

Res 267

CONTRACT COVERSHEET

NOTE: Shaded areas are for County Executive review.

Significant

DEPARTMENT County Clerk Administration		CONTRACT/ADDENDUM # 12083	
1. This contract, grant or addendum: <input checked="" type="checkbox"/> AWARDS <input type="checkbox"/> ACCEPTS		Contract	Addendum
2. This contract is discretionary <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> POS	<input type="checkbox"/>
3. Term of Contract or Addendum: From: <u>1/1/2016</u> To: <u>12/31/2019</u>		<input type="checkbox"/> Co Lesse	<input type="checkbox"/>
4. Amount of Contract or Addendum * 100,055.99 county cost		<input type="checkbox"/> Co Lessor	<input type="checkbox"/>
5. Purpose: To provide on going hardware maintenance and support and software & firmware maintenance and support services for ballot machines.		<input type="checkbox"/> Intergovernmental	<input type="checkbox"/>
6. Vendor or Funding Source: Election Systems and Software		<input type="checkbox"/> Purchase of Property	<input type="checkbox"/>
7. MUNIS Vendor Code: 2386		<input type="checkbox"/> Property Sale	<input type="checkbox"/>
8. Bid/RFP Number:		<input type="checkbox"/> Other:	<input type="checkbox"/>
9. If grant Funds Positions? <input type="checkbox"/> YES <input type="checkbox"/> NO Will require on-going or matching funds? <input type="checkbox"/> YES <input type="checkbox"/> NO			
10. Are funds included in the budget? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
11. Account No. & Amount, Org. & Obj: <u>COCLKEL 30595</u>		Amount \$ _____	
Account No. & Amount, Org. & Obj: _____		Amount \$ _____	
Account No. & Amount, Org. & Obj: _____		Amount \$ _____	
12. Is a resolution needed: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "YES," please attach a copy of the Resolution. Res 267 If Resolution has already been approved by the County Board, Resolution No. & date of adoption _____			
13. Does Domestic Partner equal benefits requirement apply? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
14. Director's Approval <i>Sherry Endres</i>			

CONTRACT REVIEW/APPROVALS

VENDOR

Initials	Ftnt	Date In	Date Out
<i>MG</i>	Received	<u>9-12-14</u>	
<i>a</i>	Controller		<u>9/16/14</u>
<i>MLM</i>	Corporation Counsel	<u>9/16/14</u>	<u>9/17/14</u>
<i>[Signature]</i>	Risk Management	<u>9/16/14</u>	<u>9/16/14</u>
<i>[Signature]</i>	ADA Coordinator	<u>9/16/14</u>	<u>9/16/14</u>
<i>CW</i>	Purchasing Agent	<u>9/12/2014</u>	<u>9/12/2014</u>
	County Executive		

Vendor Name & Address
ES&S
 11208 John Galt Blvd.
 Omaha, NB 68137

Contact Person
Mike Hoversten

Phone No.
 1-800-247-8683

E-mail Address
 mahoversten@essvote.com

Footnotes:


- _____
- _____

Return To: Name/Title: Sherry Endres, Chief Deputy Clerk Dept.: County Clerk
 Phone: 608-266-4121 Mail Address: 210 MLK Jr. Blvd Rm. 106A
 E-mail: Endres.sherry@countyofdane.com Madison, WI 53703

CERTIFICATION

The attached contract: *(Check as many as apply)*

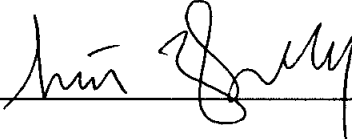
- conforms to Dane County's standard Purchase of Services Agreement form in all respects
- conforms to Dane County's standard Purchase of Services Agreement form with modifications and is accompanied by a revision copy¹
- is a non-standard contract which has been reviewed or developed by corporation counsel which has not been changed since that review/development
- is a non-standard contract previously reviewed or developed by corporation counsel which has been changed since that review/development; it is accompanied by a revision copy¹
- is a non-standard contract not previously reviewed by corporation counsel; it is accompanied by a revision copy
- contains non-standard/indemnification language which has been reviewed or developed by risk management and which has not been changed since that review/development
- contains non-standard insurance/indemnification language which has been changed since review/development or which has not been previously seen by risk management; it is accompanied by a revision copy
- contains non-standard affirmative action/equal opportunity language which has been reviewed or developed by contract compliance and which has not been changed since that review/development
- contains non-standard affirmative action/equal opportunity language which has been changed since the earlier review/development by contract compliance or which has not been previously seen by contract compliance; it is accompanied by a revision copy¹

Date: 9-11-14 Signed: 
 Telephone Number: 608-266-4121 Print Name: Scott McDonell

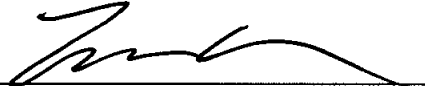
MAJOR CONTRACTS REVIEW (DCO Sect. 25.20) This review applies only to contracts which both exceed \$100,000 in disbursements or receipts and which require county board review and approval.

EXECUTIVE SUMMARY *(Attach additional pages, if needed).*

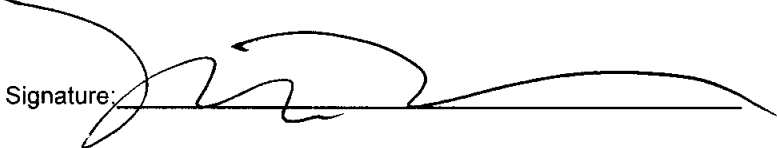
1. **Department Head** Contract is in the best interest of the County.
Describe any deviations from the standard contracting process and any changes to the standard Purchase of Services Form Agreement.

Date: 9-11-14 Signature: 

2. **Director of Administration** Contract is in the best interest of the County.
Comments:

Date: 9/17/14 Signature: 

3. **Corporation Counsel** Contract is in the best interest of the County.
Comments:

Date: 9/17/14 Signature: 

¹A revision copy is a copy of the contract which shows the changes from the standard contract or previously revised/developed contract my means of overstrikes (indicating deletions from the standard language) and underlining (showing additions to the standard language).

COUNTY OF DANE
Purchase of Services Agreement

Number of Pages, including schedules: 21
Agreement No. 12083
Expiration Date: December 31, 2019
Authority: Res. 267, 2013-2014
Department: County Clerk
Maximum Cost: _____
Registered Agent: _____
Address: _____

THIS AGREEMENT, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY" and/or "Customer") and Election Systems and Software LLC. (hereafter, "PROVIDER" and/or "ES&S"),

WITNESSETH:

WHEREAS COUNTY, whose address is City-County Building, Room 106A, 210 Martin Luther King Jr. Blvd., Madison, WI 53703,

desires to purchase services from PROVIDER for the purpose of providing ongoing hardware maintenance and support and software and firmware license maintenance and support services for ballot machines and

WHEREAS PROVIDER, whose address is 11208 John Galt Blvd., Omaha, NE 68137,

is able and willing to provide such services;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

- I. **TERM.** The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.
- II. **SERVICES.**
 - A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Exhibit A, which is fully incorporated herein by reference. In the event of a

conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Exhibit A or any of them, it is agreed that the terms of Exhibit A, to the extent of any conflict, are controlling.

- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
 - C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.
 - D. PROVIDER and COUNTY recognize and agree that the municipalities billed under Exhibit A are third party beneficiaries of this contract.
- III. ASSIGNMENT/TRANSFER: PROVIDER shall neither assign nor transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY unless otherwise provided herein, provided that claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.
- IV. TERMINATION.
- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
 - B. The following shall constitute grounds for immediate termination:
 - 1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
 - 2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
 - 3. failure of PROVIDER to comply with reporting requirements contained herein.
 - C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
 - D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like specifically prepared, produced or made by PROVIDER for the COUNTY under this Agreement shall

at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of set-off.

- V. PAYMENT. COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule A1 of Exhibit A, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.
- VI. LIMITATION OF LIABILITY. Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. PROVIDER'S total liability to COUNTY arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to PROVIDER hereunder. PROVIDER shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (a) COUNTY'S failure to timely or properly install and use the most recent update, or the second most recent update, provided to it by PROVIDER or (b) COUNTY'S election not to receive, or to terminate, the Hardware Maintenance Services or the Software Maintenance and Support services
- VII. DELIVERY OF NOTICE. Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.
- VIII. INSURANCE.
- A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.
- B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of this Agreement, PROVIDER shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability and auto liability insurance policies (as well as professional malpractice or errors and omissions coverage, if the services being provided are professional services) issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. COUNTY shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this Agreement, PROVIDER shall furnish COUNTY with a certificate of insurance listing

COUNTY as an additional insured and, upon request, certified copies of the required insurance policies. If PROVIDER's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement. The Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date. PROVIDER shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. PROVIDER shall furnish COUNTY, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that PROVIDER shall furnish the COUNTY with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either PROVIDER or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by PROVIDER. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to PROVIDER and shall cooperate with PROVIDER's attorneys in the defense of the action, suit or other proceeding. PROVIDER shall furnish evidence of adequate Worker's Compensation Insurance.

- C. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of PROVIDER.
 - D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.
- IX. NO WAIVER BY PAYMENT OR ACCEPTANCE. In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.
- X. NON-DISCRIMINATION. During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.
- XI. CIVIL RIGHTS COMPLIANCE.
- A. If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights

Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.

- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

XII. LIVING WAGE.

- A. PROVIDER agrees to pay all workers employed by PROVIDER in the performance of this Agreement, whether on a full-time or part-time basis, the prevailing living wage as defined in section 25.015(1)(f), Dane County Ordinances. PROVIDER agrees to make available for COUNTY inspection PROVIDER's payroll records relating to employees providing services on or under this Agreement or subcontract.
- B. If any payroll records of PROVIDER contain any false, misleading or fraudulent information, or if PROVIDER fails to comply with the provisions of section 25.015 of the Dane County Code of Ordinances, COUNTY may withhold payments on the Agreement, terminate, cancel or suspend the Agreement in whole or in part, or, after a due process hearing, deny PROVIDER the right to participate in bidding on future county contracts for

a period of one year after the first violation is found and for a period of 3 years after a second violation is found.

- C. PROVIDER agrees to submit to COUNTY a certification as required in section 25.015(7) of the Dane County Code of Ordinances.
- D. PROVIDER agrees to display COUNTY's current living wage poster in a prominent place where it can be easily seen and read by persons employed by PROVIDER.
- E. PROVIDER shall ensure that any subcontractors comply with the provisions of this section.
- F. The following are exemptions from the requirements of this section:
 - 1. When the Maximum Cost of the Agreement is less than \$5,000;
 - 2. When the provider is a school district, a municipality, or other unit of government;
 - 3. When the County is purchasing residential services at an established per bed rate;
 - 4. When employees are persons with disabilities working in employment programs and the provider holds a current sub-minimum wage certificate issued by the U.S. Department of Labor or where such a certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage;
 - 5. When an individual receives compensation for providing services to a family member;
 - 6. When employees are student interns;
 - 7. When the provider meets any other criteria for exemption outlined in section 25.015(1)(d) of the Dane County Code of Ordinances; and
 - 8. Where the contract is funded or co-funded by a government agency requiring a different living wage, the higher wage requirement shall prevail.

XIII. DOMESTIC PARTNER EQUAL BENEFITS. The PROVIDER agrees to provide the same economic benefits to all of its employees with domestic partners as it does to employees with spouses, or the cash equivalent if such a benefit cannot reasonably be provided. The PROVIDER agrees to make available for County inspection the PROVIDER's payroll records relating to employees providing services on or under this contract or subcontract. If any payroll records of a PROVIDER contain any false, misleading or fraudulent information, or if a PROVIDER fails to comply with the provisions of s. 25.016, D. C. Ords., the contract compliance officer may withhold payments on the contract; terminate, cancel or suspend the contract in whole or in part; or, after a due process hearing, deny the contractor the right to participate in bidding on future County contracts for a period of one year after the first violation is found and for a period of three years after a second or subsequent violation is found.

XIV. COMPLIANCE WITH FAIR LABOR STANDARDS.

- A. Reporting of Adverse Findings. During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations Commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.
- B. Appeal Process. PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in sec. 25.015(11)(c) through (e).

- C. Notice Requirement. PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation or union organizing."


XV. MISCELLANEOUS.

- A. Registered Agent. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.
- B. Controlling Law and Venue. It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.
- C. Limitation Of Agreement. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- D. Entire Agreement. The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.
- E. Counterparts. The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

IN WITNESS WHEREOF, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR PROVIDER:

Date Signed: 9/11/14



Date Signed: _____

FOR COUNTY:

Date Signed: _____

JOSEPH PARISI, County Executive

Date Signed: _____

SCOTT MCDONELL, County Clerk

* [print name and title, below signature line of any person signing this document]

rev. 11/08

**EXHIBIT A
HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT
SERVICES FOR BALLOT MACHINES (POST-WARRANTY PERIOD)**

**ARTICLE I
GENERAL**

1. **Term; Termination.** This Exhibit A for Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for a four (4) year period effective on January 1, 2016 and expiring on December 31, 2019 (the "Initial Term"). Upon expiration of the Initial Term, this Exhibit A may be renewed by COUNTY for unlimited successive two year periods (each a "Renewal Period"). This Exhibit A may be terminated by the occurrence of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the Hardware Maintenance Services contemplated hereunder, (d) the date on which the Equipment or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. Upon the termination of the annually renewable license, Customer shall immediately return the Software and Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy the Software and Documentation and certify in writing to ES&S that such destruction has occurred. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Dane County shall pay to ES&S the total fees due from Dane County as set forth on Schedule A1 for the Hardware Maintenance and Software License, and Maintenance and Support Fees for the Initial Term and any Renewal Periods. It is expressly understood that Dane County is not responsible for payment of fees designated to municipal users on Exhibit 1A or elsewhere in this or any other agreement. Notwithstanding the foregoing, Dane County agrees to provide ES&S with a detailed report setting forth each jurisdictional name, Equipment quantity and billing address in order for ES&S to appropriately bill each jurisdiction for its maintenance and support coverage. ES&S agrees that fees billed to municipal users shall not exceed the fees set forth in Exhibit A, provided the quantities, coverage dates and maintenance plan does not change during the Term of the Agreement

The Hardware Maintenance and Software License, Maintenance and Support Fees for any Renewal Periods shall be as agreed to by the parties and such fees will not exceed ES&S' list prices which are in effect at the time of commencement of any Renewal Period. The Renewal Period fees are due and payable no later than thirty (30) days prior to the beginning of such renewal period. The Software License, Maintenance and Support Fees shall be comprised of (i) a fee for the Software License, Maintenance and Support of the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Hardware Maintenance or Software License, Maintenance and Support for an Add-On License or New Product during the Initial Term or any renewal thereof, ES&S will charge an incremental fee for such services. In the event Customer terminates this Exhibit A through no fault of ES&S and later desires to subscribe to a Hardware Maintenance or Software License, Maintenance and Support Plan, or otherwise changes its Hardware Maintenance or Software License, Maintenance and Support Plan with ES&S during the Initial Term or any renewal thereof, ES&S will charge the Customer its then current contract administration fee in order to process such new subscription for, or change in, Hardware Maintenance or Software License, Maintenance and Support Coverage.

ARTICLE II HARDWARE

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Exhibit A for the ES&S equipment listed on Schedule A1 is set forth on Schedule A1 (the "Products") and shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products in Normal Working Condition ("Routine Maintenance Services") once each **Twenty-Four (24) Months** during the Initial Term or any renewal thereof. Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the Equipment, including, but not limited to, paper rolls, batteries, removable media storage devices, PCMCIA cards, ink pads, ink cartridges or marking devices. Customer may request that Routine Maintenance Services be performed more than once during the Initial Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. At the request of Customer, ES&S shall provide a reasonably detailed record of all Routine Maintenance Services performed with respect to the Products. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services. Customer acknowledges and agrees that the performance of Routine Maintenance Services for Product(s) identified on Schedule A1 as "repair only" shall only be provided pursuant to Section 1(b) below.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a preventative maintenance event as follows: Repair Services for Products covered under this Exhibit A will be performed at Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, flooding, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations, and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 24 hours after it knows of the defect or malfunction or is otherwise not in compliance with its obligations hereunder, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided within 48 hours after Customer notifies ES&S of the need therefor), and such

emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed pursuant to Subsection 1(c)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Exhibit A to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, paper rolls, batteries, removable media storage devices, PCMCIA cards, ink pads, ink cartridges or marking devices, or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days in the respective period within the Initial Term or Renewal Period for which such fee was paid and the denominator of which is the total number of days in the respective period within such Initial Term or Renewal Period.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Storage.** When not in use, Products should be stored in a clean, secure environment. During operation of the Products, the facility temperature range should be 50° to 104° and the moisture range should be 10% to 50% relative humidity.

f. **Reinstatement of Hardware Maintenance Services; Inspection.** If the Initial Term or any renewal thereof expires without being renewed, Customer may thereafter resume receiving Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are fit for the ordinary purpose for which they are to be used, normal wear and tear excepted ("Normal Working Condition"). The cost of such inspection will be at the current published ES&S Technician labor rate and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at the current published ES&S Technician labor rate) and parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s).

ARTICLE III
SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES FOR BALLOT MACHINES

1. **License and Services Provided.** ES&S shall provide Software License, Maintenance and Support Services ("Software License, Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), in order for the Customer to continue to license the ES&S Software as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software License, Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.
2. **Updates.** During the Initial Term and any Renewal Period thereof, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, along with appropriate documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining and installing any upgrades or purchases of third party hardware or software required to operate the Updates. All Updates shall be deemed to be "Software", and shall be subject to all the terms and conditions of ES&S' license of the Software, upon delivery. Customer shall install Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. In the event Customer requests ES&S to install an ES&S Firmware Update, ES&S shall install such Update only in connection with the Routine Maintenance Services provided herein. ES&S may charge Customer at its then-current rates to (a) ship the Updates, (b) install the Updates (c) provide maintenance and support on the Software which is required as a result of Customer's failure to timely install an Update or (d) train the Customer on the Updates. Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of Software in accordance with applicable law. Customer shall pay ES&S for any Update which is required due to a change in federal or state law.
3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, (e) Customer's failure to notify ES&S within 24 hours after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Exhibit A. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software requested by Customer as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.
4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other

proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a new Software License and resume receiving Software License, Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, including a reinstatement charge, which would have been due to ES&S had the Initial Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support.⁵

**Schedule A1
ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES**

Jurisdiction Paid Fees:

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit
178	DS200 Scanner	01/01/2016-12/31/2016	\$150.00
178	DS200 Scanner	01/01/2017-12/31/2017	\$150.00
178	DS200 Scanner	01/01/2018-12/31/2018	\$150.00
178	DS200 Scanner	01/01/2019-12/31/2019	\$150.00
Total DS2000 Hardware Maintenance Fees for the Term			

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit
178	Automark Silver Support	01/01/2016-12/31/2016	\$178.00
178	Automark Silver Support	01/01/2017-12/31/2017	\$178.00
178	Automark Silver Support	01/01/2018-12/31/2018	\$178.00
178	Automark Silver Support	01/01/2019-12/31/2019	\$178.00
Total Automark Hardware Maintenance Fees for the Term			

Note 1 : The Annual Maintenance Fee In Total shall be dependent upon the actual number of units which are covered by the individual Jurisdictions under this Agreement.

Note 2: Maintenance and Repair services performed on equipment not covered under this Hardware Maintenance Agreement will be invoiced at the rate of \$2,520.00 for the first day on site and \$1,960.00 per consecutive day thereafter plus any parts used in the repair and/or maintenance of the unit.

Payment and Invoicing Terms: Hardware maintenance fees will be invoiced ninety (90) days prior to the maintenance period. 100% of invoice total due within 30 calendar days of invoice date.

Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 24-month period shall be 75% of the then current maintenance fee per unit.

Note 2: Surcharge for Emergency Repair Services shall be 150% of the then current maintenance fee per unit.

Note 3: Maintenance plan for each unit is to be paid by the jurisdiction in which the unit is located. ESS is responsible for maintaining billing addresses for each machine. If additional machines of either type are purchased during the term of this contract, the maintenance rates for hardware and software listed in this contract will be extended to the new units.

Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one designated location as determined by each applicable jurisdiction shall be \$25.00 per unit for all units located at second or more locations.

Hardware Maintenance Services Provided by ES&S Under this Exhibit A

1. Telephone support.
 - ES&S will provide Hardware support on procedural questions of a specific nature not covered in ES&S' Hardware User Manuals;
 - ES&S will verify the appropriate steps to take to resolve issues identified by the Customer.
2. Issue Resolution. (to be provided on a limited basis)
 - ES&S will provide Hardware issue resolution on a limited basis once the Customer has followed all issue resolution procedures as set forth in the Equipment User Manuals and as directed in the required training course. If it becomes apparent that the Customer has not followed the appropriate Equipment User Manual and/or training directives, Customer will be advised to begin the issue resolution process over by following the procedures identified in the Equipment User Manuals or by utilizing ES&S Election Services. The Customer may also be advised that additional training may be necessary to ensure the Customer has the appropriate level of issue resolution training.
3. ES&S posts Technical Bulletins available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
 - Onsite scheduled maintenance inspection per Article 2, Section 1a. The inspection includes:
 - Service performed by an ES&S trained and certified technician.
 - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
 - Replacement of worn or defective with new or remanufactured federally and state certified parts.
 - Conducting a final test to verify that the unit is working according to manufacturer's specifications.
 - Use of a checklist tailored for each piece of equipment.
 - Update of maintenance records which are kept by serial number and available to you through your ES&S Web-based portal.
5. Repair Services.
 - Customer receives coverage for interim repair calls.
 - Interim calls may be scheduled during the regular Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity of Customer's location if they are not election critical.

- A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

6. Priority Services.

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

Note: Except for those Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT
DESCRIPTION AND FEES**

Listed below are the Software Modules and Fees for which Software License,
Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Software License, Maintenance and Support Fee for Unity	Annual Software License, Maintenance and Support Fee for ElectionWare
1	Unity Software Fees As Follows: - Election Data Manager (EDM) - Ballot Image Manager (BIM) - Hardware Programming Manager (HPM) - Election Reporting Manager (ERM) AutoMARK Information Management Software (AIMS) OR PYO Software with Synthesized Voice File Capability for English Language	01/01/2016-12/31/2016	\$22,556.18	\$30,889.24
1	Unity Software Fees As Follows: - Election Data Manager (EDM) - Ballot Image Manager (BIM) - Hardware Programming Manager (HPM) - Election Reporting Manager (ERM) AutoMARK Information Management Software (AIMS) OR PYO Software with Synthesized Voice File Capability for English Language	01/01/2017-12/31/2017	\$23,684.00	\$35,592.82
1	Unity Software Fees As Follows: - Election Data Manager (EDM) - Ballot Image Manager (BIM) - Hardware Programming Manager (HPM) - Election Reporting Manager (ERM) AutoMARK Information Management Software (AIMS) OR PYO Software with Synthesized Voice File Capability for English Language	01/01/2018-12/31/2018	\$24,868.20	\$40,296.40
1	Unity Software Fees As Follows: - Election Data Manager (EDM) - Ballot Image Manager (BIM) - Hardware Programming Manager (HPM) - Election Reporting Manager (ERM)	01/01/2019-12/31/2019	\$26,111.61	\$45,000.00

Qty	Description	Coverage Period	Annual Software License, Maintenance and Support Fee for Unity	Annual Software License, Maintenance and Support Fee for ElectionWare
	AutoMARK Information Management Software (AIMS) OR PYO Software with Synthesized Voice File Capability for English Language			
Total Software License, Maintenance and Support Fees for the Term			\$97,219.99	\$151,778.46

Note: While the County may upgrade to ElectionWare during the term of the contract at the rates listed above, the Unity software will continue to be available and maintained by ES&S for the duration of the contract. The County will only pay the Unity License Fees until such time as the County elects to upgrade to ElectionWare at which point, the County will pay the ElectionWare License Fees from that point forward.

Payment and Invoicing Terms: Software License, Maintenance and Support fees will be invoiced ninety (90) days prior to the maintenance period. 100% of invoice total due within 30 calendar days of invoice date.

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit
178	DS200 Scanner	01/01/2016-12/31/2016	\$75.00
178	DS200 Scanner	01/01/2017-12/31/2017	\$75.00
178	DS200 Scanner	01/01/2018-12/31/2018	\$75.00
178	DS200 Scanner	01/01/2019-12/31/2019	\$75.00
Total Firmware License Fees for the Four-Year Term			

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit
178	Automark	01/01/2016-12/31/2016	\$50.00
178	Automark	01/01/2017-12/31/2017	\$50.00
178	Automark	01/01/2018-12/31/2018	\$50.00
178	Automark	01/01/2019-12/31/2019	\$50.00
Total Firmware License Fees for the Term			

Note1 : The Annual Firmware License, Maintenance and Support Fee In Total shall be dependent upon the actual number of units which are covered by the individual Jurisdictions under this Agreement.

Note 2: Firmware support services will be invoiced at the rate of \$175.00 per hour for units not covered under this Firmware License, Maintenance and Support Agreement. Any onsite firmware services required will be invoiced at the rate of \$2,520.00 for the first day on site and \$1,960.00 per consecutive day thereafter.

Payment and Invoicing Terms: Firmware License, Maintenance and Support fees will be invoiced ninety (90) days prior to the maintenance period. 100% of invoice total due within 30 calendar days of invoice date.

Software License, Maintenance and Support Services Provided by ES&S under this Exhibit A

1. Telephone support.
 - ES&S will provide Software support on procedural questions of a specific nature not covered in ES&S' Software User Manuals;
 - ES&S will verify the appropriate steps to take to resolve issues identified by the Customer.
2. Issue Resolution. (to be provided on a limited basis)
 - ES&S will provide Software issue resolution on a limited basis once the Customer has followed all issue resolution procedures as set forth in the Software User Manuals and as directed in the required training course. If it becomes apparent that the Customer has not followed the appropriate Software User Manual and/or training directives, Customer will be advised to begin the issue resolution process over by following the procedures identified in the Software User Manuals or by utilizing ES&S Election Services. The Customer may also be advised that additional training may be necessary to ensure the Customer has the appropriate level of issue resolution training.
 - ES&S will provide Technical Bulletins available on the ES&S Customer Portal on a schedule to be determined by ES&S regarding specific issues the Customer may be experiencing.

Note: Except for those Software License, Maintenance and Support Services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support Services to the Customer unless previously agreed upon by the parties.

Software License, Maintenance and Support and Hardware Maintenance and Support Services – Customer Responsibilities

1. Customer's current software and hardware operator shall have completed a full software training session for each product selected.
 - Customer shall have completed training at a proficiency level to successfully use hardware (firmware) and software products for General and Primary elections.
 - Customer shall have the ability to install firmware and application software and make changes to date and time settings.
 - Customer shall have the ability to change the stick batteries on the iVotronic system and the pick belts on the Model 650. Any other changes made by the customer must be pre- approved in writing by ES&S.

- Customer shall have the ability to store equipment in accordance with ES&S requirements.
2. Customer shall have reviewed a complete set of User Manuals.
 3. Customer shall have reviewed Training Checklists.
 4. Customer shall be responsible for integration of any third party hardware or software application or system purchased by the customer, unless otherwise agreed upon, in writing, by the parties.
 5. Customer shall be responsible for data extraction from Customer VR system.
 6. Customer shall be responsible for implementation of any security protocols physical, network or otherwise.
 7. Customer shall be responsible for Customer Acceptance of the hardware, unless otherwise agreed upon, in writing, by the parties.
 8. Customer shall be responsible for any error or exception handling not identified in the User Guides as part of the software or hardware.
 9. Customer shall be responsible for customer network design, layout, set up, administration, maintenance or connectivity.
 10. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.

ELECTION SUPPORT SERVICES

1. **Services.** The election support services to be provided by ES&S if requested by Customer, a description of such services, and fees are described below. Customer acknowledges that ES&S' fees for election support services are based on the descriptions listed in the table below, and that a change in the descriptions may require ES&S to change the fees charged to Customer.

Role/Function	Description	Primary Responsibility	Rate
Election Day Support	For each site support event, ES&S provides one trained representative who is available to the customer the day immediately prior to the election, Election Day and until noon on the day immediately after Election Day ("Site Support Event"). Site Support Event representatives are not technicians. Although needs vary by customer, depending upon the customer's needs and the customer's scheduling of support staff for an election, Site Support Event representatives may assist with election administration, procedural guidance, hardware and software operation, Election Day call center staffing, as a roving troubleshooter during Election Day, and election night accumulation of results. They also will liaison with ES&S support desks if necessary. Note: It is not the responsibility of the Site Support Event representatives to repair tabulation or results reporting equipment. If you have a technical issue, the Site Support Event representative will assist in contacting the technicians in the appropriate support office. Site Support Events are billed per person, per Site Support Event.	ES&S	\$4,125.00