

**RPLY**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SCOTT GOLDMAN, an individual;  
ALENA SHEEHAN, an individual;  
GREGG SEYMOUR, an individual;  
KIMBERLY FERGUS, an individual;  
PATTY JANE (PJ) BELANGER, an individual;  
EMILEANNE ENCE, an individual;  
MARIE ARNOLD, an individual;  
PAM NORMAN, an individual;  
CRISTINA VON LINDENBERG, an individual;  
GREGORY RANGLES, an individual;  
ALAN RYAN VINCENT, an individual;  
CYRUS HOJJATY, an individual;  
BRIDGET HOLDAR, an individual;  
HEATHER FLORIAN, an individual;  
TIMOTHY WAGNER, an individual;  
DESIREE DESTEFANO, an individual;  
MARTIN WALDMAN, an individual;  
VEM MILLER, an individual;  
DANIELLE KEAR, an individual;  
DOUGLAS RANGLES, an individual;  
SUSAN PROFFITT, an individual;  
KRISTENE HONZIK, an individual;  
JENNIFER ROWE, an individual;  
PAMELA BENNETTS, an individual;  
ROBERT MOORHEAD, JR., an individual;  
MARIA THERESA F. DIAZ, an individual;  
ALEXANDREA SLACK, an individual;  
JONATHAN MAXHAM, an individual;  
MARGARET WHITE, an individual;  
PERANUT SAE-ANG, an individual;  
CAROLYN VANZLOW, an individual;

CASE NO.: A-22-851189-C

DEPT. NO.: 17

**REPLY IN SUPPORT OF  
PLAINTIFFS' EX PARTE  
APPLICATION FOR A TEMPORARY  
RESTRAINING ORDER TO  
CONDUCT MEANINGFUL VOTER  
OBSERVATION IN CLARK COUNTY,  
NEVADA ON ORDER SHORTENING  
TIME**

individual; BRIAN COULTER, an  
individual; HEIDI CLINGEN, an  
individual;

Plaintiffs,

v.

BARBARA CEGAVSKE, in her official  
capacity as Nevada Secretary of State;  
JOSEPH P. GLORIA, in his official  
capacity as Registrar of Voters for Clark  
County, Nevada; DOES I-X, inclusive;  
and ROE CORPORATIONS I-X,  
inclusive,

Defendants.

Plaintiffs, by and through their attorneys of record, ADAM R. FULTON, ESQ. and  
LOGAN WILLSON, ESQ., of the law firm of JENNINGS & FULTON, LTD., hereby submit  
their Reply in Support of Plaintiffs' Ex Parte Application for a Temporary Restraining Order  
to Conduct Meaningful Voter Observation in Clark County, Nevada on Order Shortening  
Time.

This Reply is made and based upon the papers and pleadings on file herein, the  
Memorandum of Points and Authorities, the attached exhibits, and any oral argument the  
Court will permit at the hearing on this matter.

Dated: May 9, 2022

**JENNINGS & FULTON, LTD.**

By: /s/ Adam R. Fulton

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## MEMORANDUM OF POINTS & AUTHORITIES

### I. INTRODUCTION

This matter stems from Plaintiffs requesting to exercise their statutory right to meaningfully observe the upcoming elections with no response from Defendants. During and following the November 3, 2020 election (“2020 Election”), numerous individuals attempting to observe the process were prevented from doing so in any meaningful way. Notably, Defendants’ Opposition did not dispute any of the aforementioned addressed in Plaintiffs’ underlying Motion:

- a. Observers were placed in locations where the view of the ballot processing was obscured;
- b. In almost all instances, the observers were placed too far away from the ballot processing to be able to discern what was actually taking place;
- c. Aspects of the ballot processing took place in closed rooms and locations where observers were not allowed access;
- d. Boxes of ballots were moved between various locations without the observers having any opportunity to review the ballots or understand what stage in the counting process the ballots were in;
- e. In the minimal times where observers were theoretically in close enough proximity to observe, they were not afforded ample time to actually observe the process in any meaningful way;
- f. There was an insufficient number of ambassadors that were required to accompany observers to enable more than a few individuals to meaningfully observe the ballot processing;
- g. Observers were told information that conflicted with what they were seeing during the ballot processing; and
- h. While observers could see that there were mechanical and/or program issues and errors with various pieces of technology in the ballot processing, they were unable to view any screens or understand the actual nature of the issues and errors, which rendered the observation meaningless.

1 Defendant Cegavske asserts that Plaintiffs, “make false, disproven allegations  
2 regarding the prior 2020 election”<sup>1</sup>, while failing to produce any evidence whatsoever  
3 supporting this claim. It is simply untrue that, “Plaintiffs make no showing that their limited  
4 statutory observation rights have been or will be violated.” *See* Intervenor PLAN’s May 5,  
5 2022 Opposition at 5:21-22. This is blatantly false given the aforementioned representative  
6 issues during the 2020 Election.  
7

8 Defendant Cegavske relies on *Kraus v. Cegavske, et al.* and seeks to universally apply  
9 a case with no factual similarity to the present matter. *See* Defendants Opposition at Exhibit  
10 A. Notably, *Kraus* was ruled on prior to NRS 293.2546, the newly adopted regulations  
11 defining meaningful voter observation, Nevada no longer being in a state of emergency, and  
12 with newly adopted voter observation plans by Defendants.  
13

14 Even as persuasive authority, *Kraus* involved the Appellants filing an emergency  
15 motion seeking immediate relief under NRAP 8, pending appeal, prohibiting the Clark  
16 County Registrar from continuing to duplicate mail ballots unless observers are granted an  
17 opportunity to meaningfully observe the process and from using artificial intelligence to  
18 authenticate ballot signatures. *Kraus v. Cegavske*, No. 82018, 2020 WL 6483971, at \*1 (Nev.  
19 Nov. 3, 2020). This is simply not what the Plaintiffs request. Moreover, while the Petitioner  
20 in *Kraus* failed to demonstrate that Defendant Gloria interfered with any right they or anyone  
21 else has as an observer, this is confined strictly to the Petitioner’s claim, and not universally  
22 applied. It does not mean that Plaintiffs cannot meet their burden of proof nor that they do  
23 not have standing. As such, the Court should give no deference to *Kraus* as heavily relied  
24  
25  
26  
27

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28 <sup>1</sup> *See* Defendant Cegavske’s May 6, 2022 Opposition at 2:11-15.



1 upon by Defendants and proposed Intervenor Progressive Leadership Alliance of Nevada  
2 (PLAN).

3       Additionally, while the 2022 regulatory changes have been implemented, this does  
4 not address each of Plaintiffs' requests. Since the 2020 Election, recently adopted regulations  
5 have defined the term "meaningful observation". See Adopted Regulation R098-21<sup>2</sup>. This  
6 fails to address blatant shortcomings of the 2020 Election. Meaningful observation is defined  
7 as,  
8

9       [a] person may observe the identification of voters who appear at a polling  
10 place to vote, the distribution of a ballot or voting machine card to a voter,  
11 the movement of a voter to a voting booth, the return of a ballot or voting  
machine card by a voter and the exiting of a polling place by a voter.

12       The term does not include allowing a person to: (1) View the personal  
13 information of a voter, a voter's ballot or selections on a voting machine; or  
14 (2) Listen to any conversation between election board officers or between a  
15 voter and an election board officer. (c) "Vote center" means a polling place  
16 established by the county or city clerk, as applicable, pursuant to the  
17 provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to  
293C.3035, inclusive, as applicable, where any person entitled to vote by  
personal appearance in the county or city, as applicable, may do so on the  
day of the election.

18 *Id.* Further, observations of voting, "must not be located in an area that would allow an  
19 observer to infringe on the privacy and confidentiality of the ballot of the voter." *Id.* Plaintiffs  
20 do not seek to infringe on the privacy or confidentiality of any voter. R098-21 requires  
21 observers to "remain in an area designated by the county or city clerk without interfering  
22 with the processing and counting of ballots," but the designated area must "allow for  
23 meaningful observation" and "must not be located in an area that would allow an observer  
24 to infringe on the privacy and confidentiality of the ballot of a voter." *Id.*  
25  
26  
27

28 <sup>2</sup>[2022 Regulations \(nvsos.gov\)](https://www.nvsos.gov) (last accessed May 6, 2022).

1 Give the vagueness of an area that must allow for meaningful observation, 2020  
2 Election failures are looming. While being deposed in litigation regarding the 2020 Election  
3 filed in the First Judicial District Court, entitled *Law v. Whitmer, et al.*, Case No. 20 OC  
4 00163 1B, Mr. Gloria testified regarding voter observation,

5 Q. Let me ask you about polling observation. You have training programs  
6 and manuals on what is allowed for a citizen or campaigns to observe the  
7 polls?

8 A. As far as our poll workers, they are trained, and there's documentation  
9 that they use and follow. We also have some documentation provided to those  
observers that came into our facility to observe.

10 Q. If a poll worker -- I'm sorry, a poll observer believes they're being treated  
11 unfairly or not being allowed to observe, how are they supposed to raise those  
concerns?

12 A. To the team leader.

13 Q. And how are those supposed to be resolved or addressed?

14 A. Well, if the team leader continues to have an issue, they can call an admin  
15 rover who can go out and also try to deal with the situation. In most -- not  
16 most -- **all locations we had predefined exactly where observers could be**  
17 **allowed.** We were under some restriction as a result of COVID and social  
18 distancing, so there was only a certain amount of observers we could allow to  
be in the polling place.

19 Q. Is it important to allow observation of the polling place?

20 A. Statutorily required.

21 Q. Is that -- do you try and administer that on an even-handed basis between  
22 the political parties?

23 A. Yes, absolutely. You have to try to be balanced in what you're doing. We  
24 **tried** to create enough spaces there so that we did everything we could to have  
25 a Democratic observer and Republican observer and just an observer as an  
26 independent. **If not, then we tried to get them to work with each other to**  
**rotate. It depended on how many observers were being allowed in the**  
**location. So that was on a case-by-case.**

27 Q. And are those polling place observers as a general rule relatively well-  
28 behaved?

1 A. Yes. Generally.

2 December 1, 2020 Joseph Gloria Deposition Excerpt at 60-62 (“Exhibit 1”). While R098-21  
3 has expounded that the designated area must allow for meaningful observation, the red tape  
4 zone during the 2020 Election is sure to repeat itself without immediate relief. Moreover, it  
5 is unclear whether observers will have an area large enough for all observers, or will have to  
6 rotate again.  
7

8 During the 2020 Election, the Clark County Election Department (“Election  
9 Department”) established opening procedures (“Opening Procedures”) for poll workers.  
10 Specifically, the Opening Procedures outlined that there was a designated “Public Viewing  
11 Area”,  
12

13 Public Viewing Area: Use **red tape** to cordon off public viewing area. Public  
14 viewing area **does not have a particular size**, and should be in an area  
15 convenient for observers to see and hear but not disrupt voting process.  
16 Observers may sit or stand in this area and must sign the Observation Form  
(found in accordion file).

17 See Exhibit 2. The Opening Procedures are clear that there is essentially no standard for voter  
18 observation, simply red tape (“Red Tape Observation Zone”). Defendant Cegavske’s  
19 Opposition fails to even acknowledge the Red Tape Observation Zone.

20 Plaintiffs do not dispute that clear and definite rules and guidelines are absolutely  
21 necessary, but merely providing a “may not” list, placing observers in the Red Tape  
22 Observation Zone, and rotating observers on an “equitable basis” does not reflect the recently  
23 adopted Voters’ Bill of Rights, NRS 293.2546. The April 15, 2022 “Accommodation of  
24 Members of the General Public at Polling Place, Mail Ballot Processing, and at the Central  
25 Counting Place” does not identify what the voter observation area will be, nor what it will  
26 not be. See April 15, 2022 Correspondence (“Exhibit 3”). Defendant Cegavske has since  
27 adopted the plan.  
28

1 While Defendant Gloria submitted the observation plan after Plaintiffs' filed the  
2 present matter that has subsequently been adopted by Defendant Cegavske, the plan once  
3 again simply outlines what observers are not permitted to do. While the Voters' Bill of Rights  
4 and the recently adopted regulations are a meaningful step in corrective action given the  
5 grave mishandling of the 2020 Election, there is no clear and definite standards of enforcing  
6 meaningful voter observation rights in Nevada requiring declaratory and injunctive relief  
7 from the Court.  
8

## 9 II. LEGAL STANDARD

10 It is proper for this Court to enter a temporary restraining order if the Court is  
11 concerned that the irreparable injury to Plaintiffs will continue or occur before a hearing on  
12 Plaintiffs' Application can be held. *See* Nevada Civil Practice Manual §28.03. A preliminary  
13 injunction may be issued if Plaintiffs demonstrate: (1) that they are likely to succeed on the  
14 merits, and (2) a reasonable probability of irreparable harm. *Dixon v. Thatcher*, 103 Nev.  
15 414, 415 (1987); *Pickett v. Comanche Constr.* 108 Nev. 422, 426 (1992); *Dep't of*  
16 *Conservation & Natural Res. v. Foley*, 121 Nev. 77, 80 (2005).  
17

18 NRS §33.010 and NRCP 65 generally delineate when it is appropriate to grant  
19 injunctive relief, and include the following scenarios:  
20

- 21 1. When it shall appear by the complaint that the plaintiff is entitled  
22 to the relief demanded, and such relief or any part thereof consists  
23 in restraining the commission or continuance of the act  
24 complained of, either for a limited period or perpetually.
- 25 2. When it shall appear by the complaint or affidavit that the  
26 commission or continuance of some act, during the litigation,  
27 would produce great or irreparable injury to the plaintiff.
- 28 3. When it shall appear, during the litigation, that the defendant is  
doing or threatens, or is about to do, or is procuring or suffering  
to be done, some act in violation of the plaintiff's rights  
respecting the subject of the action, and tending to render the  
judgment ineffectual.

1 NRS § 33.010.

2 Rule 65 of the Nevada Rules of Civil Procedure governs preliminary injunctions and  
3 temporary restraining orders, and requires that a motion for temporary restraining order  
4 include “specific facts in an affidavit or a verified complaint [that] clearly show that  
5 immediate and irreparable injury, loss, or damage will result to the movant before the adverse  
6 party can be heard in opposition,” as well as written certification from the movant’s attorney  
7 stating “any efforts made to give notice and the reasons why it should not be required.” NRCP  
8 65(b). However, “[t]he urgency of obtaining a preliminary injunction necessitates a prompt  
9 determination and makes it difficult to obtain affidavits from persons who would be  
10 competent to testify at trial.” *Flynt Distrib. Co., Inc. v. Harvey*, 734 F.2d 1389, 1394 (9th  
11 Cir. 1984) (*citing* 11 C. Wright and A. Miller, Federal Practice and Procedure, Civil, § 2949  
12 at 471 (1973)). Thus, “[t]he trial court may give even inadmissible evidence some weight,  
13 when to do so serves the purpose of preventing irreparable harm before trial.” *Id.*  
14

15  
16 Temporary restraining orders are governed by the same standard applicable to  
17 preliminary injunctions. *See Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*,  
18 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). Specifically, a preliminary injunction may be  
19 issued if a plaintiff establishes: (1) likelihood of success on the merits; (2) likelihood of  
20 irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in  
21 the plaintiff’s favor; and (4) that an injunction is in the public interest. *Winter v. Natural Res.*  
22 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Alternatively, the Ninth Circuit has held that  
23 district courts may issue an injunction if the first two elements are met and there are “serious  
24 questions going to the merits” and there is “a hardship balance that tips sharply toward the  
25 plaintiff.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011).  
26 Above all, a temporary restraining order “should be restricted to serving [its] underlying  
27  
28

1 purpose of preserving the status quo and preventing irreparable harm just so long as is  
2 necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters*  
3 & *Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974).

### 4 **III. LEGAL ARGUMENT**

#### 5 **A. Plaintiffs Do Not Lack Standing to Pursue Their Claims and Their Claims are** 6 **Ripe**

7 The question of standing concerns whether the party seeking relief has a sufficient  
8 interest in the litigation. *See Szilagyi v. Testa*, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983)  
9 (citing *Harman v. City & Cty. of San Francisco*, 7 Cal.3d 150, 101 Cal.Rptr. 880, 496 P.2d  
10 1248, 1254 (1972) (“The fundamental aspect of standing is that it focuses on the party  
11 seeking to get his complaint before a ... court.”)). The primary purpose of this standing  
12 inquiry is to ensure the litigant will vigorously and effectively present his or her case against  
13 an adverse party. *See Harman*, 101 Cal.Rptr. 880, 496 P.2d at 1254.

15 Generally, a party must show a personal injury and not merely a general interest that  
16 is common to all members of the public. *See, e.g., Doe v. Bryan*, 102 Nev. 523, 525–26, 728  
17 P.2d 443, 444–45 (1986) (requiring plaintiffs, who sought to have criminal statute declared  
18 unconstitutional, to first demonstrate a personal injury, i.e., that they were arrested or  
19 threatened with prosecution under the statute); *Blanding v. City of Las Vegas*, 52 Nev. 52,  
20 69, 280 P. 644, 648 (1929) (requiring property owner to show that he would suffer a special  
21 or peculiar injury different from that sustained by the general public in order to maintain  
22 complaint for injunctive relief).

24 Surely Plaintiffs have a sufficient interest in the litigation. Plaintiffs are registered  
25 voters in Clark County, Nevada and/or seek to participate in meaningful voter observation in  
26 Clark County, Nevada. *See Second Amended Complaint* ¶ 1. Oddly, Defendant Cegavske,  
27 joined by Defendant Gloria, asserts that, “Plaintiffs cite not a single case that recognizes a  
28

1 constitutional right to observe election processes and procedures. Indeed, the federal courts  
2 have never recognized a constitutional right to observe the processing and counting of  
3 ballots.” *See* May 6, 2022 Opposition at 8:7-10. Plaintiffs seek to enforce their statutory right  
4 and do not assert constitutional rights in their Second Amended Complaint. There is a  
5 particularized injury, Defendant Gloria’s April 15, 2022 plan adopted by Defendant  
6 Cegavske that does not address Plaintiffs’ sought observation. Given the Red Tape  
7 Observation Zone, there is no indication that this will not happen again. Nor is there any  
8 indication that observers will not be rotated on an ongoing basis.

10 This matter is also ripe for judicial determination. On March 21, 2022, Plaintiffs sent  
11 a letter to Defendant Gloria in an effort to address their concerns with regard to their statutory  
12 right to meaningfully observe the upcoming elections. *See* Exhibit 4. In the March 21, 2022  
13 letter, Plaintiffs outlined a number of reasonable accommodations that would enable  
14 observers to meaningfully observe the ballot processing without interfering with the process.  
15 *Id.* To date, no response has been received. While no response has been received, the mailing  
16 of military, overseas, and out-of-state ballots have already been distributed and it is  
17 anticipated that Defendants have already begun receiving mail-in ballots. *See* [Clark County,](https://clarkcountynv.gov)  
18 [NV \(clarkcountynv.gov\)](https://clarkcountynv.gov) (last accessed May 9, 2022).

20 With ballots being processed without meaningful observation, this matter is ripe for  
21 determination as voting is already taking place and Plaintiffs have already been deprived of  
22 their statutory rights. As there is a specific injury to Plaintiffs to enforce their statutory right  
23 to meaningfully observe elections in Clark County and this matter is ripe for judicial  
24 determination, Plaintiffs claims should proceed on their merits.

26 ///

27 ///

**B. Plaintiffs Will Likely Prevail on the Merits and Will Suffer Irreparable Harm in the Absence of Temporary Relief**

In determining whether to grant injunctive relief, this Court need only “assess the plaintiff’s likelihood of success on the merits, not whether the plaintiff has actually succeeded on the merits...It is not the function of a preliminary injunction to decide the case on its merits, and the possibility that the party obtaining a preliminary injunction may not win on the merits at the trial is not determinative of the propriety or validity of the trial court’s granting the preliminary injunction.” *B.W. Photo Utilities v. Rep. Molding Corp.*, 280 F.2d 806, 807 (9<sup>th</sup> Cir. 1960). Instead, “[t]o establish a substantial likelihood of success on the merits, [Plaintiff] must show a ‘fair chance of success.’” *In re Focus Media, Inc.*, 387 F.3d 1077, 1086 (9<sup>th</sup> Cir. 2004), *quoting Republic of the Philippines v. Marcos*, 862 F.2d 1355 (9<sup>th</sup> Cir. 1988); *Southern Oregon Barter Fair v. Jackson County*, 372 F.3d 1128, 1136 (9<sup>th</sup> Cir. 2004).

Plaintiffs’ Second Amended Complaint seeks two (2) claims for relief: 1) Declaratory Relief, and 2) Injunctive Relief. As set forth in the Second Amended Complaint and herein, Plaintiffs submit that they will likely succeed on the merits of their claims against Defendants by demonstrating Plaintiffs are entitled to meaningfully observe the Primary Election and General Election as requested.

**1. Plaintiffs Will Prevail on Their Declaratory Relief Claim Enforcing Their Statutory Rights to Meaningfully Observe Elections**

Declaratory relief is available only if: (1) a justiciable controversy exists between persons with adverse interests, (2) the party seeking declaratory relief has a legally protectable interest in the controversy, and (3) the issue is ripe for judicial determination. *Knittle v. Progressive Casualty Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996) citing



1 *County of Clark, ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 752, 961 P.2d 754, 756  
2 (1998).

3 The Nevada Supreme Court has held the court would not look beyond the statute  
4 itself when ascertaining meaning when the language of the statute is unambiguous. *City Plan*  
5 *Development, Inc. v. Office of Labor Com'r Dept. of Business and Industry*, 121 Nev. 419,  
6 434 (2005). The Nevada Supreme Court has also held the language of a statute should be  
7 given its plain meaning, not render words or phrases superfluous, and award meaning to all  
8 words and phrases. *Haney v. State*, 124 Nev. Adv. Op. No. 40, 47811 (2008) citing *Butler v.*  
9 *State*, 120 Nev. 879, 892-93 (2004). Moreover, in *State ex rel. Copeland v. Woodbury*, the  
10 Nevada Supreme Court stated, “[w]here a statute is clear, plain and unambiguous, we have  
11 repeatedly declared that there is no room for construction and the law must be followed  
12 regardless of results.” *Hickey v. Eighth Judicial Dist. Court In & For County of Clark*, 105  
13 Nev. 729, 734 (1989) citing 17 Nev. 337, 343 (1883).

14 Nevada’s Voters’ Bill of Rights, NRS 293.2546 ensures that all voters have the right  
15 to address complaints about elections and election contests resolved fairly, accurately and  
16 efficiently. The aforementioned observation issues during the 2020 Election identify the  
17 necessity to ensure fair, accurate, and meaningful voting observation during the 2022  
18 Primary Election.

19 Plaintiffs seek the Court to declare the duties with respect to Plaintiffs’ rights  
20 protected under Nevada law. Based on the lack of response or actions to address these issues  
21 to date, Defendants dispute Plaintiffs’ claims. Plaintiffs do not seek additional requirements  
22 outside of Nevada statutory law and regulations, but enforcement within existing voter laws  
23 and regulations. Plaintiffs seek practical and necessary voter observation techniques that will  
24 enforce Nevada’s newly defined meaningful observation regulations.

Defendant Cegavske is mistaken, Plaintiffs do not seek any additional right or duty beyond Nevada's laws and regulations, they seek to harmonize voting in Nevada. Defendant Cegavske fails to dispute how any of the recommended meaningful voter observation sought is in violation of NRS 293 or recently adopted regulations. An actual controversy exists relative to the legal duties and rights of the respective parties, which Plaintiffs request the Court to resolve. A declaration of rights, responsibilities and obligations of the parties is essential to determine their respective obligations in connection with the parties' rights pursuant to meaningful voter observation. Plaintiffs have no true and speedy remedy at law of any kind. As such, Plaintiffs will likely prevail on their declaratory relief cause of action.

### **C. The Balance of Equities Tips in Plaintiffs' Favor**

The granting, refusing or dissolving of an injunction is a matter of discretion. *Coronet Homes, Inc. v. Mylan*, 84 Nev. 435, 442 P.2d 901 (1968). Probably the most important consideration of the trial judge in deciding how to exercise that discretion is the relative interests of the parties – how much damage will the plaintiff suffer if the restraint is denied versus the hardship to the defendant if it is granted. *Home Finance Co. v. Balcom*, 61 Nev. 301, 127 P. 2d 389 (1942). In exercising its discretion, the court should recognize that the general purpose of a preliminary injunction is for preservation of the *status quo* until a final determination on the merits can be made. *Continental Baking Company v. Katz*, 68 Cal. 2d 512, 528 (1968).

The balancing aspect of the temporary restraining order analysis requires courts to weigh "the competing claims of injury and consider the effect on each party of the granting or withholding of the requested relief." *Amoco Prod. Co. v. Village of Gambell, AK*, 480 U.S. 531, 542 (1987). Finally, consistent with the underlying purpose of temporary restraining orders, issuance of this temporary restraining order will maintain the status quo. "[T]he status quo is the last uncontested status which preceded the pending controversy." *Tanner Motor*

1 *Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 809 (9th Cir. 1963).

2 In this case, Defendants will suffer only minimal harm as a result of the temporary  
3 restraining order. Although the issuance of a temporary restraining order will require  
4 Defendants to implement, oversee, and execute meaningful observation, is it Plaintiffs  
5 statutory right. On the other hand, if the temporary restraining order were not issued,  
6 Plaintiffs would be confronted with being limited to the Red Tape Observation Zone.  
7 Without the temporary restraining order, Defendants would surely prevent meaningful voter  
8 observation during the Primary Election, General Election, and future elections in Clark  
9 County, Nevada. A temporary restraining order will restore the parties to the respective  
10 positions to ensure voter integrity in Nevada is maintained.  
11

12 **D. The Issuance of a TRO Benefits the Public's Interest**

13 “The public interest analysis for the issuance of [injunctive relief] requires [courts]  
14 to consider whether there exists some critical public interest that would be injured by the  
15 grant of preliminary relief.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1138  
16 (9th Cir. 2011) (citation omitted). In this case, there is no such public interest that would be  
17 injured by the issuance of Plaintiffs’ requested injunctive relief. To the contrary, the integrity  
18 of Nevada elections would further support the public’s interest Nevada elections. It is  
19 imperative that Defendants be restrained from restricting meaningful observation of the  
20 Primary Election and General Election.  
21

22 **E. A Minimal Security Bond is Appropriate Under these Circumstances**

23 NRCP 65(d) mandates that “no restraining order or preliminary injunction shall issue  
24 except upon the giving of adequate security by the applicant, in such sum as the court deems  
25 proper, for the payment of such costs and damages as may be incurred or suffered by any  
26 party who is found to be wrongfully enjoined or restrained.” *See* NRCP 65(d). The purpose  
27 of the security is to enable the enjoined party to secure indemnification for his losses in the  
28

1 event it is determined he was wrongfully enjoined or restrained. As noted above, Defendants  
2 will suffer no harm as a result of an injunction as Plaintiffs merely seek to enforce a statutory  
3 right. Indeed, the public benefits from an injunction so the Court can determine the parties'  
4 rights and obligations under Nevada law. Thus, Defendants stand to suffer no appreciable  
5 losses, and a minimal security in the amount of \$500.00 is appropriate.  
6

#### 7 **IV. CONCLUSION**

8 Injunctive relief is appropriate relief to prevent further irreparable harm to Plaintiffs  
9 as Defendants have failed to confirm that Plaintiffs will be able to meaningfully observe  
10 Clark County elections, specifically the Primary Election and General Election. The right to  
11 injunctive relief is not only expressly provided for by statute, but is otherwise established by  
12 the facts presented in this case. As such, the Motion should be granted in its entirety.  
13

14 DATED: May 9th, 2022

**JENNINGS & FULTON, LTD.**

By: /s/ Adam R. Fulton, Esq.

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**CERTIFICATE OF SERVICE**

Pursuant to N.R.C.P. 5(b), I hereby certify that I am an employee of JENNINGS & FULTON, LTD., and that on the 9th day of May 2022, I caused a true and correct copy of the foregoing **REPLY IN SUPPORT OF PLAINTIFFS' EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER TO CONDUCT MEANINGFUL VOTER OBSERVATION IN CLARK COUNTY, NEVADA ON ORDER SHORTENING TIME** to be served as follows:

\_\_\_\_\_ by depositing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, enclosed in a sealed envelope; or

\_\_\_\_\_ by facsimile transmission, pursuant to E.D.C.R. 7.26, as indicated below; or

X by electronic service, pursuant to N.E.F.C.R. 9 and Administrative Order 14-2, as indicated below:

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28

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\_\_\_\_\_  
/s/ Misty Janati  
An Employee of JENNINGS & FULTON, LTD.

# EXHIBIT 1

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Law, et al. vs Whitmer, et al.

Deposition of

**JOSEPH GLORIA**

*December 1, 2020*

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1 experience reviewing signatures to have a look at  
2 those envelopes. But ultimately with the cure  
3 process, the voter can always call in and provide  
4 the necessary information, whether it's answering  
5 challenge questions or filling out the affidavit and  
6 providing an ID to cure that ballot.

7 Q. Were any of your staff instructed to verify  
8 a signature match using just one letter?

9 A. No, sir.

10 MR. OWENS: Objection. Calls for hearsay.  
11 Lacks foundation. Calls for speculation.

12 BY MR. HAMILTON:

13 Q. Go ahead and repeat your answer.

14 A. No, sir.

15 Q. Do you know what percentage of ballots  
16 reviewed by human verification were rejected for  
17 signature verification reasons?

18 A. I don't have that number with me. I do  
19 know that we made a cure listing public, and it was  
20 on our website on a daily basis. But I don't have  
21 those numbers off the top of my head.

22 Q. Was the signature verification rejection  
23 rate abnormally high or low, or was it consistent  
24 with prior elections?

25 A. Again, I don't have those numbers off the

1 polling places are directed to monitor that  
2 activity?

3 A. If they're in a polling place that allows  
4 electioneering, yes. If they're at a site that's  
5 privately owned and they've indicated they don't  
6 want to allow it, they don't allow any  
7 electioneering.

8 Q. Let me ask you about polling observation.  
9 You have training programs and manuals on  
10 what is allowed for a citizen or campaigns to  
11 observe the polls?

12 A. As far as our poll workers, they are  
13 trained, and there's documentation that they use and  
14 follow. We also have some documentation provided to  
15 those observers that came into our facility to  
16 observe.

17 Q. If a poll worker -- I'm sorry, a poll  
18 observer believes they're being treated unfairly or  
19 not being allowed to observe, how are they supposed  
20 to raise those concerns?

21 A. To the team leader.

22 Q. And how are those supposed to be resolved  
23 or addressed?

24 A. Well, if the team leader continues to have  
25 an issue, they can call an admin rover who can go

1 out and also try to deal with the situation. In  
2 most -- not most -- all locations we had predefined  
3 exactly where observers could be allowed. We were  
4 under some restriction as a result of COVID and  
5 social distancing, so there was only a certain  
6 amount of observers we could allow to be in the  
7 polling place.

8 Q. Is it important to allow observation of the  
9 polling place?

10 A. Statutorily required.

11 Q. Is that -- do you try and administer that  
12 on an even-handed basis between the political  
13 parties?

14 A. Yes, absolutely. You have to try to be  
15 balanced in what you're doing. We tried to create  
16 enough spaces there so that we did everything we  
17 could to have a Democratic observer and Republican  
18 observer and just an observer as an independent. If  
19 not, then we tried to get them to work with each  
20 other to rotate.

21 It depended on how many observers were  
22 being allowed in the location. So that was on a  
23 case-by-case.

24 Q. And are those polling place observers as a  
25 general rule relatively well-behaved?

1           A.     Yes.   Generally.

2           Q.     Okay.   Last area and then I'll stop.

3                   Voter registration list maintenance.   Does  
4 your office have a process for maintaining the voter  
5 rolls?

6           A.     Yes.

7           Q.     Can you briefly explain that process?

8           A.     Leading into any election cycle, that being  
9 an even year, we begin with the ERIC process, which  
10 is the Electronic Registration Information Center.  
11 That's a group that is coordinated by the Secretary  
12 of State's Office.   They give us information on  
13 people who are registered in other states by  
14 comparing our state voter registration roll with  
15 other member states.   At this point in time I  
16 believe there are 30 states that are participating  
17 in ERIC.   They also provide us with information on  
18 deaths, any number of other areas, to help us keep  
19 the rolls clean.   So we use that.

20                   And leading into, again, the even year,  
21 ERIC is first and then the NCOA, the National Change  
22 of Address report, that we utilize so that we can  
23 identify those voters whom have moved, and then we  
24 send out a federally required notice to those voters  
25 to either tell us that we're incorrect, that they

# EXHIBIT 2

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Clark County Election  
Department

# Opening Procedures



Updated 2/4/2020

**ICX Team Leader & ICX Specialist**



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## Arriving at the Vote Center

### 1. Arrive At Assigned Vote Center NO Later Than 5:30 am.

*Since at the end of the day, both Team Leaders must ride together when returning election materials to the Election Warehouse, you may want to meet at the warehouse, leave one car, and ride together to the vote center. You will be guided to park in the fenced parking lot behind the warehouse.*

### 2. Find Facility Contact Person. If not there by 5:30 am, call Administration Hotline. Find voting machines and equipment.

### Voting Machine Cart & Rolling Storage Cabinets

### 3. Verify ICX Voting Machine Cart and Rolling Storage Cabinets are padlocked



### 4. Unlock voting machine cart and rolling storage cabinets. Key is inside Key Envelope (same key for both).



### Cell Phones

### 5. Find cell phones inside the same rolling storage cabinet as the kiosks. Cell phones are stored inside a plastic shoe box inside the gray crate. Turn on cell phones immediately. Periodically check throughout the day to ensure cell phones remain turned on and that you have not missed calls or text messages from the Election Dept. **If setting up the day before, leave cell phones in the cabinet until election morning.**

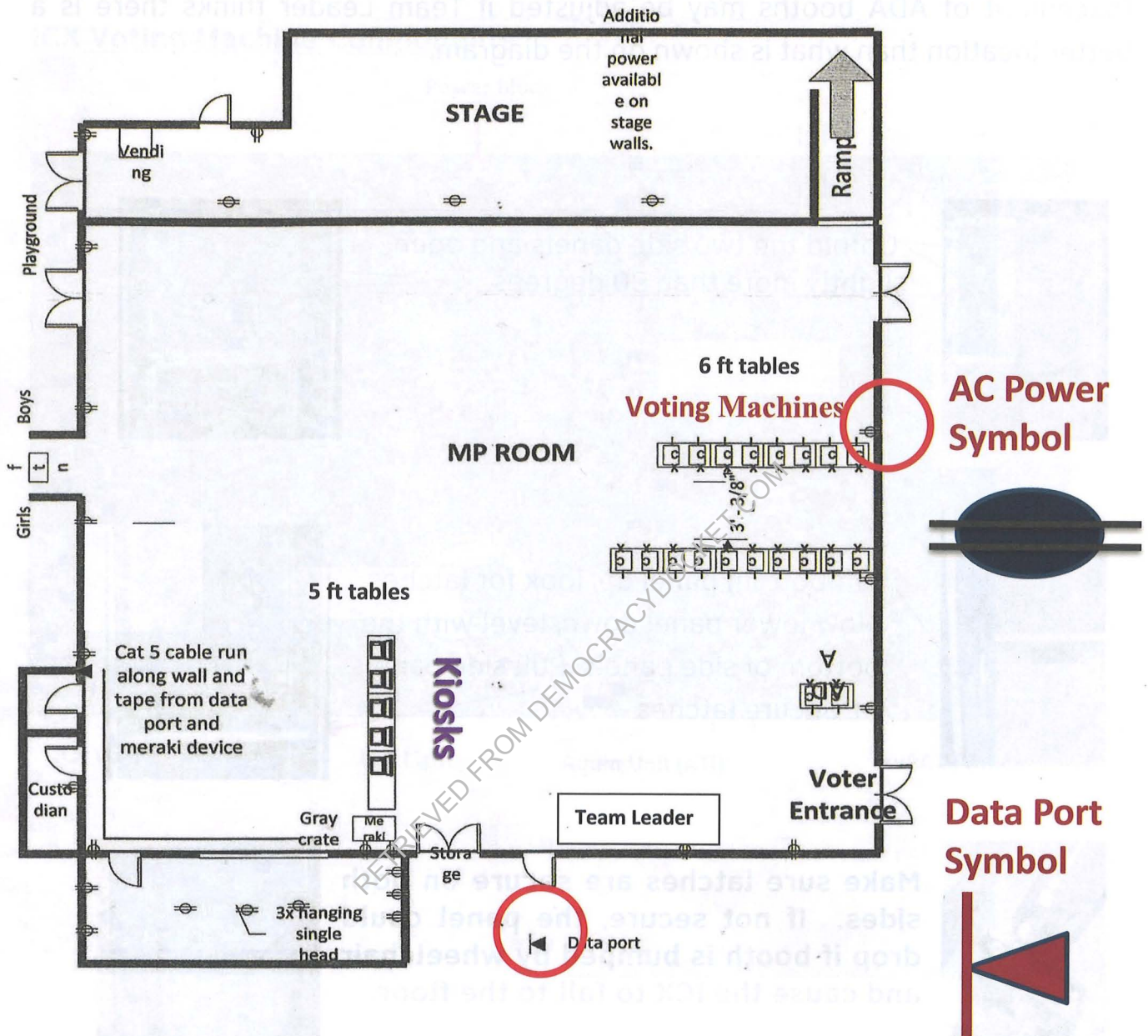


6. **Set Up Tables** – refer to **layout diagram in accordion** file for specific instructions on where to set up (see sample of page 4).

- 5 ft tables for ICX voting machines
- 6 ft tables for Kiosks
- 6 ft table by the entrance for Team Leader laptop & printer

7. **Surge Protectors & Extension Cords:**

- a. Use one surge protector for up to 4 Kiosks. If your location has more than 4 Kiosks, additional surge protectors will be provided. Extension cords are provided if needed.
  - Make sure all cords are taped down
- b. Use one surge protector for up to 6 ICX Voting Machines. Extension cords are provided if needed.
  - Make sure all cords are taped down
  - Position surge protector in the center so that you can bring cords towards the middle from both sides
- c. Check each power outlet is working – check red light on surge protector is lit when plugged in.
- d. After testing the outlets, unplug surge protectors for the voting machines from the power outlet. We do not want to plug these into power until later in the setup process.



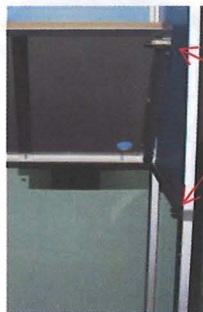
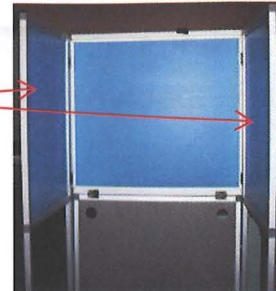
Sample Layout Diagram

## ADA Booths & Curtains

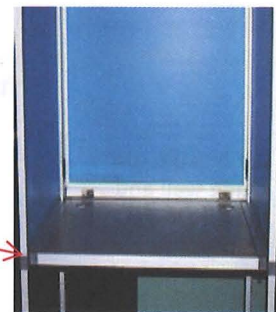
Assemble ADA privacy booths and curtains (found on cart with tables). Placement of ADA booths may be adjusted if Team Leader thinks there is a better location than what is shown on the diagram.



Unfold the two side panels and open slightly more than 90 degrees.



Lift bottom panel up, look for latches. Now lower panel down, level with the bottom of side panels. Pull side panels in. Secure latches.



**Make sure latches are secure on both sides. If not secure, the panel could drop if booth is bumped by wheelchair and cause the ICX to fall to the floor.**

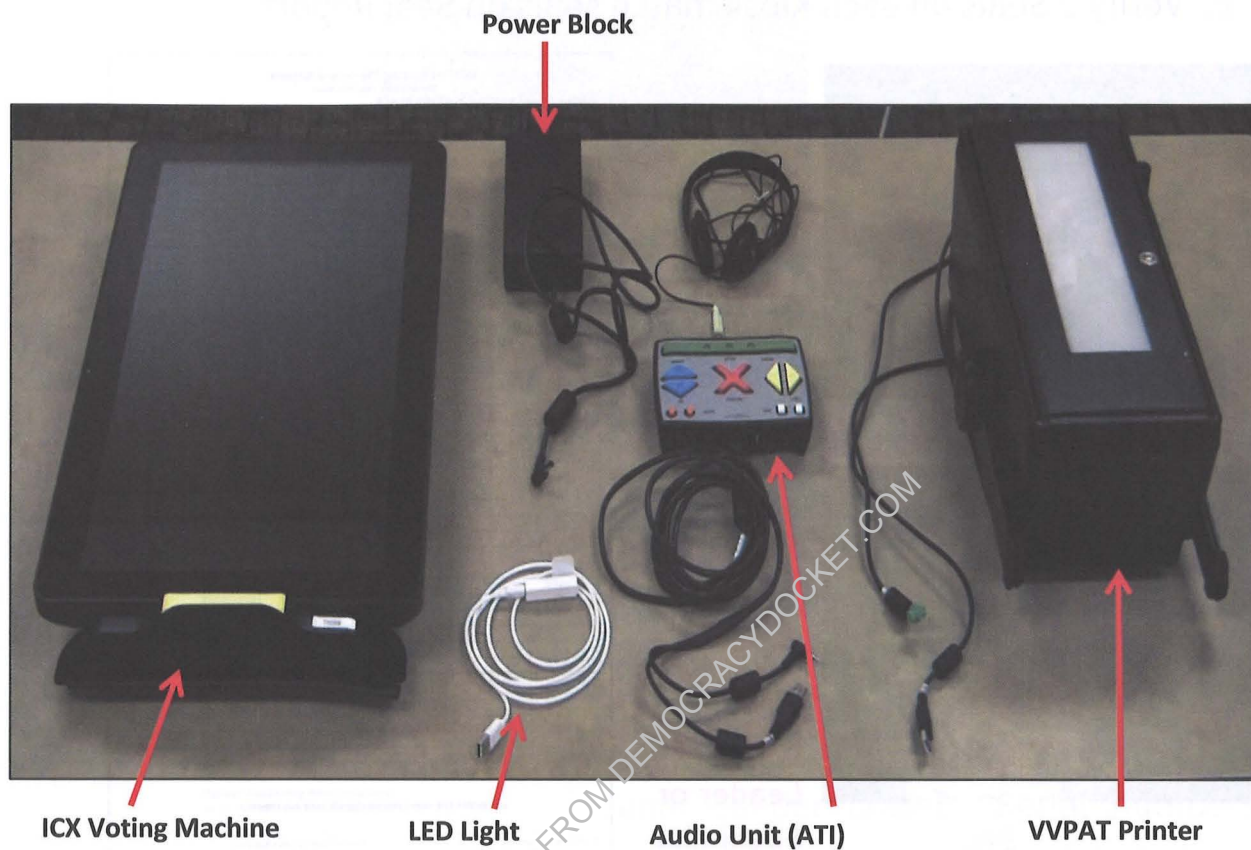


Install curtain backwards and use for all voters. Turn curtain around for ADA Voter, to ensure their privacy.




## Preparing the Equipment for Setup

### ICX Voting Machine Components







## Kiosk Leader or Specialist will do

Serial #	Seal 1	Seal 2
0041	123969	482646
0041	244682	478795
0042	157862	116355
0043	579852	315700
0044	587894	678645

**WE CERTIFY THE ABOVE**

---

Team Leader's Signature \_\_\_\_\_

- IF SETTING UP PRIOR TO ELECTION DAY, LEAVE KIOSKS INSIDE THE ROLLING STORAGE CABINET.**  
**Verify kiosk seals on election morning.**



- Loosen the cargo strap, remove the privacy panels, cut the seal and unzip the cover.



## Polling Place Statement

- Verify ICX voting machine serial numbers match those listed on the Polling Place Statement (inside accordion file in Team Leader crate). Serial numbers are visible when you open the cart cover

**Election Day Polling Place Statement**  
Election Date \_\_\_\_\_ Election Title \_\_\_\_\_

**SAMPLE VOTE CENTER**

Total Signatures (Total Kiosk Count):

Total SDR Prov Kiosk Count:  Total HAVA Prov Kiosk Count:

Device/ Machine #	A.M. Verified	Starting Count (Verify)	Ending Count
11771	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11772	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11773	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11774	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11775	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11776	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11777	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11778	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11779	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11780	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11781	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11782	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11783	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11784	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11785	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11786	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11787	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11788	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11789	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>
11790	<input checked="" type="checkbox"/>	0	<input type="checkbox"/>

Total Voting Machine Count (Sum Ending Count):

Comments: \_\_\_\_\_

Initial here that all VVPAT Printers have been secured inside Rolling Storage Cabinet ☐

We do hereby certify that the above information is a true and correct statement of voting executed by us on the date, at the polling place, and for the election indicated above.

Election Day Vote Center Official's Signature \_\_\_\_\_ Election Day Vote Center Official's Signature \_\_\_\_\_

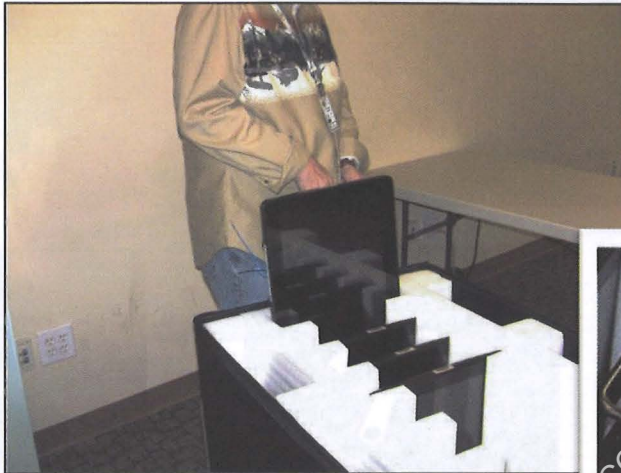
Time of Departure: \_\_\_\_\_



**If voting machine serial numbers do not match those listed on the Polling Place Statement, call Warehouse Hotline immediately.**

## Position ICX Voting Machines

5. Using silver handle, lift voting machines out of cart. Set 2 ICX machines on each 5 ft table and 1 ICX inside each ADA booth

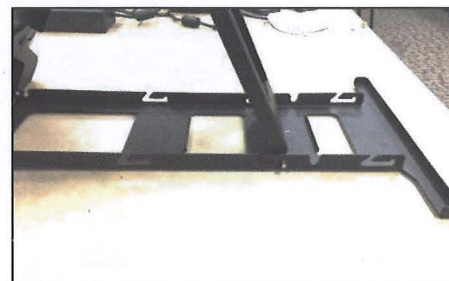
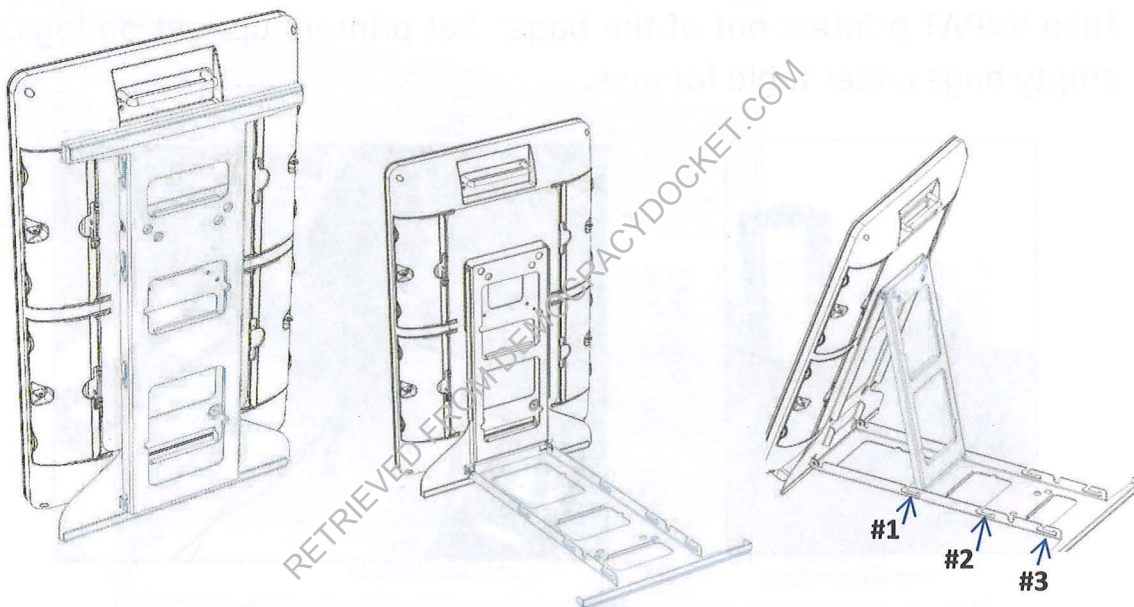




## ICX Kickstand

### 6. Open the kickstand on ICX Voting Machine:

- a. Open the kickstand on the back of the ICX. The kickstand is held in place by a magnet.
- b. Swing open the second hinged metal bracket to fit into a desired groove on the kickstand. Set stand into the groove. Do not lock into place as it is difficult to unlock it.
- c. Note that there are three grooves that the support can fit into:
  - The first groove (#1) is best for voters sitting down
  - The middle groove (#2) is best for most voters
  - The third groove closest to the ICX screen (#3) is best for very tall voters or for adjusting for glare





## VVPAT Printers

7. Take VVPAT printers out of the storage box. Set one printer to right of each ICX voting machine.

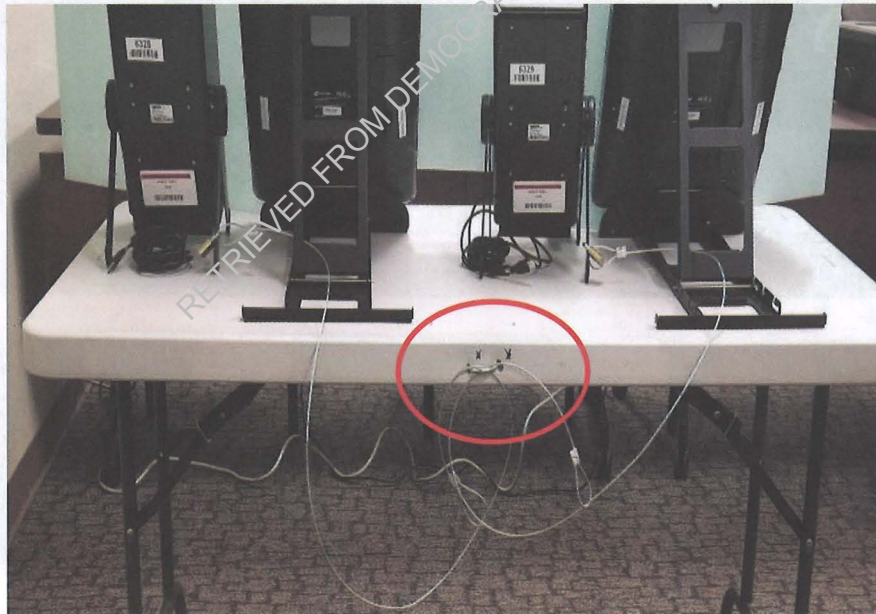


8. Take VVPAT printers out of the bags. Set printers upright on legs. Place empty bags under table for now.



## Security Cables

9. For each ICX Voting Machine, loop cable on table leg (or U-bolt if table has one attached), run cable through ICX kickstand and through hole in VVPAT printer legs and padlock. Security cables and locks can be found in the Setup Assistant crate



**IF SETTING UP PRIOR TO ELECTION DAY, STOP AT THIS POINT  
and padlock the rolling storage cabinets**

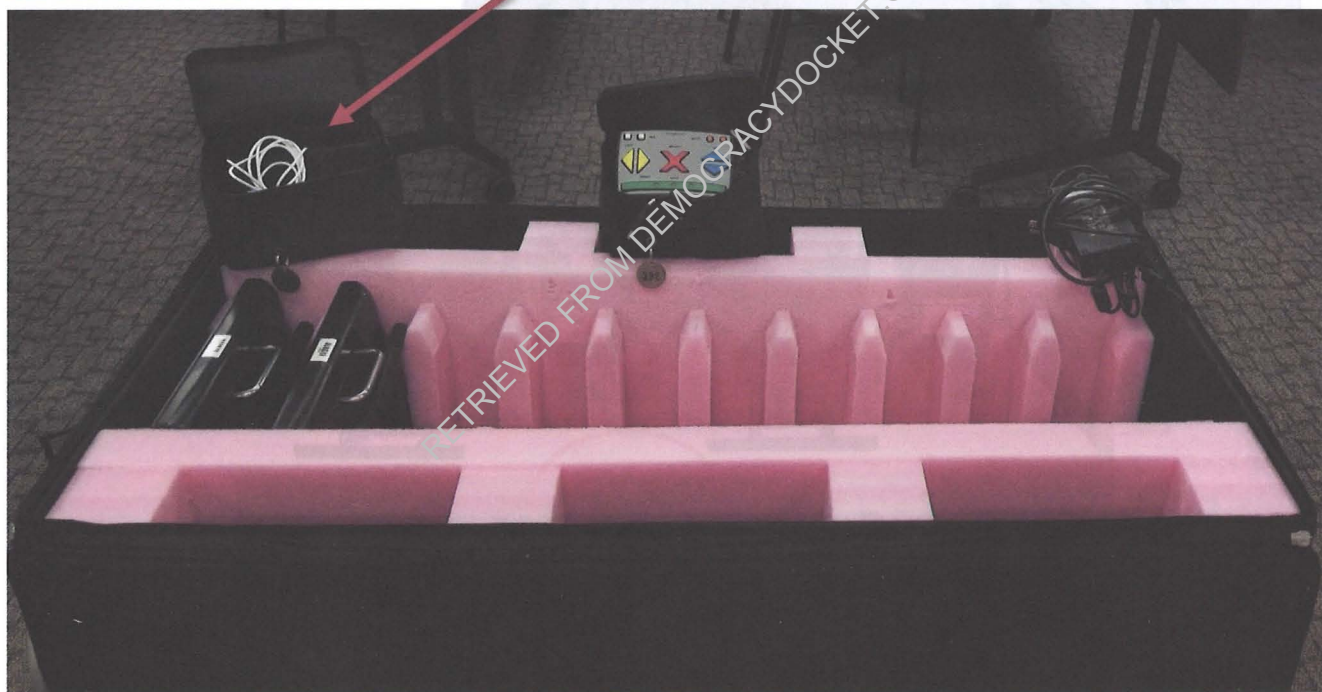


## Setting Up The Equipment

### LED Lights, Power Blocks & Audio Units

1. Take power block and LED light out of voting machine cart and set one to the left of each voting machine.
2. Also take the 2 audio units (ATI) out of cart. Take units out of the carrying case and place next to ADA voting machines inside the booths. Place inside cart.

NOTE: LED lights will be inside a small black carrying case that looks the same as the audio unit case.



## Verify Seal Numbers On ICX Doors & On Printers

3. Verify seal numbers on all 4 doors of ICX match numbers on Seal Report. Seal Report is color-coded to match seal colors



4. Verify seal numbers on VVPAT Printers match seal numbers on Seal Report. Also check the seals on spare printers. NOTE: Any printer may go on any voting machine.

If some seal numbers do not match, continue to open the other voting machines. Call the warehouse hotline to report the ones that do not match when time permits. Hotline will direct you on what to do.

[illegible]

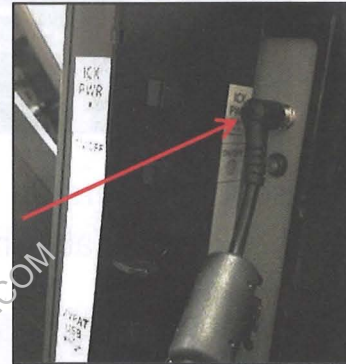
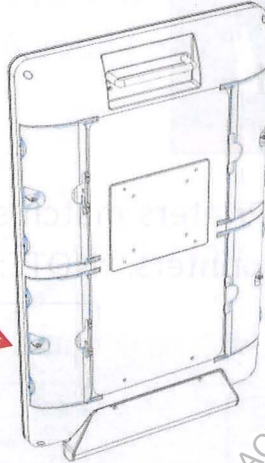
5. Team Leader and Assistant Sign Seal Report and place inside the Transfer Case

**Bring all ICX voting machines to this point before continuing**



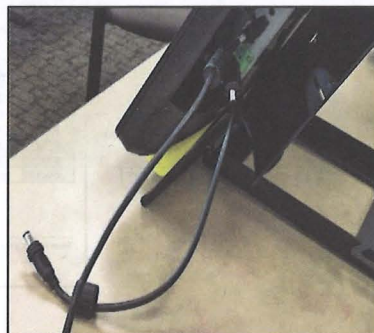
## Connect Power Cable To ICX

6. Break the Seal on door labeled "Power/Printer" and door labeled "ATI/LED". Place broken seals in any gray crate
7. Open the door labeled "Power/Printer" and plug in the power cable. Plug other end into surge protector. **DO NOT PLUG INTO POWER OUTLET YET.**
  - This is the only door that will be left open during the day due to the cables making it difficult to close door easily without bending the cables.



## Connect VVPAT Printer To ICX

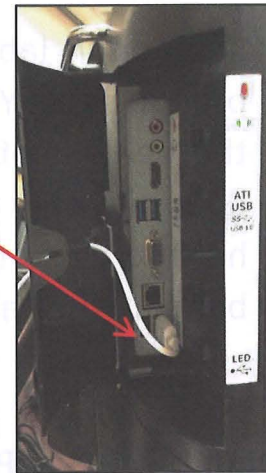
8. Into the same door labeled 'Power/Printer', plug in the VVPAT Printer (two cables). USB cable is plugged into USB port. The other cable is a two-part cable; the shorter cable is already connected to the ICX. Take the other cable from the VVPAT printer and connect with shorter cable.



**Any printer may go on any voting machine.  
There are also several spare printers.**

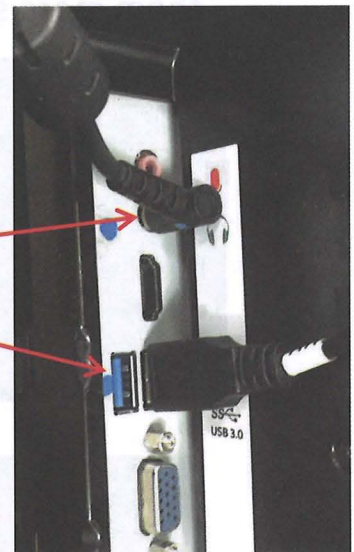
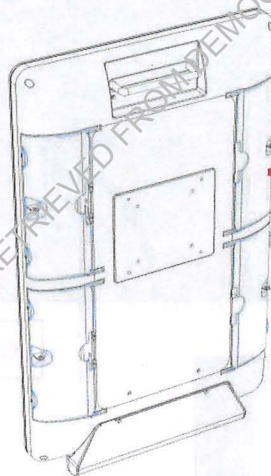
## Connect LED Light To ICX

9. Open door labeled "ATI/LED" and plug LED light into USB port closest to the ICX screen. Run cable through hole in the door. If not an ADA machine, this door may now be closed.

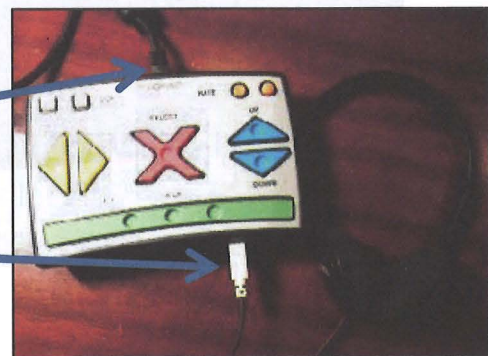


## Connect Audio Unit (ATI) To ICX

10. For ADA Machines, open the door labeled "ATI/LED", and plug in the audio unit (**two cables**). Plug the USB cable into the labeled USB port closest to the ICX screen, and the audio jack into the green socket at the top.



- a. Connect the audio jack to top of audio unit  
b. Connect headset to bottom right of audio unit

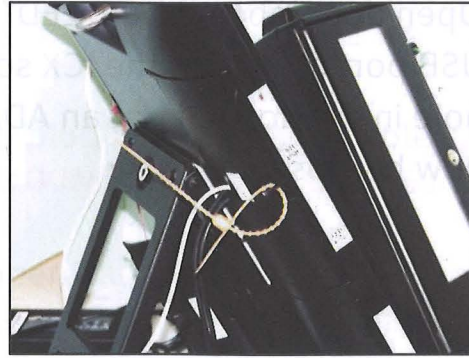


**Audio Unit**



## Seal ATI/LED Door

11. Seal door labeled "ATI/LED" with an orange seal. You do not need to record the seal numbers. The power/printer door may stay open since cables make it hard to close the door without possibly bending the cables.



## Assemble Privacy Panel

12. **Assemble Privacy Panel for each ICX Voting Machine:**
  - a. Place golf tees into holes on table
  - b. Set privacy panels on table with backside up against golf tees to assist with stability
  - c. Clip the 2 Privacy Panels on table together. This will also help to keep them more stable



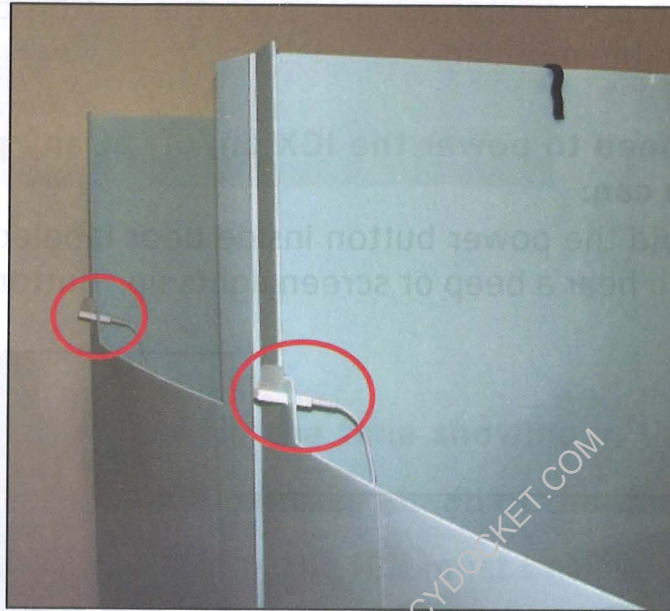
Golf Tees



Clips

## Attach LED Light To Privacy Panel

13. **Attach LED Light to back of each Privacy Panel:**



14. **Store empty printer bags behind each ICX in between the voting machine and privacy panel.**

**Bring all ICX voting machines to this point before continuing**





# Preparing The ICX For Voting

## Power On ICX

1. **Plug the surge protector into the power outlet. The ICX Voting Machine will turn on automatically.** Note: The power button will not work when machine is in power storage mode, so the button cannot be used to power on the ICX in the morning.

**However, if you need to power the ICX on/off at any point throughout the day, then you can:**

- Press and hold the power button inside door labeled "Power/Printer". Hold until you hear a beep or screen lights up. Button is lit up in green.



2. After machine powers up, check for green light on VVPAT Printer and Audio Unit (on ADA machines).



### Confirm Date & Time

3. Confirm the date and time at top left of ICX screen:



Ask the Kiosk Team Leader for the time showing in the Kiosks. The time on the ICX must be at least 5 minutes ahead of the time on the Kiosks (for example, if the Kiosk is 6:45 am, the ICX must be 6:50 am). The date must also be correct. If either is not correct, **STOP**.

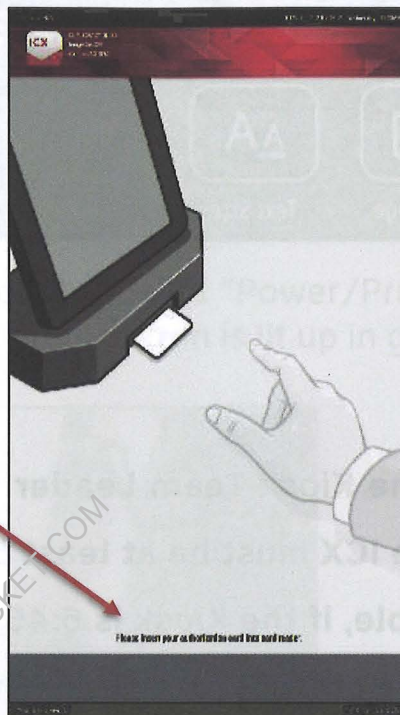


Continue to set up other machines making sure date is correct and time is at least 5 minutes ahead of Kiosks. When time permits, call Warehouse Hotline to report the machine that was incorrect.



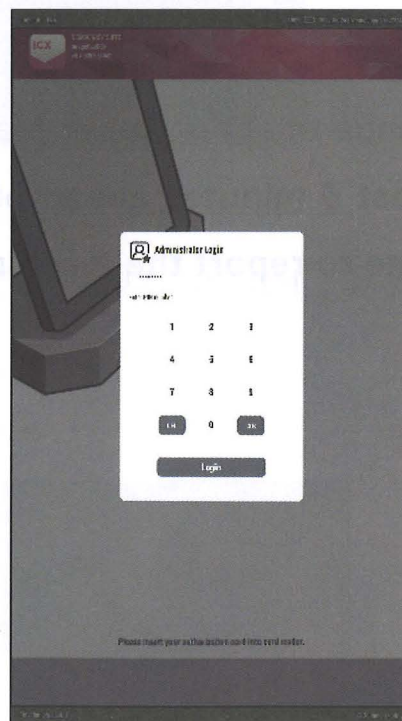
## Insert Team Leader Card & Enter PIN

4. Get Team Leader cards. Cards are found inside a small cardboard box inside the Team Leader crate. You will need one Card for each ICX Voting Machine.
5. The ICX will now show message at bottom of screen: "Please Insert Your Authorization Card Into The Card Reader".



6. Insert a Team Leader Card and enter the PIN Number on the keypad popup on the screen.

- The Team Leader PIN Number is on the Password Sheet in the accordion file under "Passwords"

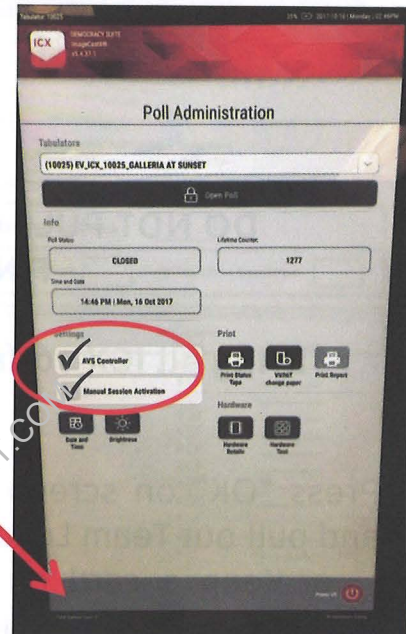
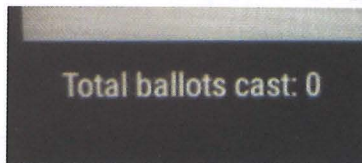


7. Press "OK" if printer message comes up

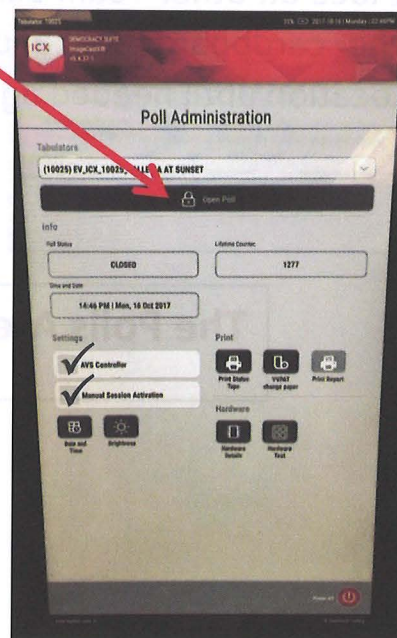
## OPEN THE POLLS

### 8. OPEN THE POLLS. YOU MUST OPEN THE POLLS ON ALL VOTING MACHINES (EVEN IF YOU THINK YOU WILL NOT USE ALL OF THEM)

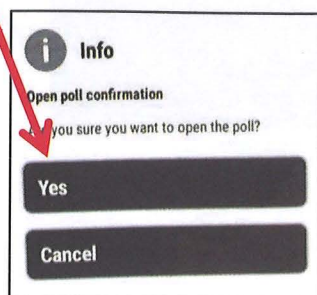
- Check both the "AVS Controller" checkbox for audio voting and the "Manual Activation" checkbox. This way all machines are set up for both if needed.
- Confirm Total Ballots Cast (Starting Count) is **0**



- Press on blue bar to "Open Poll"



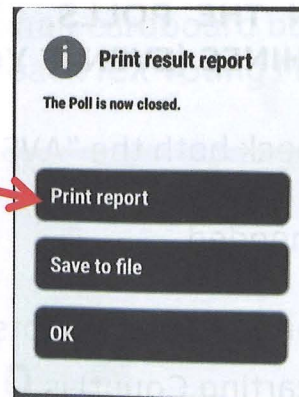
- A confirmation message will appear. Press "Yes"





## Print Zero Report

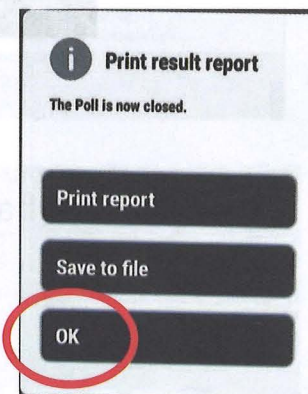
9. Touch "Print Report". The Zero Report will begin printing. Do not select the other buttons.



**DO NOT PULL OUT TEAM LEADER CARD UNTIL PRINTER IS FINISHED PRINTING ZERO REPORT**

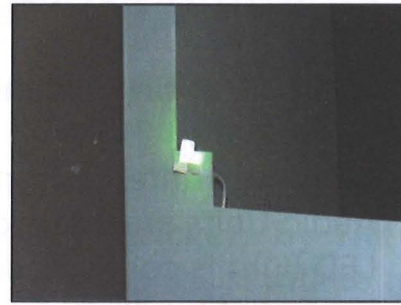
**Bring all ICX voting machines to this point before continuing**

10. Press "OK" on screen when printing is complete and pull out Team Leader Card.
  - a. Keep a card on the lanyard for the Team Leaders, Specialists and Setup Assistants to use throughout the day.
  - b. Place all other Team Leader Cards back into the cardboard box and store in a secure location until needed again at closing.

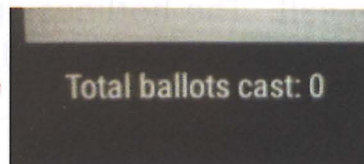
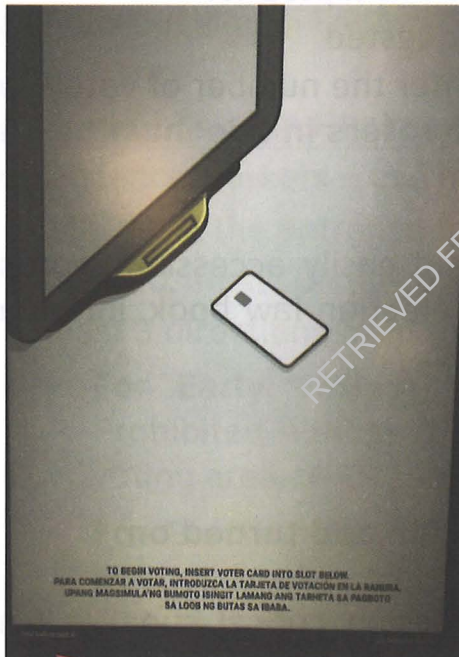


**The Polls Are Now Open**

11. The LED light should now be lit up and green



12. Check the box on the Polling Place Statement to verify starting count is zero on each machine (bottom left of ICX screen). You may now put the Polling Place Statement away in the accordion file. You will not need it again until closing.



Election Day Polling Place Statement  
Election Date: \_\_\_\_\_ Election Time: \_\_\_\_\_

SAMPLE VOTE CENTER

Total Signatures (Total Kiosk Count):

Total SDR Prov Kiosk Count:  Total HAVA Prov Kiosk Count:

ACCOUNT OF BALLOTS CAST ON THE VOTING MACHINES

Device/ Machine #	A.M. Verified	Starting Count (Verify)	Ending Count
11771	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11772	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11773	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11774	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11775	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11776	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11777	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11778	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11779	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11780	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11781	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11782	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11783	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11784	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11785	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11786	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11787	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11788	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11789	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____
11790	<input checked="" type="checkbox"/>	0 <input checked="" type="checkbox"/>	_____

Total Voting Machine Count (Sum Ending Count):

Comments: \_\_\_\_\_

Initial here that all VVPAT Printers have been secured inside Rolllog Storage Cabinet ☐

We do hereby certify that the above information is a true and correct statement of voting executed by us on the date, at the polling place, and for the election indicated above.

Election Day Vote Center Official's Signature: \_\_\_\_\_ Election Day Vote Center Official's Signature: \_\_\_\_\_

Time of Departure: \_\_\_\_\_



## Final Opening Procedures

1. **Check ICX Voting Machines:** Ensure machines are properly configured for voters:
  - a. VeriVote printer is properly connected to each machine
  - b. Audio Units are connected to ADA Machines
  - c. LED light is connected to each machine and to each privacy panel and green light is illuminated
  - d. Each machine has a privacy panel
  - e. All doors are sealed except for "power/printer" door
  - f. Screen says "TO BEGIN VOTING, INSERT VOTER CARD INTO SLOT BELOW"
  - g. All machines and printers are secured to the table with a cable and padlock
2. **Laptop and Printer:** The Kiosk Team Leader and Kiosk Specialist will set up a laptop and a small black printer on the Team Leader table. The Kiosk Team Leader and Kiosk Specialist will use this laptop to:
  - Print sample ballots for voters if requested
  - Access a website where you will enter the number of voters waiting in line at your site. **The number of voters in line must be entered every half hour.**
3. **Team Leader Table:** On your table and easily accessible, you should have the laptop, printer, accordion file, election law book, informational handouts and the voter registration forms.
4. **Check all cords are taped down**
5. **Check all surge protectors are plugged in and turned on**
6. **Distribute Supplies to Workers:** If missing critical supplies (such as Team Leader Cards or Vote Cards), call Warehouse Hotline. If not critical, wait until later in the morning to call. The hotlines are very busy during opening. Give Setup Assistants a Team Leader Card & keys to printers (keys are in Key Envelope)
7. **Place the "Audio Voting Quick Reference" sheet inside each ADA booth.**

8. **Public Viewing Area:** Use red tape to cordon off public viewing area. Public viewing area does not have to be any particular size, and should be in an area convenient for observers to see and hear but not disrupt voting process. Observers may sit or stand in this area and must sign the Observation Form (found in accordion file).
9. **Place The Card Collection Box And "I Voted" Stickers By The Exit** to the vote center. Rotate the monitors and the setup assistants to function as a card collector, so everyone has a chance to sit for a while. If there is not enough room to create a card collection area, the monitors can collect cards and give out stickers as voters leave the machine.
10. **ADA (American Disabilities Act) Instructions:** Check ADA Instructions (if any) in your accordion file. Make any necessary adjustments to vote center as stated in instructions. NOTE: Not all locations have ADA Instructions.
11. **Ensure All Signs Are Posted Both Inside And Outside. The Monitors are responsible for posting the signs.**

- a. Fold-out sign in English/Spanish – place inside near entrance
- b. Fold-out sign in Filipino – place inside near entrance
- c. Distance Markers – use measuring wheel to measure 100' from the entrance to the structure in which you are located. Post "Distance Marker" signs on cones in at least 3 directions from the door.



- **For Early Voting:** Electioneering/Campaigning Is Prohibited Within 100 Feet from entrance to the voting area. (NRS 293.361)
- **For Election Day: Prohibited Within 100 Feet from** entrance to the building or structure in which the polling place is located. (NRS 293.740)



- d. If your vote center does not allow campaigning or petitions on their property, instead of the distance marker signs, you will post the "No Campaigning and No Petitions are Allowed Anywhere on this Private Property..." signs on the cones at the entrance or entrances and in other visible areas.



Your site will be given the appropriate sign depending on if campaigning and petitions are allowed on the property or not.



- e. Enter Here To Vote – using black tape, post this sign on entrance door or next to entrance door.



- f. Vote with Arrow small signs – use black tape to post these to mark the route to the voting area.



- g. Vote Signs on wooden A-frames – find the signs and arrows in the large white plastic bag inside the polling place cart. Velcro signs onto the A-frames. Place these where they will be easily visible to guide voters to voting area – out by the street to direct voters to parking lot. Use luggage cart to transport signs.



- h. ADA signs – some vote centers may have ADA signs. Instructions on where to place these can be found inside the accordion file under “ADA instructions”. Some locations may require you to create an ADA parking space. Cones will be provided if this is the case. *See samples below*

- i. Voter Parking – some locations may require you to mark a few parking spaces for voters. Signs and cones will be provided if this is the case. Parking spaces should be close to the voting area. Talk to contact at site about which spaces you should use. *See samples below*



**12. Make Sure Polling Area Is Easily Accessible:**

- a. Walk route voters will use to reach polling area and check for anything that would make entry difficult, especially for voters with disabilities.
- b. Make sure routes, voter parking and parking for voters with disabilities are clearly marked.
- c. If there are any obstructions that would impede a voter, or missing signs, you must take appropriate steps to resolve problem.

- 13. Confirm Workers Are There:** Use "Payroll Signature Sheet" (in #3 Envelope) to do a roll call and confirm everyone has arrived and is wearing their name badge. If a worker is there but name does not appear on the payroll sheet, call Election Workers Hotline to confirm worker should be there. If a worker has not arrived by 6:00 am:
- Call Election Board Officer Hotline for replacement
  - Workers should not sign the payroll sheet yet. They will sign at the end of the day.

- 14. Administer Oath:** Each team member should sign to indicate he/she has taken Oath. The Oath is found in the accordion file.

- 15. Review Procedures:** Go over vote center procedures with Setup Assistants and Monitors and emphasize:
- Most mistakes occur at beginning of day. Be especially alert
  - Inform Team Leader of any unusual situation or problem
  - Team Leader will schedule lunches & breaks when it will not disrupt polling place operations
  - No one may leave the vote center during voting hours
  - Be professional and do not discuss politics
  - Never tell a voter he/she cannot vote
  - Call Team Leader if voter requests assistance in the booth
  - Never give voter direction or guidance regarding questions or races on the ballot
  - Review duties with each worker



- 16. Ready To Open:** Check with the Kiosk Team Leader that kiosks are ready to receive voters. When you are both ready, the Kiosk Team Leader will use the laptop to report that your site is ready to open. Do this AS SOON AS you are set up and ready to open. Do not wait until 7:00 am. However, you cannot start processing voters until 7:00 am.

**Per Nevada law, the Vote Center MUST be open at 7:00 am. If for some reason you do not think you will open on time, immediately call the Administration Hotline and we will send help.**

**IN THE EVENT YOU RUN INTO PROBLEMS WITH GETTING INTO THE SITE ON TIME, CONNECTIVITY OR ANYTHING ELSE:**

**As long as you have at least 2 Voting Machines and 1 Kiosk ready to receive voters, you are ready to open. The rest can be set up and opened as time permits. NOTE: You may process voters on the Kiosks even if they are "OFFLINE" until you are able to establish connectivity.**

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# EXHIBIT 3

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# Election Department

965 Trade Dr • Ste A • North Las Vegas NV 89030  
Voter Registration (702) 455-8683 • Fax (702) 455-2793

Joseph Paul Gloria, Registrar of Voters  
Lorena Portillo, Assistant Registrar of Voters

April 15, 2022

The Honorable Barbara K. Cegavske  
Secretary of State  
State of Nevada  
101 N. Carson St., Suite 3  
Carson City, Nevada 89701-4786

Attention: Mark Wlaschin  
Deputy Secretary of Elections

RE: Accommodation of Members of the General Public at Polling Places, Mail Ballot Processing, and at the Central Counting Place

Dear Secretary Cegavske:

In accordance with NRS 293B.354, I am forwarding to you the following guidelines which are provided to our polling place team leaders and our election staff to ensure we accommodate members of the general public who wish to observe activities within a polling place, the mail ballot processing areas, and/or at the central counting facilities.

## **Polling Places (Early Voting and Election Day)**

Designated public viewing areas are established in each polling place (for both early voting and Election Day vote centers) where individuals may quietly sit or stand and observe the activities within the polling place.

### **Observation guidelines:**

- Observers may not wear or display political campaign items
- Observers may not photograph, or record by any other means, any activity at any early voting or Election Day polling place
- Use of cell phones is prohibited in the polling place
- Observers may not disrupt the voting process
- If observers have questions, they must direct them to the polling place team leader

#### **BOARD OF COUNTY COMMISSIONERS**

JAMES B. GIBSON, Chair • JUSTIN C. JONES, Vice Chair  
MARILYN KIRKPATRICK • WILLIAM MCCURDY II • ROSS MILLER • MICHAEL NAFT • TICK SEGERBLOM  
YOLANDA T. KING, County Manager

### **Mail Ballot Processing (965 Trade Dr., NLV, NV 89030)**

The general public is allowed to observe the counting of mail ballots. In addition, as a courtesy, members of the general public are also being allowed to observe our mail ballot processing procedures, which occur prior to tabulation.

Our mail ballot processing is taking place at 965 Trade Dr., North Las Vegas, NV 89030, and includes the following activities:

- AGILIS mail ballot processing
- Signature audit team
- Counting board work
- Ballot duplication
- Tabulation of votes

#### **Observation guidelines:**

- Observers may not wear or display political campaign items
- Observers may not photograph, or record by any other means, any activity in the mail processing areas
- Use of cell phones is prohibited in the polling place and mail processing areas
- Observers may not disrupt the processing of mail ballots
- If observers have questions, they must direct them to the Observation Liaison assigned to the area

### **Election Night (Warehouse Tabulating)**

In front of our tabulation room, an area is provided for any observer who wishes to observe our counting activity. Reports are provided after each update to the general public and are also available on our website for review. The general public may access the website through our free county wi-fi on their personal devices should they choose to do so.

The public viewing area allows the general public to view the tabulation room, where the processing of election night results may be observed through windows that provide a full view of all counting activity.

The Registrar of Voters is available to answer questions from members of the general public upon request.

In accordance with NRS 293B.354, I am providing a listing of vote center polling locations for the June 14, 2022 Primary Election. The website listed here provides access

Page 3  
April 15, 2022

to the same listing,

<https://files.clarkcountynv.gov/clarknv/Election%20Department/2022/VC-SamBal-WEB-22P.pdf?t=1649175535561&t=1649175535561>.

Sincerely,

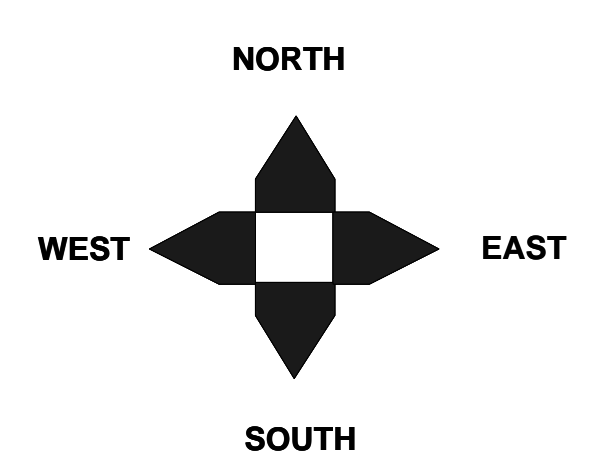
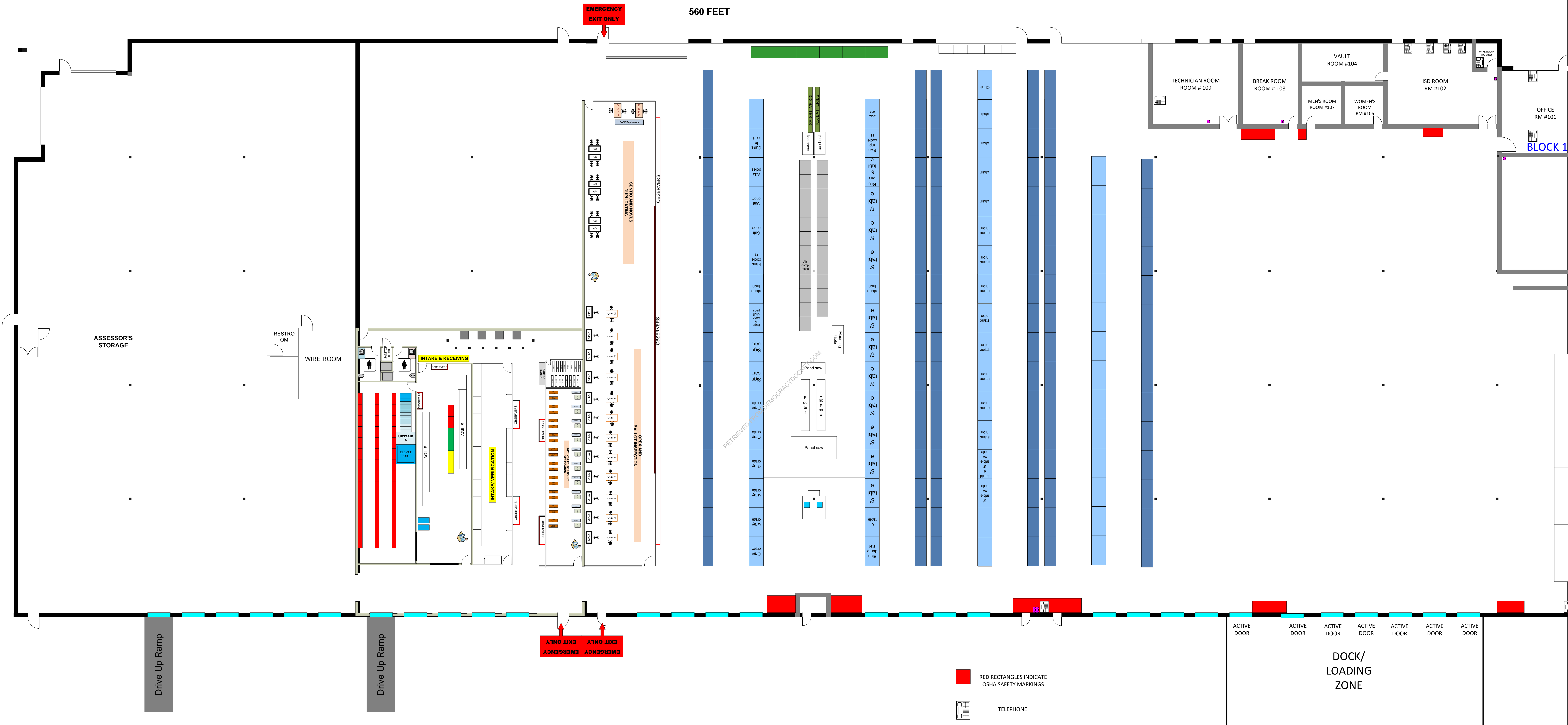
A handwritten signature in black ink, appearing to read "Joseph P. Gloria". The signature is fluid and cursive, with a prominent "J" and "G".

Joseph P. Gloria  
Registrar of Voters

Enclosures

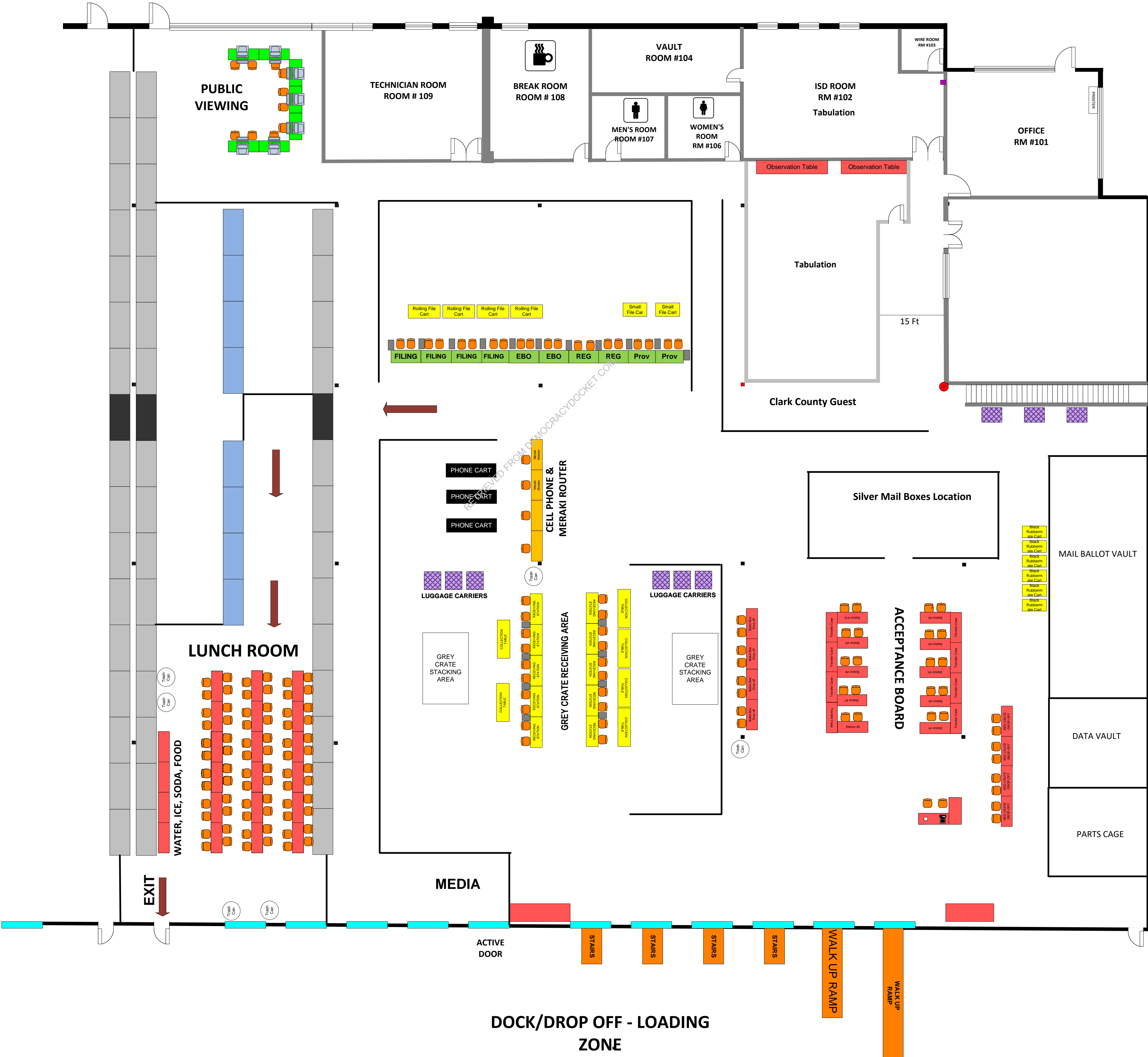
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CLARK COUNTY ELECTION WAREHOUSE  
965 TRADE DR. SUITE A - F





CLARK COUNTY ELECTION WAREHOUSE  
2022 PRIMARY LAYOUT  
965 TRADE DR. SUITE F



200 FEET

# EXHIBIT 4

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2580 SORREL STREET  
LAS VEGAS, NV 89146



TELEPHONE  
(702) 979-3565  
TELECOPIER  
(702) 362-2060

March 21, 2022

**Sent Via U.S. Certified Mail & E-mail:**

Clark County Election Department  
Attn: Joe P. Gloria  
Clark County Registrar of Voters  
965 Trade Drive, Ste. A  
North Las Vegas, Nevada 89030  
elinfo@ClarkCountyNV.gov

**RE: Public Observation of 2022 Primary Election Voting**

**Clark County Registered Voters Requesting Public Observation of 2022 Primary Election Voting:**

Robert Beadles	Susan B Proffitt
Randall S Proffitt	Felicia Pattersen
Jewel Bailey	Frank Kelly
Frank Bella	Katrin Ivanoff
Heather Florian	Rose Falocco
Nathan Atkins	Barry Andreoli
Shelly Andreoli	Sheila Arceo
Karen DiPane	John Schmitz
Jimmy Morales	Erica Neely
Kathy Morales	Dajuan Foster
Matthew Clendenen	Jim Blockey
Adam LaRosa	Evelyn Luviano Larosa
Todd Peppard	Patty Belanger
Tom Wagner	Johnnie Leyva
Terri Leitch	Kristine Lockhart
Denise M Cope	Michelle Yuro
Mark Darden	Christina Von Lindenly
Rosa Vandiver	Michelle Battle
Rex Thomas	Teresa Jidov
Samia Anthony	Juan Perez
Linda L. Colon	Adelina Perez
Leah Loera	John Laporte
Cyrus Hojjaty	Dinah Dahlsrud Ihle
Gerry Ramirez	Dana Allec
Gregg Seymour	Bonnie Buckner
Judith Leslie	Travis Ebarb
Alex Rodrigues	Heidi Koboski
Michael R Kane	James Higgins

<b>Iris Diana Fisch</b>	<b>Rosalie Bingham</b>
<b>Alexandrea Slack</b>	<b>Timothy Wagner</b>
<b>Heather Landay</b>	<b>Judi Utschen-Hirsh</b>
<b>Anna Marie DelRosario</b>	<b>Victoria Giampa</b>
<b>Bianca Garnes</b>	<b>Peranut Sae-Ang</b>
<b>Kirk Norman</b>	<b>Dale J Parker</b>
<b>Christina Barrello</b>	<b>Rita Cossid</b>
<b>Carolyn St. John</b>	<b>Lorena Biassotti</b>
<b>Lynn Clark</b>	<b>Marty Waldman</b>
<b>Pamala Lee</b>	<b>Tamas A. Lee</b>
<b>Mieke C. Maun-Bleitz</b>	<b>Lawence M. Bleitz</b>
<b>Suzanne Scavo</b>	<b>John A. Istle</b>
<b>Charles P. Suval</b>	<b>David S. Mintzer</b>
<b>Jeff DiPane</b>	<b>Richard Louro</b>
<b>Bruce Rahl</b>	<b>Linda DeCicco</b>
<b>Robert Brown</b>	<b>Nephi Khaliki</b>
<b>Jerri Krieger</b>	<b>Rosemary Davis</b>
<b>John DeCicco</b>	<b>Harold R. Ross</b>
<b>Katrin Ivanoff</b>	<b>Garland Brukley</b>
<b>Melanie Johnson</b>	<b>Joseph R. Frasson</b>
<b>Frances E. Swartz</b>	<b>Joseph F. Leising</b>
<b>Stephen J. Bradley</b>	<b>Larry D. Richardson</b>
<b>Lenny Smith</b>	<b>Juliet Smith</b>
<b>Karen D. Katsards</b>	<b>Paula Marsden</b>
<b>Ted Load</b>	<b>Kristene Honzik</b>
<b>Karen DiPane</b>	<b>Tom Pickard</b>
<b>Sandra Sue Stitt</b>	<b>Lauren Cox Thomas</b>
<b>Heidie Elise Clingen</b>	<b>Terry McGowen</b>
<b>Patty Pruett</b>	<b>Margaret White</b>
<b>Staci Maine</b>	<b>Matt Bessatte</b>
<b>Jonathan A. Maxham</b>	<b>Andrew Wilson Danevicius</b>
<b>Suzanne Marie Danevicius</b>	<b>Eva S. Perez</b>
<b>Mark Alan Voelker</b>	<b>Richard Duane McCandless</b>
<b>Greg Kiser</b>	<b>Bria Kiser</b>
<b>Jeanne Kaslly</b>	<b>Natalie Cortez</b>
<b>Joshua Cowart</b>	<b>Irene Cortez</b>
<b>Alexandria Tonthat</b>	<b>Felicia Przybochi</b>
<b>Benjamin Trahan</b>	<b>Shelly O'Connor</b>
<b>Julie Renee Davis</b>	<b>Brian James Davis</b>
<b>Maria Moss</b>	<b>Bobby Moss</b>
<b>Lance Taylor</b>	<b>Rocco Brandonisio</b>
<b>Debra Brandonisio</b>	<b>Danielle Kear</b>
<b>Rebecca Murray</b>	<b>Jody Mudano</b>
<b>John Schmitz</b>	<b>Debbie James</b>
<b>Socorro Keenan</b>	<b>Owen Wong</b>
<b>Bill Kaanoi</b>	<b>Sharon Abila</b>
<b>Kenneth G. Baynes</b>	<b>Andrea J. Baynes</b>

**Mike Mudano**  
**Jill Corbeille**

**Virginia Adams**  
**Wayne Cobeille**

Dear Mr. Gloria,

Please be advised that my firm represents the above-listed Clark County, Nevada registered voters ("Clients") who seek the Clark County Elections Department to enact effective, proper, and reliable voter observation during the 2022 Primary Election.

NRS 293.2546(10) provides that each voter has the right to have a uniform statewide standard for counting and recounting of all votes accurately. For this to take place, reliable and meaningful observation must take place. Moreover, voters of Clark County have addressed complaints during the 2020 General Election. Clark County has failed to address its registered voters concerns regarding the same.

Nevada has since adopted its Voters' Bill of Rights, NRS 293.2546. All voters have the right to address complaints about elections and election contests resolved fairly, accurately and efficiently. The items addressed below identify the requested observation requirements to ensure fair, accurate, and meaningful voting observation during the 2022 Primary Election.

Various states have established rules for observing in-person voting, signature matching and mail ballot verification, and ballot counting, specifically Arizona, Florida, Georgia, Michigan, North Carolina, Ohio, Pennsylvania, and Wisconsin. Wisconsin permits any member of the public to observe elections. *See* W.S.A. 7.41. Michigan and Ohio have both party-appointed observers and nonpartisan observers. *See* M.C.L.A. 168.733, M.C.L.A. 168.730, and R.C. 3503.21. Michigan, for example, has party-appointed poll challengers but poll watchers can be any member of the public. *See* M.C.L.A. 168.733 and M.C.L.A. 168.730. Ohio, on the other hand, has poll watchers that are appointed by a political party and appointed by ballot initiative committees, which are committees that are formed to put an initiative on the ballot and then make it law. *See* R.C. 3503.21.

Arizona and Georgia employ an oversight process by which poll watchers nominated by political parties can see the tabulation of ballot. Ohio appoints canvass observers by political party, but also employs ballot initiative committees whose members are not always formed via the parties. Florida, Michigan, North Carolina, Pennsylvania, and Wisconsin use a public oversight process, in which any person can witness the tabulation of the ballots.

It is well evidenced that a meaningful observation of the 2020 General Election did not take place. My Clients request Clark County adopt the following Election Observer Guidelines and

///  
///

#### General Rules for Observers:

- Observers must be able to personally view that every step of the election is handled with transparency, integrity, and is done lawfully;
- Observers must be allowed to physically inspect each ballot to ensure each ballot is legally counted and processed by the Registrar of Voters' ("ROV") personnel. Observers be permitted within a two (2) foot radius of any ballot counting system or machine. For example, the signature(s) must match on the envelop, the ballot must be filled out properly, the correct form of ballot must be completed, each ballot must be counted and tallied properly and reported properly. Observers must be able to do this at the ROV headquarters, and any remote or central counting location through the entire election process;
- Two (2) Observers to be present at each drop box location from each political party to ensure there are no unauthorized dumping of ballots or illegal ballots processed;
- Two (2) Observers from each political party to be present at the EMS machine or any machine in where electronic votes are being tabulated or uploaded;
- There must be paper records showing the data and content on each thumb drive and the upload to any tabulating machine must match what is documented to ensure accuracy;
- If any of the Two (2) Observers from each political party address any issue and cannot resolve the issue, he or she may ask the ROV staff to stop processing. The Observer must then address his/her challenge to the manager, supervisor, or lead;
- If for any reason, if an Observer from either political party is forced to be removed, they must be immediately replaced with another Observer from their respective political party to ensure each party is properly represented;
- All Observers must pass background checks, be a resident of the Clark County, Nevada, and be registered to vote in Clark County, Nevada;
- Each political party must submit a list of their Observers for each location and alternates regarding the same within seven (7) days before the 2022 Primary Election;
- Any independent political party shall be entitled to the aforementioned;
- Each party, is defined as the chair of the respected parties central committee (ex: Clark County Republican Central Committee to be responsible for the Republican observers);
- The ROV personnel will issue a badge to Observers, which they must wear while observing. Observers must return their badges each day before leaving the ROV;
- The ROV will accommodate requests for observation and requests to enter and leave subject to the availability of ROV personnel; and
- All drop box locations, all counting areas, EMS areas, and all board rooms used for the 2022 Primary Election must be video-taped using video surveillance at all times. The video-surveillance must be of high quality and stored in a manner mutually agreed upon the ROV and both political parties.



As NRS 293.274(1) provides that members of the public may be poll watchers, surely the aforementioned are within the scope and breadth of NRS 293.274.

Please confirm within five (5) days of receipt of this correspondence that Clark County Clark County Elections Department will implement the aforementioned.

Sincerely,

*/s/ Adam Fulton, Esq.*

Adam Fulton, Esq.

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