

**RINCON BAND OF LUISEÑO MISSION INDIANS
RINCON INDIAN RESERVATION, CALIFORNIA**



**RINCON ELECTION ORDINANCE ESTABLISHING
RULES FOR ELECTIONS RINCON TRIBAL CODE § 2.400**

Adopted October 20, 2004

RINCON ELECTION ORDINANCE
Rincon Tribal Code § 2.400

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§ 2.400 **PURPOSE AND INTENT**

The purpose of this Ordinance is to protect the integrity of Tribal elections through the establishment of rules and procedures for elections of the Rincon Band of Luiseño Indians of California (also referred to herein as “Tribe” or “Band”).

§ 2.401 **AUTHORITY**

Pursuant to section 5 (d) of the Articles of Association, the Tribal Council is authorized to enact an ordinance prescribing the form of ballot, rules for calling elections, absentee balloting procedures, selection of election officials, establishment of polling places and other similar matters governing the administration and operation of the Band’s electoral affairs. The enactment of this Ordinance is without regard to and in no way modifies or affects the special meeting provisions of Sections 12 and 13 or the Articles of Association.

§ 2.402 **DEFINITIONS**

(a) **“Alternates”** means the two non-voting Election Committee members.

(b) **“Articles of Association”** means that certain organizational document setting forth rules of procedure to govern the operations and recognize the governing body of the Tribe, adopted by the General Membership on February 14, 1960, and approved by the Commissioner of Indian Affairs on March 15, 1960.

(c) **“Attorney General”** means the chief legal officer of the Tribe appointed by the Tribal Council to execute the day-to-day governmental and commercial legal affairs of the Tribal Government.

(d) **“Ballot Box”** means the container holding all folded ballots pursuant to §2412(b)(5).

(e) **“Ballot Measure”** means an issue or question placed on the ballot for voters to approve or reject and includes ordinances governing future membership, loss of membership and the adoption of members according to Section 6(d) of the Articles of Association.

(f) **“Business Committee”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Business Committee" shall be synonymous with “Tribal Council” or “Rincon Tribal Council” as may be used in this Ordinance or any existing or future Tribal ordinance.

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(g) **“Certified Ballot”** means a paper or electronically displayed ballot that has been reviewed and certified by the Business Committee to be true and correct, as per § 2.407.

(h) **“Director of Tribal Administration”** means the employee appointed by the Tribal Council to execute the day-to-day administrative functions of the Tribal Government.

(i) **“Disqualified Ballot Box”** means the box that holds the Invalid Votes and inner labeled coin envelopes that have been disqualified by the Election Committee and/or Election Contractor in accordance with vote counting procedures in Section 2.412(b).

(j) **“Election Committee”** means the Tribal Members elected pursuant to Section 2.403 of this Ordinance to assist with election functions of the Tribe.

(k) **“Election Contractor”** means a third-party contractor retained and approved by the Tribal Council, pursuant to its authority under Section 5(d) of the Articles of Association, to undertake election duties and responsibilities by and through its principal-in-charge and staff designees as proscribed by this Ordinance.

(l) **“Election Day”** means the Saturday prior to the second Sunday in December for a General Election, or any day of the month that a Special Election is held.

(m) **“Eligible Voters”** means all enrolled members of the Rincon Band twenty-one (21) years of age or older, unless their voting privileges have been revoked.

(n) **“General Election”** means the election held the Saturday before the second Sunday of December for positions on the Business Committee and Grievance Board pursuant to Articles of Association, and the elections for the Election Committee pursuant to this Ordinance, unless an Election Contractor is retained by the Tribal Council, and Enrollment Committee pursuant to Ordinance No. 3.

(o) **“General Membership”** and **“Tribal Members”** mean enrolled members who are twenty-one years (21) of age or older pursuant to Section 5 of the Articles of Association.

(p) **“Grievance Board”** means the three-member Grievance Board established pursuant to Section 7 of the Articles of Association.

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(q) **“Immediate Family”** means a person’s spouse, children by blood, adoption or marriage, grandparent, parent, grandchild, sibling, or an aunt, uncle, or first-cousin who is a blood relative.

(r) **“Instructions to Voters Sheet”** means the written Instructions to Voters Sheet enclosed with the ballot in accordance with Section 2.408 of this Ordinance.

(s) **“Invalid Vote”** means a rejected ballot because the Election Committee and/or the Election Contractor retained by Tribal Council cannot identify the candidate chosen or the name on a returned inner labeled coin envelope or verify it against the Official Voting Roll, or because an opened inner labeled coin envelope contains more than one ballot, or if a voter signs a ballot or otherwise has not followed the Instructions to Voters Sheet.

(t) **“Official Ballot Box”** means the box established at the polling place on Election Day that contains walk-in ballots in inner coin envelopes pursuant to § 2.411(a)(2).

(u) **“Official Voting Roll”** means the roll of Eligible Voters, including addresses and enrollment numbers, maintained by Tribal Member Services.

(v) **“Ordinance”** means this Election Ordinance, as amended from time to time.

(w) **“Ordinance No. 3”** means that certain ordinance enacted pursuant to Section 6(d) of the Articles of Association.

(x) **“Polling Register”** means the log of Eligible Voter signatures that is created on polling day in accordance with Section 2.411 of this Ordinance.

(y) **“Special Election”** means any election other than a General Election and includes runoff elections, Ballot Measures and filling a vacancy before the holder of an office has completed a term on the Business Committee, Election Committee, Grievance Board and Enrollment Committee. A Special Election does not include a motion, whether made by Business Committee resolution or by a Band Member from the floor, at a meeting of the General Membership.

(z) **“Tally Sheet”** means a sheet of paper or a software application used on a computer or handheld device by an Election Committee member and/or the Election Contractor retained by Tribal Council to record each vote cast towards a Ballot Measure and/or candidate running for election.

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(aa) “Tally Wall” means a chalkboard, dry-erase white board, easel post-it pad sheet or any other similar stand-up board, television, computer monitor or other electronic visual display unit on display to the General Membership present at the polling location used by the Election Committee and/or the Election Contractor retained by Tribal Council to record each vote cast for a Ballot Measure, and/or candidate running for office.

(aa) “Tallied Ballot Box” means the box containing each read and counted ballot in accordance with Section 2.412(b)(9)(B) of this Ordinance.

(bb) “Teller’s Report” means the official document of the total number of votes cast for each candidate or Ballot Measure that is signed by the Election Committee members and/or the Election Contractor retained by Tribal Council at the conclusion of the vote counting procedures in accordance with Section 2.412(c) of this Ordinance.

(cc) “Tribal Council” means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Tribal Council" shall be synonymous with “Business Committee” or “Rincon Business Committee” as used in this Ordinance or any existing or future Tribal ordinance.

(dd) “Tribal Court” means the Intertribal Court of Southern California or other tribal forum designated by the Tribal Council to hear and decide violations of Tribal Law.

(ee) “Tribal Government” means the administrative and executive arms of the Tribe, its departments, committees, political subdivisions, agencies and enterprises.

(ff) “Tribal Law” means the laws, ordinances, policies and procedures enacted by the Tribal Council.

(gg) “Tribal Member Services” means the office established by the Tribal Council to provide services to Band Members.

(hh) “Tribal Recording Secretary” means the person appointed by the Tribal Council to record the minutes at the General Membership meetings.

(ii) “Tribe” means the Rincon Band of Luiseno Indians of the Rincon Reservation, Valley Center, California, and the agencies, entities, arms and enterprises of the Tribe, as appropriate, either together or separately.

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(jj) **“Valid Ballot”** means a pre-folded ballot affixed with the seal by the Election Committee and/or the Election Contractor retained by Tribal Council that identifies all candidates running by name, with the incumbent candidate listed first, and includes the closing dates for return by mail or walk-in at the polling place, or a ballot that is electronically displayed or electronically counted using a television, computer monitor or other electronic visual display unit.

(kk) **“Valid Ballot Box”** means the box containing the ballots of votes cast in accordance with Step 9 in Section 2.412(b)(9)(A) of this Ordinance.

§ 2.403 **ELECTION COMMITTEE**

(a) **Election Committee Composition**

There shall be three (3) voting committee members and two (2) Alternates elected by the General Membership to serve as the Election Committee for a one year term pursuant to the Articles of Association, Section 5(d), which authorizes the Tribal Council to proscribe rules for elections and the selection of election officials. The three (3) persons with the highest votes shall serve as the Election Committee members, who have voting authority. The person receiving the highest number of votes shall serve as Chairperson of the committee. The Election Committee Chairperson shall delegate responsibility to the other members of the committee. The Chairperson and the two (2) persons receiving the second and third highest number of votes shall be voting members of the committee.

(b) **Alternates**

The two (2) persons receiving the fourth and fifth highest votes shall serve as Alternates to the Election Committee. The Alternates shall participate in the counting of the ballots administration process. In order for the Alternates to participate and earn compensation, they must arrive no later than 5:00 p.m. on polling day. Vacancies on the committee shall be filled immediately by the Alternate.

(c) **Eligibility**

To be eligible for service on the Election Committee or as an Alternate, persons must be a Tribal Member, 21 years of age or older, who are not an Immediate Family member of any nominee running for the following committees: Business Committee, Enrollment Committee or Grievance Committee.

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(d) Nomination Rules

Pursuant to the Articles of Association, Section 5(c), nominations for the Election Committee shall come from the floor on the second Sunday of November each year. A Tribal Member may nominate another Tribal Member, himself or herself so long as the nominee is present and 21 years or older. Nominations do not require a second motion to be valid. Nominations shall not be closed until everyone has had an opportunity to participate.

(e) Nomination Records

It shall be the responsibility of the Tribal Recording Secretary to keep a written record of all nominee names, phone numbers, the number of votes received per nominee. The Tribal Recording Secretary shall forward the record to the Election Committee Chairperson on Monday following the nomination meeting.

(f) Vacancies

Vacancies on the committee shall be filled immediately by an Alternate. If an Alternate cannot fill a vacancy, the following procedures shall govern resignation and removal of an Election Committee member or an Alternate:

(1) Resignation

If a committee member or Alternate chooses to resign, they are to present a formal written resignation letter to the Election Committee with a copy to the Business Committee Chairperson. If the Chairperson of the committee resigns, the person who received the next highest votes assumes the responsibilities of the Chairperson who resigned. If an Alternate resigns, the person with the sixth highest number of votes shall be selected as an Alternate. If at any time more than four (4) Election

Committee members or Alternates combined resign, then the nominee who has the sixth highest votes would serve as the Election Committee member, and so on. The validity of the election is not jeopardized as long as there are at least three (3) committee members.

(2) Removal

Any Band Member may submit a written request to the Business Committee to call for a vote of the General Membership to remove an

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Election Committee member for “cause” pursuant to Section 13 of the Articles of Association. “Cause” may include, but is not limited to:

- (A) Gross misconduct;
- (B) Conflict of interest;
- (C) Neglect of duty;
- (D) Unable to carry out his/her duties due to a disability, illness or injury.

(g) Recusal

If after the seating of the Election Committee it is determined that a member(s) is ineligible because he/she has an Immediate Family member nominated for one of the three proscribed Committees listed in (c), the Election Committee member may remain on the Committee to assist with the election process, but shall be recused from participating in the counting of the ballots. An Alternate shall replace the recused Committee member and carryout the recused member’s responsibility of counting of the ballots. If the Election Committee member refuses to recuse himself or herself, they shall be subject to removal under (f)(2)(B) Conflict of Interest.

(h) Special Election for Election Committee

(1) If after exhausting the replacement process of §2.403(g), the Election Committee does not have a quorum of three (3) members, then the Chairperson of the Business Committee may call a Special Election according to § 2.406(b); or

(2) The selection of election officials shall be appointed by the Tribal Council pursuant to Section 5(d) of the Articles of Association.

(i) Compensation of Election Committee

(1) Compensation for Election Committee service is conditioned on a final election and signature of each Election Committee member on the Teller’s Report.

(2) Any Election Committee member that disagrees with the results reported on the Teller’s Report may lodge a written protest prior to declaration of a valid election made by the Business Committee

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Chairperson. The written protest must describe the reasons why the Teller's Report is inaccurate, or the nature of irregularities that occurred in the election.

(3) Compensation for preparing and sending the ballots:

Chairperson	\$350.00
Voting Member	\$250.00
Alternates	\$200.00

(4) Counting the ballots on Election Day:

Chairperson	\$700.00
Voting Member	\$500.00
Alternates	\$400.00

(5) Committee members that are employees of the Tribe shall clock out and deduct from personal-time-off in order to be eligible for compensation for participating in Election Committee activities during normal business hours of the Tribal Government.

(j) Compensation for Alternates

If an Alternate participates in any process in lieu of another member, the Alternate shall be compensated the same as stated for the voting member, provided that the Alternate stays until the election is declared pursuant to Section 2.413. If the Alternate participates in the counting of the ballots administration process, then they shall be compensated \$400.00 for this service, provided that the Alternate stays until the election is declared pursuant to Section 2.413.

(k) Meals on Election Day (Breakfast, Lunch, & Dinner)

The Election Committee shall be reimbursed for up to a total of \$150.00 for breakfast, lunch, and dinner meal expenses, as required. It is up to the Election Committee to make arrangements for all meals on Election Day. Election Committee members may take a one-hour meal break for lunch and dinner only when there are at least two other Election Committee members working at the polling location and so long as meal breaks for lunch or dinner are not taken during the counting of the ballots pursuant to Section 2.412.

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(l) Payment Request for Mailing and Counting Ballots.

The Chairperson of the Election Committee shall within the pay period submit a payment request form to the Director of Tribal Administration for the mailing and counting of the ballots.

§ 2.404 OFFICIAL VOTING ROLL

Tribal Member Services of the Band shall furnish to the Chairperson of the Election Committee and/or the Election Contractor retained by the Tribal Council an updated and current Official Voting Roll of all Eligible Voters for purposes of sending and counting ballots. The current updated Official Voting Roll shall contain the following:

- Names of each Eligible Voter;
- Band or enrollment number of each Eligible Voter;
- Mailing addresses of each Eligible Voter;
- Election numbers of those who would be eligible to vote on the day of the election;
- A check-off box for ballots mailed
- A check-off box for ballots received
- All supplies needed to mail ballots, rubber bands, envelopes, paper, paper clips, stapler, and staples.

(a) Tribal Member Services shall provide the Official Voting Roll to the Chairperson of the Election Committee and/or the Election Contractor retained by Tribal Council no later than the Monday after nominations. The Chairperson of the Election Committee and/or the Election Contractor retained by Tribal Council shall ensure that only Eligible Voters receive a ballot.

(b) It is the responsibility of the Tribal Member to update his or her current address and other pertinent information. The Official Voting Roll shall contain the address of record for the mailing of per capita payments.

§ 2.405 NOMINATIONS FOR BUSINESS COMMITTEE

(a) Nominations shall be from the floor. No person shall be nominated for more than one Business Committee seat.

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(b) Existing Business Committee members are required to relinquish their current seat if nominated for an open position. Upon acceptance they will continue in their current Business Committee capacity/seat until the election results.

(c) Nominations will then be opened up for the relinquished seat.

§ 2.406 ELECTION DAY

(a) **General Elections**

(1) Elections for the Business Committee are held annually. The closing date for the regular General Membership Annual Election is the Saturday prior to the second Sunday of December.

(2) Elections for the Grievance Board shall be held during the elections for the Business Committee.

(b) **Special Elections**

(1) Special Elections for vacancies on the Business Committee shall be governed by Section 2.416 of this Ordinance, those for Grievance Board, Election Committee and Enrollment Committee may be held anytime.

(2) Special Elections for Ballot Measures may be held anytime.

(c) **Time and Location**

(1) Receipt of walk-in ballots shall take place at the polling location stated on the ballot.

(2) Ballot counting shall take place at the polling location stated on the ballot.

(3) The polls shall be open from 9:00 a.m. to 5:00 p.m.

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§ 2.407 **THE BALLOT**

(a) **Official Seal**

(1) The Director of Tribal Administration holds the official seal and provides it to the Election Committee Chairperson and/or the Election Contractor retained by Tribal Council who shall be responsible for keeping and ensuring the security of the seal at all times.

(2) The Election Committee Chairperson and/or the Election Contractor retained by Tribal Council shall be authorized to obtain, keep and use the seal for purposes of creating valid ballots.

(3) The Election Committee Chairperson and/or the Election Contractor retained by Tribal Council shall affix the seal to all ballots sent to Eligible Voters.

(b) **Placement of Seal**

The Election Committee Chairperson and/or the Election Contractor retained by Tribal Council shall cause the seal to be placed on the upper right hand corner of the ballots.

(c) **Contents of the Ballot**

(1) All candidate names or proposed amendments can be listed on the same ballot if each is marked in such a manner that there will be no confusion.

(2) The closing date for return of the ballots to the Election Committee and/or the Election Contractor retained by Tribal Council by mail shall be clearly stated on the ballot. The Election Committee and/or the Election Contractor retained by Tribal Council will accept priority and overnight mail provided that the envelope can be folded and deposited in P.O. Box G.

(3) The closing date for return of the ballot to the Election Committee and/or the Election Contractor retained by Tribal Council by walk-in to the polling location shall be clearly stated on the ballot.

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(d) Rules of the Ballot

- (1)** The ballot shall be secret, which means that the Eligible Voter's choices are anonymous.
- (2)** There shall be a number on the inner labeled coin envelope located on the bottom right corner.
- (3)** The ballot shall be pre-folded sufficiently to eliminate any chance of accidental observance.
- (4)** No Eligible Voter shall sign or print his or her name on the ballot.
- (5)** The incumbent running for re-election to a committee or board shall be listed as the first candidate for each office on the ballot.
- (6)** All other candidates shall be listed in the order they were nominated.

(e) Certification and Review of the Ballot

- (1)** The Tribal Recording Secretary and/or the Election Contractor retained by Tribal Council is responsible for preparing the draft ballot based on the minutes of the nomination meeting.
- (2)** At least two (2) days prior to the mailing date, the Tribal Recording Secretary and/or the Election Contractor retained by Tribal Council shall submit the draft ballot to the Business Committee for certification, with a copy to the Attorney General.
- (3)** The Business Committee shall approve the draft ballot as true and correct and issue a Certified Ballot to the Election Committee Chairperson and/or the Election Contractor retained by Tribal Council at least one (1) day prior to mailing the Certified Ballot to the Eligible Voters.

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§ 2.408 INSTRUCTIONS TO VOTERS SHEET

Every voter packet mailed to Eligible Voters shall be mailed with an Instructions to Voters Sheet, attached as Appendix A to this Ordinance, describing the rules applicable to the voter’s handling, marking and returning of the ballot, casting votes in-person on Election Day, replacement ballots and circumstances for ballot disqualification.

(a) Filling Out and Refolding the Ballot

On the ballot, place an “X”, check mark “☑” or completely fill in the box next to the candidate of your choice for each office. (You may only vote for one candidate in each office or as indicated on the ballot.) If there is a ballot initiative that has a “yes” or “no” then apply the mark inside the box of your choosing. Do not mark any other areas of the ballot.

Examples: ☒ ☑ ■ are all acceptable.

(1) If you do not wish to vote for the candidate listed on the ballot, you may WRITE-IN the name of the person of your choice in the space provided.

DO NOT SIGN YOUR NAME ON THE BALLOT. If you sign your name on the ballot, it will be disqualified. It is strongly recommended that you do not put any marks, doodling, graffiti or tagging or any other writing on the ballot which could cause the ballot to be unidentifiable. If your ballot is unidentifiable as to whom you voted for, it will be disqualified.

(2) Refold your ballot in the same manner as you received it and place it in the inner labeled coin envelope (the smallest envelope) which contains a label for your printed name, signature, and enrollment number, and seal the envelope.

(b) Inner Labeled Coin Envelope

(1) It is strongly recommended that you clearly print and sign your name, and print your enrollment number in a legible fashion in order to help the Election Committee and/or the Election Contractor retained by Tribal Council easily identify who you are.

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(2) Print your name on the inner labeled coin envelope on the line provided for your printed name to help the Election Committee and/or the Election Contractor retained by Tribal Council determine who signed the inner labeled coin envelope.

(3) Sign your name on the inner labeled coin envelope on the line for your signature.

(c) **Casting Your Ballot by Mail**

Place your inner labeled coin envelope which contains your folded ballot in the self-addressed return envelope labeled P.O. Box G and seal it. Mail the sealed self-addressed return envelope labeled P.O. Box G no later than the date stated on the ballot to reach the Election Committee and/or the Election Contractor retained by Tribal Council prior to the mail pick-up time which is 12:00 noon on the vote by-mail closing date.

(d) **Casting Your Ballot at the Polling Place**

You may cast your ballot in-person by bringing your sealed inner labeled coin envelope to the polling location during the polling times specified on the ballot on Election Day. Only the Eligible Voter may cast his or her own ballot. No person other than the Eligible Voter may cast a ballot. The only exception is for Eligible Voters who are disabled and seniors and elders. Two Election Committee members and/or two staff persons of the Election Contractor retained by Tribal Council may obtain the inner labeled coin envelope from the disabled and senior or elder voter(s) from the parking lot of the polling location.

(e) **Ballots Lost, Spoiled, or Not Received**

If a ballot is lost, spoiled, or not received, or the Eligible Voter chooses to vote in person, the Eligible Voter may request a substitute ballot at the polling location on Election Day only. The Election Committee and/or the Election Contractor retained by Tribal Council is prohibited from mailing or distributing a substitute ballot to an Eligible Voter.

(f) **Voters Following or Not Following the Instructions to Voters Sheet**

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(1) If the Instructions to Voters Sheet is not followed exactly, the ballot may not be counted. The Election Committee and/or the Election Contractor retained by Tribal Council shall protect the integrity of the election with the intent to count every ballot, unless there is evidence of fraud, or other cause for disqualification, e.g., ballot is signed or blank, the ballot shall be counted.

**INFORMATION REGARDING DISQUALIFIED COIN ENVELOPES WITH
BALLOTS IN THEM**

Any inner labeled coin envelopes that are not identifiable shall be disqualified. If two inner labeled coin envelopes are received from the same voter, then only the first inner labeled coin envelope shall be counted.

The footer on the Instructions to Voters Sheet shall read as follows: The polling location on Election Day shall be at:

(EXAMPLE FOR POLLING AT RINCON GOVERNMENT CENTER)

Rincon Government Center
One Government Center Lane
Valley Center, CA 92082

SECOND SATURDAY OF DECEMBER FROM 9:00 A.M. to 5:00 P.M.

§ 2.409 SENDING BALLOT PACKETS

(a) **Election Committee and/or the Election Contractor retained by Tribal Council Instructions**

(1) For General Elections, the Election Committee and/or the Election Contractor retained by Tribal Council shall mail voter packets no later than the second Tuesday after nominations. For Special Elections, the Election Committee and/or the Election Contractor retained by Tribal Council shall mail voter packets no later than thirty (30) days before the election. The Election Committee and/or the Election Contractor retained by Tribal Council shall ensure each voter packet contains the following:

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(A) A stamped, return envelope addressed to the Election Committee and/or the Election Contractor retained by Tribal Council at P.O. Box G;

(B) An inner labeled coin envelope with a pre-printed tribal enrollment number for each Eligible Voter to print and sign their name and print their enrollment number.

(C) One (1) Instructions to Voters Sheet; and

(D) One (1) official ballot, pre-folded a sufficient number of times to protect the secrecy of the Eligible Voter's choice.

(b) **Transporting Ballot Packets to the Post Office**

(1) The Chairperson of the Election Committee and/or the Election Contractor retained by Tribal Council shall place the final voter packets in the see-through, plexiglass box named "P.O. Box G" that is locked for transportation to the Post Office.

(2) The P.O. Box G lock box shall contain two hinges for two locks with two different keys, one to be held by the Election Committee Chairperson and the other to be held by the Election Committee member who received the second highest number of votes, and/or one to be held by the Election Contractor principal-in-charge of staff on Election Day and the other to be held by the Election Contractor staff designee of the principal-in-charge.

(3) The Election Committee Chairperson and one other Election Committee member, and/or the Election Contractor principal-in-charge and the Election Contractor staff designee shall transport the ballots to the Post Office. If an Election Committee member, and/or Election Contractor principal-in-charge or staff designee are unavailable to transport the ballots to the Post Office, the Election Committee Chairperson or the Election Contractor principal-in-charge shall request a Tribal Law Enforcement officer to accompany him or her to transport the ballots to the Post Office.

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§ 2.410 **PICKING UP P.O. BOX G MAILED-IN BALLOTS**

(a) Two Election Committee members, and/or two staff members of the Election Contractor retained by Tribal Council, shall pick up the ballots mailed to P.O. Box G – neither of whom shall be in possession of the lock box keys. The keys to P.O. Box G shall remain in the possession of Election Committee members, and/or the Election Contractor principal-in-charge and staff designee of the principal-in-charge, at the polling place on Election Day during the time that P.O. Box G is picked-up from the PostOffice. P.O. Box G shall remain locked until the counting of the ballots begins. A Tribal Law Enforcement officer shall accompany the Election Committee members and/or the Election Contractor staff to retrieve the ballots from the Post Office.

(b) All mailed ballots received after 12:00 noon on the closing date shall not be counted.

§ 2.411 **POLL VOTING**

(a) **Walk-in Ballots, Registration Requirement**

(1) A walk-in voter must present valid, government-issued identification (tribal identification, passport, driver’s license, or state-issued identification) to the Election Committee and/or the Election Contractor retained by Tribal Council before signing the Polling Register.

(2) The walk-in voter must sign the Polling Register before depositing his or her inner labeled coin envelope containing the completed ballot in the Official Ballot Box established for that Election Day.

(b) **Walk-in Ballots, Voter Requests for New/Duplicate Ballot**

(1) If a voter has a lost, spoiled, never received a ballot packet, or if the voter chooses to vote in person, he or she may request a duplicate ballot packet containing a new ballot at the polling place on Election Day.

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(2) A voter requesting a duplicate ballot packet must present valid identification, sign and mark the reason for needing a duplicate ballot packet on the Polling Register.

(3) The Election Committee member and/or the Election Contractor retained by Tribal Council shall verify and write in the enrollment number of the Eligible Voter requesting a duplicate ballot packet on the Polling Register as well as the labeled coin envelope containing the ballot.

(4) The Election Committee member and/or the Election Contractor retained by Tribal Council verifying and writing in the voter's enrollment number shall also sign the Polling Register.

(5) The Election Committee and/or the Election Contractor retained by Tribal Council shall provide a replacement ballot packet to the Eligible Voter to mark the ballot, enclose the completed ballot in the labeled coin envelope, seal, sign and print his or name and deposit the sealed, labeled coin envelope into the Official Ballot Box.

(c) **Distance From Election Committee and/or the Election Contractor retained by Tribal Council**

(6) There shall be no politicking or campaigning at the Polling Place while the polls are open from 9:00am to 5:00pm on Election Day.

(7) The Election Committee and/or the Election Contractor retained by Tribal Council shall assist one voter at a time at the Polling Place. Eligible Voters waiting their turn for assistance shall remain twenty-five (25) feet away from the Election Committee and/or the Election Contractor work area until each is called upon by the Election Committee and/or the Election Contractor retained by Tribal Council one at a time.

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§ 2.412 **COUNTING BALLOTS (ELECTION DAY)**

(a) Non-Interference of Election Process

(1) All voters shall stay at least 25 feet away from the Election Committee members and/or the Election Contractor staff retained by Tribal Council and/or sort table and refrain from any kind of interference with the Election Committee and/or the Election Contractor during the execution of their duties. The Director of Tribal Administration shall establish a barrier to maintain a 25’ buffer between the voters and the Election Committee members and/or the Election Contractor retained by Tribal Council on Election Day at the polling location.

(2) The Election Committee Chairperson and/or the Election Contractor principal-in-charge shall ensure that any chairs are a minimum of twenty-five (25) feet away from Election Committee members and/or the Election Contractor staff sort table. The Election Committee and/or the Election Contractor may also erect a rope and/or any other barriers as to maintain the twenty-five (25) feet minimum distance.

(3) All Election Committee members and/or the Election Contractor retained by Tribal Council must refrain from having any personal dialogue with the audience during the execution of official duties.

(4) The observance of the counting of ballots and tallying of votes is a privilege, not a right. Voters shall not interfere, disrupt, distract, badger or criticize the Election Committee and/or the Election Contractor retained by Tribal Council during this process.

(5) The Election Committee Chairperson and/or the Election Contractor principal-in-charge will only give one verbal warning to voters who violate this rule.

(6) The Tribal Law Enforcement staff, at the discretion of the Election Committee Chairperson and/or the Election Contractor principal-in-charge, may be present at the polling location during the Election Committee and/or the Election Contractor’s counting of the ballots.

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(7) If the Election Committee and/or the Election Contractor retained by Tribal Council has given a verbal warning to a voter, and the voter continues to interfere, disrupt, distract, badger or criticize the Election Committee and/or the Election Contractor, then the Election Committee Chairperson and/or the Election Contractor principal-in-charge shall call Tribal Law Enforcement who may issue a civil citation and penalty of \$250.00 to the voter.

(b) **Procedures for Counting Ballots**

(1) **Step 1 (Undelivered Envelopes)**

The Election Committee and/or the Election Contractor retained by Tribal Council shall count the number of the undelivered envelopes containing ballots, announce it and enter the number on the Tally Sheet and Tally Wall. The Election Committee Chairperson and/or the Election Contractor principal-in-charge shall secure all undeliverable envelopes in a secure box.

(2) **Step 2 (Returned Envelopes)**

All returned envelopes self-addressed to P.O. Box G shall be opened and the sealed inner labeled coin envelope containing the voter's printed name, signature, and enrollment number shall be removed keeping the inner labeled coin envelope sealed.

If there are two sealed inner labeled coin envelopes in a self-addressed P.O. Box G envelope from two different Eligible Voters, then both sealed inner labeled coin envelopes shall move forward to Step 3 (Received Envelopes).

(3) **Step 3 (Received Envelopes)**

The sealed inner labeled coin envelopes that have the signature, printed name, and enrollment number of the voter shall be marked as "received" on the Official Voting Roll and remain sealed. The Election Committee and/or the Election Contractor retained by Tribal Council shall protect the integrity of the election with the intent to count all votes. If the seal/adhesive on the inner labeled coin envelope fails, unless there is evidence of fraud, or other cause for disqualification, e.g., ballot is blank or signed, the ballot shall be counted.

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ACCEPTABLE SIGNATURE VARIATIONS: Signatures shall be acceptable for the following variations in conjunction with the enrollment number. With the intent to count all votes, the Election Committee and/or the Election Contractor shall have the discretion to determine whether the voter signed as stated on the inner coin envelope. Examples of valid signatures are:

John A. Doe	John Doe
J.A. Doe	Johnny A. Doe
J. Adams Doe	Jonathan A. Doe
Jonathan Doe	

The above examples apply to any Junior (Jr.) and Senior (Sr.) variations.

(4) Step 4 (Inner Labeled Coin Envelopes)

After all sealed inner labeled coin envelopes have been verified for printed name, signature, and enrollment number of the voter and marked as “received” on the Official Voting Roll, each is to be counted as the total number of inner labeled coin envelopes received and recorded in the Teller’s Report.

INFORMATION REGARDING DISQUALIFIED COIN ENVELOPES

Any returned inner labeled coin envelopes where the voter cannot be identified by the Election Committee and/or the Election Contractor and verified against the Official Voting Roll shall be disqualified and tallied by the Election Committee and/or the Election Contractor as an Invalid Vote. If two inner labeled coin envelopes are received from the same voter, then only the first inner labeled coin envelope shall be recorded.

If the Election Committee and/or the Election Contractor disqualifies an inner labeled coin envelope, they are to record in writing the reason for disqualification. Once disqualified, a disqualified ballot shall never be subject to recount pursuant to § 2.412(b)(11). Disqualified inner labeled coin envelopes shall be grouped together and set aside in a Disqualified Ballot Box. These document(s) shall be held until the Chairperson of the Business Committee officially declares the result of the election.

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(5) Step 5 (Removal of Folded Ballots)

The sealed inner labeled coin envelope is opened and the folded ballot is removed. The ballot shall be placed folded into the Ballot Box.

(6) Step 6 (Storage of Empty Inner Labeled Coin Envelopes)

The empty inner labeled coin envelope shall be either banded together or placed in the empty inner coin envelope box and held until the Chairperson of the Business Committee officially declares the results of the election.

INFORMATION REGARDING DISQUALIFIED BALLOTS

Any opened inner labeled coin envelopes containing more than one ballot shall be disqualified and the ballots shall be tallied as Invalid Votes.

If the Election Committee and/or Election Contractor disqualifies an envelope containing one or more ballots, they shall record in writing the reason for the disqualification on the Official Voting Roll and the Teller's Report. Once disqualified, a disqualified ballot shall never be subject to recount pursuant to § 2.412(b)(11). Disqualified opened labeled coin envelopes with ballots shall be grouped together and set aside in a Disqualified Ballot Box. These document(s) shall be held until the Chairperson of the Business Committee officially declares the results of the election.

(7) Step 7 (Opening the Folded Ballot)

After placing all folded ballots into the Ballot Box, each individual ballot will be completely unfolded and placed face down in one single pile.

(8) Step 8 (Challenging the Validity of a Ballot)

(A) The Election Committee Chairperson and voting members (not Alternates), and/or the Election Contractor principal-in-charge, are the only persons authorized to challenge whether a ballot is valid or not. If an Election Committee member, and/or the Election Contractor principal-in-charge, challenges the validity of a ballot, the majority vote of the Election Committee, and/or the Election Contractor principal-in-charge, shall determine the validity of a ballot. It shall be the

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Election Committee and/or the Election Contractor principal-in-charge's goal to qualify as many ballots as possible.

(B) If a ballot is deemed invalid and disqualified, the Election Committee and/or the Election Contractor principal-in-charge shall record in writing the reason for disqualification. Once disqualified, a disqualified ballot shall never be subject to recount pursuant to § 2.412(b)(11). Disqualified ballots shall be placed in the Disqualified Ballot Box and held until the Chairperson of the Business Committee officially declares the results of the election.

(9) Step 9 (Reading the Votes Cast)

(A) The Election Committee member, and/or the Election Contractor designee, shall read the votes cast for each valid ballot, including the votes cast for each candidate for each office or Ballot Measure and tally the votes on the Tally Sheet and the Tally Wall. Once the votes of each ballot are read, the valid ballots shall be placed into the Valid Ballot Box.

(B) Once the counting of the ballots is initiated and the tally of votes begins, the Election Committee and/or the Election Contractor retained by Tribal Council shall not have any dialogue with anyone other than an Election Committee member and/or the Election Contractor staff. The reading of each ballot and tallying of votes process shall be completed until all valid ballots are read and counted on the Tally Sheet and Tally Wall. Each read and counted ballot shall be placed into a Tallied Ballot Box. If the Election Committee and/or the Election Contractor retained by Tribal Council adjourns prior to reading the final ballot and tallying the final votes, the election shall be void.

(C) Election Committee members, and/or the Election Contractor retained by Tribal Council, may take breaks, not including meal breaks, at reasonable times that are of reasonable duration, but not to exceed 15 minutes during the counting of ballots, provided that a minimum of two Election Committee members and/or two Election Contractor staff attend to the Ballot Box during the counting of the ballots.

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(10) Step 10 (Counting Ballots)

After reading all of the ballots and tallying all of the votes, the Election Committee and/or the Election Contractor shall count the total number of valid ballots, and record on the Tally Sheet and Tally Wall.

(11) Step 11 (Number of Votes and Majority)

(A) After all of the ballots have been read and tallied on the Tally Sheet and the Tally Wall, the Election Committee and/or the Election Contractor retained by Tribal Council shall count the votes cast for each candidate in each office (write-in votes) and/or Ballot Measure (including no votes cast) and total the number of votes on the Teller's Report, Tally Sheet and Tally Wall.

(B) The Election Committee and/or the Election Contractor retained by Tribal Council shall verify the number of votes recorded on the Tally Sheet and the Tally Wall. If they agree, the Election Committee and/or the Election Contractor shall declare that the Tally Sheet and the Tally Wall are accurate. The Election Committee and/or the Election Contractor shall record that the total number of ballots cast have been counted.

(C) A candidate shall win and a Ballot Measure shall be approved upon a majority vote (fifty percent of votes plus one vote) of the votes cast, provided that a quorum of Eligible Voters participate by voting in the election pursuant to Section 5(c) of the Articles of Association.

Variance between Tally Sheet Count and Tally Wall Count

If there is a variance between the number of votes recorded on the Tally Sheet and Tally Wall, the Election Committee and/or the Election Contractor retained by Tribal Council shall recount the tallies for each candidate and each office to reconcile the variance. If the variance between the Tally Sheet and the Tally Wall cannot be reconciled, then the Election Committee and/or the Election Contractor shall re-read ballots and re-tally the votes.

If the win for any elected office is four (4) votes or less, then a recounting of the ballots for that office or Ballot Measure shall take place again to confirm the previous count.

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(12) Step 12 (Ballots and Envelopes Storage)

Counted ballots and signed envelopes shall be kept in a secure place designated by the Election Committee Chairperson and/or the Election Contractor principal-in-charge until the election is declared by the Business Committee Chairperson.

(c) Teller's Report

The Election Committee Chairperson, and/or the Election Contractor principal-in-charge, shall prepare the Teller's Report that documents the: number of ballots mailed out, number of ballots returned, number of ballots disqualified, and number of valid ballots counted. Each member of the Election Committee and/or the Election Contractor principal-in-charge and staff designees shall certify the results of the election by signing the Teller's Report.

(d) Passing on the Teller's Report

(1) On the morning of the second Sunday of the Annual General Membership Meeting/Annual Election Meeting or at any time for a Special Election, the Election Committee Chairperson and/or the Election Contractor principal-in-charge shall provide a copy of the Teller's Report to the Chairperson of the Business Committee. The Business Committee Chairperson shall declare an election valid/invalid, and if valid, certify the results of an election according to § 2.413 of this Ordinance.

(2) The Election Committee Chairperson and/or the Election Contractor principal-in-charge shall keep a copy of the Teller's Report and provide a copy to the Director of Tribal Administration, the Attorney General, and the Tribal Recording Secretary.

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§ 2.413 **DECLARING THE RESULTS OF THE ELECTION**

(a) The Business Committee Chairperson shall declare the election valid or invalid.

(b) The Business Committee Chairperson shall make the motion to destroy by burning, shredding or deleting all ballots and envelopes, whether valid, disqualified or rejected, Tally Sheets and Teller Report ballots, Instructions to Voter sheets, coin envelopes, and polling register after approval of the election by the Bureau of Indian Affairs, Southern California Agency office if the election concerns amending the Articles of Association or Ordinance No. 3.

(c) Once the Business Committee Chairperson has declared the election valid, he/she shall make the declaration public at the Annual General Membership Meeting, the second Sunday of December or at any time after a Special Election or by mail or electronic notice.

§ 2.414 **EFFECT OF ELECTION**

(a) **Seating of Newly Elected Officers and Members**

Newly elected officers and members shall be installed immediately upon their election.

(b) **Transmittal of Teller's Reports to Bureau of Indian Affairs**

The Chairperson of the Business Committee shall direct Tribal Government staff to send the Teller's Report to the Bureau of Indian Affairs, Southern California Agency office.

(c) **Special Runoff Election for Tie**

If at any election two or more candidates receive an equal number of votes for the same office, and neither tied candidate concedes the election to the other, then the Election Committee Chairperson and/or the Election Contractor principal-in-charge shall call for a special runoff election for the tied candidates. The special runoff election shall be held not less than 30 days, nor more than 90 days from the date the election that resulted in the tie is declared valid.

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§ 2.415 **DECLARING AN INVALID ELECTION**

(a) If the Chairman of the Business Committee determines that the election is invalid, in accordance with this Ordinance, or any legitimate substantive irregularities occurred which would have a detrimental effect on the fairness or the legitimacy of the election, he shall have the authority to declare the election invalid.

(b) If the Chairman declares an election invalid, he or she must state his or her reasons for the record, in the minutes at the time of his or her declaration.

(c) Subject to subsection (f) below, if the election is declared invalid, the Election Committee and/or the Election Contractor retained by Tribal Council is to immediately move forward with another election with the results declared the second Sunday of the following month.

(d) If the Chairman of the Rincon Business Committee declares an election invalid and finds a logistical problem in moving the meeting forward the following month, he shall have the authority to postpone and/or move the election to the next following month. But in no case shall he put the election off for more than three (3) months. If the Chairman postpones or moves the meeting to a following month, he is to state his reasons for the minutes of record.

(e) After the seated Chairman of the Business Committee declares the election invalid, the Chairman shall direct the staff to send the Teller's Report along with a signed letter by the Chairman stating the results of the election to the Bureau of Indian Affairs.

(f) Any complaints of election impropriety or election misconduct shall be handled by the Grievance Board pursuant to Article 7(b) of the Articles of Association. If a complaint is lodged with the Grievance Board, the Chairman shall call a Special Meeting within 30 days of a final decision of the Grievance Board.

§ 2.416 **FILLING A VACANCY ON THE BUSINESS COMMITTEE**

(a) Subject to subsections (b) and (c), a vacancy on the Business Committee due to death, incapacity, voluntary resignation or as provided for under Section 7 (c) of the Articles of Association may be filled by holding a Special Election. Any vacancy of the Chairman or Vice Chair may be filled at the next General Election or, upon a majority vote of the Business Committee, at a Special Election. Upon certification of the election results pursuant to Section 2.413 of this Ordinance, the newly elected Business Committee

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member, other than the Chairman or Vice Chair, shall hold office for the remainder of the predecessor's term. The Election Committee and/or the Election Contractor retained by Tribal Council will proceed with conducting the Special Election in the same manner and under the same procedures as provided for holding a General Election.

(b) A vacancy of the Chairman or Vice Chair of the Business Committee due to death, incapacity, voluntary resignation or as provided for under Section 7 (c) of the Articles of Association may be filled at the next General Election or, upon majority vote of the Business Committee, at a Special Election. Until the next General Election, or Special Election called by majority vote of the Business Committee, the Business Committee Vice Chair will become the Acting Chairman upon vacancy of the Business Committee Chairman and the Business Committee member with the most seniority will become the Acting Vice Chair. Upon certification of the election results pursuant to Section 2.413 of this Ordinance, the newly elected Business Committee Chairman or Vice Chair, shall hold office until the next General Election following one (1) year in office, provided that the terms of the newly elected Chairman or Vice Chair remain staggered and subject to Section 3 (a) of the Articles of Association. The Election Committee and/or the Election Contractor retained by Tribal Council will proceed with conducting the Special Election in the same manner and under the same procedures as provided for holding a General Election.

(c) In the event of three vacancies on the Business Committee due to death, incapacity, voluntary resignation or as provided for under Section 7 (c) of the Articles of Association shall be filled by holding a Special Election within 45 days from the effective date of the last vacancy that caused loss of a quorum on the Business Committee ("Special Election Period"). The Special Election will be held to fill the vacancy to re-establish a quorum of the Business Committee to lawfully carryout official tribal functions and business until the next General Election. Until the seating of the third Business Committee member, the two remaining Business Committee members will continue Business Committee functions, the most senior Business Committee member shall become the Acting Chairman unless both Business Committee members were elected to office in the same election, in that event, the Business Committee member with the most votes from the last election shall become the Acting Chairman until the next General Election. In the event of a tie vote, the Business Committee member most senior in age shall be the Acting Chair. Any transaction(s) approved in the ordinary course of tribal government business during the Special Election Period shall either be ratified or void upon the seating of the third Business Committee member. The Election Committee and/or the Election Contractor retained by Tribal Council will proceed with conducting the Special Election in the same manner and under the same procedures as provided for holding a General Election.

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§ 2.417 SEVERABILITY

If any provision of this Ordinance shall be held unconstitutional or invalid by the Tribal Court, only the invalid provision or language shall be severed and the remaining provision and language of this Ordinance shall remain in full force and effect.

§ 2.418 NO WAIVER OF SOVEREIGN IMMUNITY

All inherent sovereign rights of the Rincon Band as a federally recognized Indian tribe with respect to provisions authorized in this Ordinance are hereby expressly reserved, including sovereign immunity from unconsented suit. Nothing in this Ordinance shall be deemed or construed to be a waiver of the Rincon Band's sovereign immunity from unconsented suit.

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APPENDIX A

Instructions To Voters

FILLING OUT AND REFOLDING THE BALLOT:

- 1) On the ballot, place an “X”, check mark “√” or completely fill in the box next to the candidate of your choice for each office. (You may only vote for one candidate in each office or as indicated on the ballot.) If there is a ballot initiative that has a yes or no, then apply the mark inside the box of your choosing. Do not mark any other areas of the ballot. Example: “□”; “□”; and ■ are all acceptable.
- 2) If you do not wish to vote for the candidate listed on the ballot, you may WRITE-IN the name of the person of your choice in the space provided.

DO NOT SIGN YOUR NAME ON THE BALLOT. If you sign your name on the ballot, it will be disqualified. It is strongly recommended that you do not place any marks, doodling, graffiti or tagging or any other writing on the ballot which could cause the ballot to be unidentifiable. If your ballot is unidentifiable as to whom you voted for, it will be disqualified.

- 3) Refold your ballot in the same manner as you received it and place it in the inner labeled coin envelope (the smallest envelope) which contains the label for your printed name, signature and enrollment number, and seal the envelope.

INNER LABELED COIN ENVELOPE:

- 1) It is strongly recommended that you clearly print and **sign** your name, and print your enrollment number in a legible fashion in order to help to help the Election Committee and/or Election Contractor easily identify who you are.
- 2) Print your name on the inner labeled coin envelope on the line provided for your printed name to help the Election Committee and/or Election Contractor determine who signed the inner labeled coin envelope.
- 3) Sign your name on the inner labeled coin envelope on the line for your signature.

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CASTING YOUR BALLOT BY MAIL:

Place your inner labeled coin envelope which contains your folded ballot in the self-addressed return envelope labeled P.O. Box G and seal it.

Mail the sealed self-addressed return envelope labeled P.O. Box G no later than the date stated on the ballot to reach the Post Office prior to the mail pick-up time which is 12:00 Noon on the vote by-mail closing date.

CASTING YOUR BALLOT AT THE POLLING PLACE:

You may cast your ballot in-person by bringing your sealed inner labeled coin envelope to the polling location during the polling times specified on the ballot on Election Day. No person other than the Eligible Voter may cast a ballot. The only exception is for Eligible Voters who are disabled and seniors and elders. Two Election Committee members and/or Election Contractor staff team members may obtain the inner labeled coin envelope from the disabled and senior or elder voter(s) from the parking lot of the polling location.

BALLOT LOST, SPOILED OR NOT RECEIVED:

If a ballot is lost, spoiled or not received, or the Eligible Voter chooses to vote in person, the eligible voter may request a substitute ballot at the polling location on Election Day only. The Election Committee and/or Election Contractor is prohibited from mailing a substitute ballot to an Eligible Voter.

INSTRUCTIONS TO VOTERS:

If the Instructions to Voters are not followed exactly, the ballot may not be counted. The Election Committee and/or Election Contractor shall protect the integrity of the election with the intent to count every ballot, unless there is evidence of fraud that would disqualify the ballot, the ballot shall be counted.

**INFORMATION REGARDING DISQUALIFIED COIN ENVELOPES WITH
BALLOTS IN THEM**

Any “inner labeled coin envelopes” that are not identifiable shall be disqualified. If two inner labeled coin envelopes are received from the same voter, then only the first inner coin envelope shall be counted.

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The polling location on Election Day shall be at:

(EXAMPLE FOR POLLING AT THE RINCON GOVERNMENT CENTER)

Rincon Government Center
One Government Center Lane
Valley Center CA 92082

SECOND SATURDAY OF DECEMBER FROM 9:00 A.M. to 5:00 P.M.

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