or replacement of all or a portion of the Bar Code Scanner allotment pursuant to written instructions.

1.2. In order to receive and continue to borrow its allotted number of Bar Code Scanners, the County must accept the terms of this Agreement. County will be deemed to accept this

Agreement by taking delivery of the Bar Code Scanners. Within 30 days of either event, County will return an originally executed counterpart of this Agreement to the Secretary of State and enter a true copy of the executed Agreement in its minutes.

2. Delivery and Storage of the Bar Code Scanners

2.1 Delivery of the Bar Code Scanners to the County will occur pursuant to a deployment schedule as determined by the Secretary of State, and as may be modified upon mutual agreement of the Vendor and the Secretary of State. Delivery will be made to the County to the location the Secretary of State currently has on file for delivery of all other statewide uniform voting system components.

2.2 The County shall take full responsibility for the care, storage, and use of the Bar Code Scanners as required by O.C.G.A. § 21-2-379.9, the rules and regulations promulgated thereto, and instructions provided by the Secretary of State for the security, storage, and use of the Bar Code Scanners.

2.3. Within 30 days of receipt, the County shall deliver to the Secretary of State a signed acknowledgement form, confirming receipt, possession, and storage of the Bar Code Scanners received pursuant to this Agreement including the physical address of the location where the Bar Code Scanners will be stored during nonelection periods. The County's confirmation shall be in a form of Exhibit "A" as provided by the Secretary of State.

2.4. During the confirmation of receipt of the Bar Code Scanners, the County election superintendent shall conduct a verification test of each Bar Code Scanner pursuant to the instructions provided by the Center for Election Systems and shall deliver a "Verification Report" attached hereto as Exhibit "B" to the Secretary of State within 3 business days of completion of all testing of the Bar Code Scanners. This Verification Report will assist the Secretary of State in determining acceptance of the Bar Code Scanners from the vendor and will establish warranty and insurance coverage.

3. Use of Bar Code Scanners

3.1 The County shall use the Bar Code Scanners in conjunction with the ExpressPoll in all elections where applicable as instructed by the Secretary of State.

3.2 The County shall include the use of the Bar Code Scanners into its use of the Voting System and shall continue to follow all procedures regarding use of the Voting System as provided for in the initial Intergovernmental Agreement, in the Georgia Election Code, and in any rules and regulations promulgated thereto, as well as any procedures or additional rules developed by the Secretary of State.

4. Relationships

4.1 The County shall immediately notify the Secretary of State of any defects in the Bar Code Scanners or of any other breach of warranty or contract by the Vendor, electronically to the Elections Division in urgent cases and in any event by written notice hereunder, in detail sufficient for the Secretary of State to bring notice to the Vendor. Only the Secretary of State shall enforce the contract with the Vendor of the Bar Code Scanners described herein, except in those instances in which the Secretary of State otherwise allows or in which the County may make separate purchases under the Contract for its own account.

4.2 All the terms and conditions of the Intergovernmental Agreement relating to relationships shall remain in full force and effect.

5. Insurance, Risk Management and Warranty

5.1 The Secretary of State has acquired an initial warranty plan for the Bar Code Scanners provided to the County, which shall expire on _____, ____, _____.

5.2 The County may be able to extend the warranty plan prior to expiration of the plan. The cost to extend the warranty plan shall be the sole responsibility of the County. The Secretary of State is not responsible for providing any extended warranty coverage on the Bar Code Scanners.

5.3 Any additional purchases or lease acquisitions of the Bar Code Scanners acquired by the County using County resources shall be identified separately by serial number and shall be owned by the County and will be the sole responsibility of the County; any such equipment will be subject to the same care, maintenance and use provisions of the Georgia Election Code and any rules and regulations promulgated thereto.

5.4 The County assumes all responsibility for the proper care, maintenance, and storage of additional Bar Code Scanners obtained with County funds; however, the care, maintenance and storage of any additional Bar Code Scanners, acquired by the County shall not reduce or displace the care and maintenance required for the Bar Code Scanners allotted to the County by the Secretary of State.

5.5 The Secretary of State and the County shall each be independently responsible for carrying out its official responsibilities at its own sole cost, risk, expense and responsibility with respect to activities under or related to this agreement.

6. Bar Code Scanner Technical Support

6.1 The Secretary of State shall provide technical support for preparing the Bar Code Scanners for use in any election in which the County is conducting an election using the Bar Code Scanners.

7. Bar Code Scanner Training

7.1 The County Election officials shall participate in the training required and provided by the Secretary of State in order to ensure the proper use of the Bar Code Scanners. The County shall participate in every phase of training and any subsequent training offered by the Secretary of State or designee thereof, as may be identified by the Secretary of State. Nothing in this paragraph shall preclude the County from entering into an agreement with the Vendor to conduct training, provide technical support, or other related services, which shall be the sole responsibility of the County.

7.2 The County shall bear the costs, including transportation, subsistence, and lodging, incurred by its election officials in attending courses taught by or arranged by the Secretary of State for instruction on the use of the Bar Code Scanners.

8. Bar Code Scanner Election Preparation

8.1 The County Election Superintendent and Voter Registrar shall assist the Secretary of State or the designee thereof in the Bar Code Scanner election preparation process as provided by any procedures developed by the Secretary of State.

9. Miscellaneous

9.1 The County will comply with all laws, rules and policies applicable to its activities under this Agreement.

9.2 The County and Secretary of State will each coordinate and conduct their ordinary communications through liaisons designated by them. The Secretary of State initially designates the following person listed below as his liaison under this Agreement. The County shall provide to the Secretary of State's Liaison, within 10 days from receipt of this Agreement, the name and contact information of its liaison for purposes of this Agreement.

For the Secretary of State:
Elections Division Director
1104 West Tower, 2 MLK Jr. Dr.
Atlanta, Georgia 30334
(404)-656-2871
(404)-651-9531
Email

For the County: _____
Address
Telephone
Facsimile
Email

10 Entire Agreement

10.1 This Agreement contains the entire agreement between the parties with regard to its subject matter and supersedes all other prior and contemporaneous agreements and understandings between the parties. This Agreement may not be amended or modified except in writing by the Secretary of State.

10.2 The Secretary of State has signed a master copy of this Agreement with intent that his facsimile signature shall act as an original for this Agreement.

10.3 Except as specifically provided in this Third Amendment, all terms and conditions of the Intergovernmental Agreement and the respective obligations of the parties thereto shall remain in full force and effect.

In witness whereof, the parties have caused their hand and seal as follows, or have otherwise indicated their acceptance of this Agreement, as provided above.

BRIAN P. KEMP
SECRETARY OF STATE

B. P. K

Name: _____
Title: _____

ON BEHALF OF _____ COUNTY
STATE OF GEORGIA

_____

Name: _____
Title: _____

F. CONSIDERATION OF STAFF'S RECOMMENDATION THAT THE COUNTY ENTER INTO A "SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT" BETWEEN FAYETTE COUNTY AND THE SECRETARY OF STATE'S OFFICE:

Elections Director Tom Sawyer discussed this item with the Board. He remarked that in 2002 the County had entered into the original Intergovernmental Agreement with the State when the Secretary of State actually put the current voting system in place and it was basically a loan on their part to the County. He said in 2005 the first amendment to this Agreement came out and the State put forth the express polls. He said the second agreement was in regard to the equipment that was now not able to pass acceptance, testing or could not be repaired. He said this amendment would allow for disposal of any equipment that met the criteria for disposal. He said all of the counties in the State of Georgia must execute this Second Amendment to the Intergovernmental Agreement. He asked for the Board's consideration to approve this agreement and authorize the Chairman to execute same.

County Attorney Scott Bennett interjected that he had reviewed this Agreement and noted that every County in the State was being required to have it executed.

Commissioner Frady made a motion to approve staff's recommendation that the County enter into a "Second Amendment to the Intergovernmental Agreement" between Fayette County and the Secretary of State's Office and authorize the Chairman to execute said Agreement. Commissioner Horgan seconded the motion. The motion carried 5-0. A copy of the request and Intergovernmental Agreement, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.