



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: October 19, 2017

Staff Contact: Sue Merriwether, Clerk-Recorder, smerriwether@carson.org

Agenda Title: For Possible Action: To approve the Sales Order Agreement with Election Systems & Software ("ES&S") for the purchase and adoption of use of voting equipment, related hardware, software and maintenance and support services in the amount of \$454,975.97, and to authorize the Clerk-Recorder to renew appropriate maintenance, licensing and support services in the manner and in the amount established in the Sales Order Agreement. (Sue Merriwether, smerriwether@carson.org)

Staff Summary:

The Carson City Clerk-Recorder administers all federal, state and local elections within its boundaries. Nevada clerks and registrars sought funding from the 2017 legislature to assist with the purchase of new voting equipment to replace the aging voting equipment purchased in 2004 with federal funds. AB 519 (2017 legislative session) was passed which allows for a grant fund allocation in varying amounts to each county for the purchase of new voting system hardware and software. Carson City received a grant fund allocation in the amount of \$231,388.

Agenda Action: Formal Action/Motion

Time Requested: 10 min

Proposed Motion

I move to approve the Sales Order Agreement with Election Systems & Software ("ES&S") for the purchase and adoption of use of voting equipment, related hardware, software and maintenance and support services in the amount of \$454,975.97, and to authorize the Clerk-Recorder to renew appropriate maintenance, licensing and support services in the manner and in the amount established in the Sales Order Agreement.

Board's Strategic Goal

N/A

Previous Action

This board approved a grant application to the Nevada Secretary of State on September 7, 2017 to request funding for approximately \$220,000 to replace Carson City's aging voting equipment.

Background/Issues & Analysis

Nevada law requires a voting system and any modifications to a voting system to be approved by the Secretary of State before it can be used in any election. (NRS 293B.105). Until recently, Dominion Voting System, Inc. (DVS) was the only voting system certified in the State of Nevada for use. All 17 counties in Nevada are using the same voting equipment, the Sequoia AVC Edge which is a direct recording electronic (DRE) voting system. This was the system purchased by the State in 2004 with federal funding.

The State of Nevada has since certified Election System & Software (ES&S) as an additional voting system for use in Nevada.

During the 2017 legislative session, both vendors hosted demonstrations of their products for all counties and state and local public officials. Going into the search for new voting equipment, Carson City had specific requirements. The main requirements were as follows:

1. State and federal certification.
2. History of use of equipment in other national jurisdictions.
3. Familiar equipment for the voters.
4. Proprietary voting equipment built for a specific use.
5. Paper ballots versus a printer attached to each voting machine.
6. Simplicity of voting equipment.

Dominion Voting Systems, Inc. (DVS)

DVS introduced the ImageCastX voting equipment and Democracy Suite voting tabulation software. This voting system is very similar to the current voting system used. ImageCastX is a DRE voting system which directly records the voters' votes and retains the votes on the specific voting machines. One difference to note between the currently used DRE voting system is that the new ImageCastX system utilizes consumer off-the-shelf products for its equipment. The ImageCastX voting system is in the process of scheduling federal and state certification.

Electronic Systems & Software (ES&S)

ES&S demonstrated the ExpressVote voting equipment and ElectionWare voting tabulation software. This voting system is an electronic ballot marking device (BMD). The look of the voting equipment is similar to the DREs currently in use. There is a digital touch screen the voter uses to make their selections. Once their selections have been made, the paper ballot will print. The voter will verify their selections and cast their paper ballot into a ballot box. The ExpressVote voting system is currently state and federally certified.

In my capacity as Carson City Clerk-Recorder, I determined that the ExpressVote voting system meets the specific requirements for Carson City's new voting system.

Bidding Statement

This purchase is exempt from the competitive bidding process.

Currently two vendors DVS and ES&S are certified in the state of Nevada. However, the voting system that is certified by DVS is the voting system all 17 counties are replacing. The DVS voting system, ImageCastX, that was presented during the demonstrations is, as referenced above, in the process of being scheduled for federal and state certification.

The voting system purchase is exempt from competitive bidding based on the completely different functionality of the equipment. If a county prefers to purchase a DRE voting system, they would only be able to purchase DVS' product. If a county prefers to purchase a BMD voting system, they would only be able to purchase ES&S' product. Therefore, sole source procurement is the only option available to counties at this time.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 332.115(1)(a); NRS293B.105; AB519(2017 Legislative Session)

Financial Information

Is there a fiscal impact? ☒ Yes ☐ No

If yes, account name/number: Capital Projects Fund, Voting Equipment 210-0000-413-65-23

Is it currently budgeted? ☐ Yes ☒ No

Explanation of Fiscal Impact:

The total cost for the new voting system is \$454,975.97. \$149,750 was approved for the new voting system in the FY 18 Capital Improvement Program. Also approved in the FY 18 Capital Improvement Program was \$43,875 for the purchase of electronic pollbooks. The cost of the electronic pollbooks was decreased to \$28,072, which allows \$15,803 of the monies budgeted for the initial electronic pollbook budget to be transferred to the new voting system budget; increasing the total amount budgeted for the new voting system for the FY 18 Capital Improvement Program to \$165,553.

This board has previously approved a grant application to the Nevada Secretary of State in the approximate amount of \$220,000. The amount of \$231,388 is the actual amount that Carson City will be provided pursuant to AB 519 (2017 legislative session).

The grant allocation of \$231,388 plus the FY 18 Capital Improvement Program budgeted amount of \$165,553 leaves a FY 18 Capital Improvement Program unbudgeted amount of \$58,034.97. This amount will be added to the FY 19 budget. The vendor has agreed to accept payment for this remaining balance on or before July 1, 2018 at no additional fee.

Beginning January 1, 2019, the annual maintenance, licensing and support fees are \$25,057.50 for an initial four year period. Beginning January 1, 2023, the automatic renewal of maintenance, licensing and support fees will be billed in an amount not to exceed a 5% increase of the most recent fees.

Alternatives

Approve, Modify or Deny

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

EXHIBIT A
HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES
(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 the coverage period as described in Schedule A1 (the "Initial Term"). Upon expiration of the Initial Term, this Exhibit A may be renewed for an unlimited number of successive **Two-Year Periods** (each a "Renewal Period") upon payment by the Customer of the fees associated with the applicable Renewal Period. If payment is not received by ES&S prior to an applicable Renewal Period, this Agreement shall terminate at the end of the then current Renewal Period. In addition, this Exhibit A may be terminated by the first to occur 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. 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, Customer shall pay to ES&S the Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Term are due as set forth on Schedule A1. ES&S shall invoice the Customer annually for the fees due for each year during the Initial Term. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than 5% of the amount of the most recent Fees paid by Customer. All annual fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided 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 Software License, Maintenance and Support for an Add-On or New Product during the Initial Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services. In the event Customer terminates this Exhibit A through no fault of ES&S and later desires to subscribe for a Hardware Maintenance and Software License, Maintenance and Support plan, or otherwise changes its Hardware Maintenance and Software License, Maintenance and Support plan with ES&S during the Initial Term or any Renewal Period 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 and Software License, Maintenance and Support plan coverage.

ARTICLE II
HARDWARE

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S equipment set forth on Schedule A1 (the "Products") 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 working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services. Routine Maintenance Services shall be provided once each **Twenty-Four (24) Months** during the Initial Term or any Renewal Period 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, printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards 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.

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 Routine Maintenance Service event at the 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 72 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 by ES&S within 48 hours after Customer notifies ES&S of the need therefore), 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(b)(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 Agreement 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, printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards 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 Period 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 in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates 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 ES&S' then current rates) 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

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms 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 continue to provide Updates in accordance with the terms of Section 5 of the General Terms.

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 three (3) business days 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 Software License and resume receiving Software 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 services.

Schedule A1
Pricing Summary

<u>Summary:</u>		
Description	Refer To	Amount
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	\$49,530.00
ES&S Software License, Maintenance and Support Fees	ES&S Software License, Maintenance and Support Description and Fees Below	\$16,800.00
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	\$33,900.00
Total Maintenance Fees for the Initial Term:		\$100,230.00
<u>Terms & Conditions:</u>		
Note 1: Any applicable state and local taxes are not included, and are the responsibility of Customer.		
Note 2: In the event the Customer subsequently acquires any ES&S Equipment and or ES&S Software, the post warranty maintenance and support periods will be adjusted to synchronize the dates in order to conform with the current term.		

ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES

Initial Term: January 1, 2019 through December 31, 2022

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
5	Model DS200 Scanner	1/1/2019 through 12/31/2019	\$147.50	\$737.50
1	Model DS450 Scanner	1/1/2019 through 12/31/2019	\$1,895.00	\$1,895.00
100	ExpressVote BMD Terminal	1/1/2019 through 12/31/2019	\$97.50	\$9,750.00
Total Maintenance Fees for the Coverage Period January 1, 2019 through December 31, 2019				\$12,382.50
5	Model DS200 Scanner	1/1/2020 through 12/31/2020	\$147.50	\$737.50
1	Model DS450 Scanner	1/1/2020 through 12/31/2020	\$1,895.00	\$1,895.00
100	ExpressVote BMD Terminal	1/1/2020 through 12/31/2020	\$97.50	\$9,750.00
Total Maintenance Fees for the Coverage Period January 1, 2020 through December 31, 2020				\$12,382.50
5	Model DS200 Scanner	1/1/2021 through 12/31/2021	\$147.50	\$737.50
1	Model DS450 Scanner	1/1/2021 through 12/31/2021	\$1,895.00	\$1,895.00
100	ExpressVote BMD Terminal	1/1/2021 through 12/31/2021	\$97.50	\$9,750.00
Total Maintenance Fees for the Coverage Period January 1, 2021 through December 31, 2021				\$12,382.50
5	Model DS200 Scanner	1/1/2022 through 12/31/2022	\$147.50	\$737.50
1	Model DS450 Scanner	1/1/2022 through 12/31/2022	\$1,895.00	\$1,895.00
100	ExpressVote BMD Terminal	1/1/2022 through 12/31/2022	\$97.50	\$9,750.00
Total Maintenance Fees for the Coverage Period January 1, 2022 through December 31, 2022				\$12,382.50
Total Hardware Maintenance Fees for the Initial Term				\$49,530.00

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 the daily maintenance service rate in effect at the time such service is requested.

Note 3: Customer's Designated Location: Carson City County, Nevada

Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.

Note 5: Upon expiration of the Initial Term, this Schedule A1 shall automatically renew as set forth in Article I, Section 1.

Hardware Maintenance Services Provided by ES&S Under this Schedule A1

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
 - Onsite scheduled maintenance inspection per Article II, Section 1(a). 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 parts 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 ES&S Equipment.
 - Update of maintenance records which are kept by serial number and available to the Customer through the Customer's ES&S Web-based portal.
5. Repair Services.
 - Customer will receive coverage for interim repair calls.
 - Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs 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
SOFTWARE**

Initial Term: January 1, 2019 through December 31, 2022

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

Qty	Description	Coverage Period	Software License, Maintenance and Support Fee In Total
1	ElectionWare Software – Reporting Only (ERM)	1/1/2019 through 12/31/2019	\$4,200.00
1	ElectionWare Software – Reporting Only (ERM)	1/1/2020 through 12/31/2020	\$4,200.00
1	ElectionWare Software – Reporting Only (ERM)	1/1/2021 through 12/31/2021	\$4,200.00
1	ElectionWare Software – Reporting Only (ERM)	1/1/2022 through 12/31/2022	\$4,200.00
Total Software License, Maintenance and Support Fees for the Initial Term			\$16,800.00

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

Initial Term: January 1, 2019 through December 31, 2022

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	Firmware License, Maintenance and Support Fee In Total
5	Model DS200 Scanner	1/1/2019 through 12/31/2019	\$80.00	\$400.00
1	Model DS450 Scanner	1/1/2019 through 12/31/2019	\$1,575.00	\$1,575.00
100	ExpressVote BMD Terminal	1/1/2019 through 12/31/2019	\$65.00	\$6,500.00
Total License, Maintenance and Support Fees for the Coverage Period January 1, 2019 through December 31, 2019				\$8,475.00
5	Model DS200 Scanner	1/1/2020 through 12/31/2020	\$80.00	\$400.00
1	Model DS450 Scanner	1/1/2020 through 12/31/2020	\$1,575.00	\$1,575.00
100	ExpressVote BMD Terminal	1/1/2020 through 12/31/2020	\$65.00	\$6,500.00
Total License, Maintenance and Support Fees for the Coverage Period January 1, 2020 through December 31, 2020				\$8,475.00
5	Model DS200 Scanner	1/1/2021 through 12/31/2021	\$80.00	\$400.00
1	Model DS450 Scanner	1/1/2021 through 12/31/2021	\$1,575.00	\$1,575.00
100	ExpressVote BMD Terminal	1/1/2021 through 12/31/2021	\$65.00	\$6,500.00

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
Total License, Maintenance and Support Fees for the Coverage Period January 1, 2021 through December 31, 2021				\$8,475.00
5	Model DS200 Scanner	1/1/2022 through 12/31/2022	\$80.00	\$400.00
1	Model DS450 Scanner	1/1/2022 through 12/31/2022	\$1,575.00	\$1,575.00
100	ExpressVote BMD Terminal	1/1/2022 through 12/31/2022	\$65.00	\$6,500.00
Total License, Maintenance and Support Fees for the Coverage Period January 1, 2022 through December 31, 2022				\$8,475.00
Total Firmware License, Maintenance and Support Fees for the Initial Term				\$33,900.00

Software License, Maintenance and Support Services Provided by ES&S under the Agreement

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

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 shall have completed a full software training session for each product selected.
 - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
 - 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 consumable items. Any other changes made by the customer must be pre-approved in writing by ES&S.
 - Customer shall store the Equipment in accordance with ES&S requirements set forth herein.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall have reviewed Training Checklists.
4. Customer shall be responsible for the installation and 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 voter registration system.

6. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Equipment and ES&S Software.
7. Customer shall be responsible for the acceptance of the Equipment and Software, unless otherwise agreed upon, in writing, by the parties.
8. Customer shall be responsible for the design, layout, set up, administration, maintenance or connectivity of the Customer's network.
9. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Equipment and Software.
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.
11. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.

EXHIBIT B
THIRD PARTY ITEMS

Customer acknowledges that ES&S is purchasing the third party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third Party Items which are provided to ES&S.

Qty Ord.	Description	Price	Ext. Price
	EMS WORKSTATION		
1	DELL OPTIPLEX 5050 MINI (DESKTOP)	\$1,620.00	\$1,620.00
	<ul style="list-style-type: none"> • OptiPlex 5050 Mini Tower XCTO • Intel Core i5-6500 Processor (Quad Core, 6MB, 4T, 3.2GHz, 65W) • Mini Tower Processor Heatsink 65 Watt • 8GB Single Channel DDR3L 1600MHz (8GBX1) • 3.5 inch 500GB 7200rpm Hard Disk Drive • AMD Radeon R5 430, 2GB (DP, SL-DVI-I) • DVD+/-RW Bezel • PCIe card with serial and parallel port, Full Height • Optiplex 5050 MT with 240W up to 85% efficient Power Supply (80Plus Bronze) • Dell KB216 Wired Multi-Media Keyboard English Black • Dell MS116 Wired Mouse, Black • Adobe Reader 11 • Waves MaxxAudio • Windows 10 OS Professional Recovery 64bit - DVD, Downgraded to Windows 7 • Intel Core i5 Processor Label • Dell Limited Hardware Warranty Plus Service • ProSupport: Next Business Day Onsite 5 Years • ProSupport: 7x24 Technical Support, 5 Years • Dell 22 Monitor P2217H 		
1	UNINTERRUPTIBLE POWER SUPPLY (UPS) BATTERY BACKUP, 850VA (WORKSTATIONS) - <i>Optional</i>	\$146.67	\$146.67
1	*SYMANTEC ENDPOINT PROTECTION 14	\$46.67	\$46.67
	MISCELLANEOUS COMPONENTS		
1	OKI B432DN MONO LASER DUPLEX PRINTER - <i>Optional</i>	\$416.00	\$416.00

1	LD 6' USB 2.0 A-B CABLE,T,IVOTR,RTAL 6' USB CABLE	\$3.33	\$3.33
	ORDER TOTAL:		\$2,232.67

Note 1:

The configuration and specification of third party items as set forth here are subject to change by ES&S and/or the manufacturer. Should the actual configuration and specifications differ from those set forth herein, ES&S agrees to provide, and Customer agrees to accept, Third Party Items that are comparable to those described above.

GENERAL TERMS

1. **Purchase/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Equipment and ES&S Software described on the reverse side. The payment terms for the ES&S Equipment and ES&S Software are set forth on the reverse side. Title to the ES&S Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the reverse side for the ES&S Equipment. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Equipment.

2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time employees to use the ES&S Software, described on the reverse side, and ES&S' firmware, which is delivered as part of the ES&S Equipment ("ES&S Firmware"), and related Documentation in the Jurisdiction while Customer is using the ES&S Equipment and timely pays the applicable annual Software and Firmware License and Maintenance Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software and ES&S Firmware (in object code only) and the Documentation, in the course of operating the ES&S Equipment and solely for the purposes of defining and conducting elections and tabulating and reporting election results in Customer's jurisdiction. The licenses granted in this Section 2 do not permit Customer to access or in any way use the source code for the ES&S Software or ES&S Firmware.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software, ES&S Firmware or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software or ES&S Firmware;

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software, ES&S Firmware or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software or ES&S Firmware without ES&S' prior written consent; or

d. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the Software in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

4. **Term of Licenses.** The licenses granted in Section 2 shall commence upon the delivery of the ES&S Software described in Section 2 and shall continue through December 31, 2018 (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the reverse side. ES&S may terminate either license if Customer fails to pay the consideration due for, or breaches Sections 2, 3, or 9 with respect to, such license. Upon the termination of either of the licenses granted in Section 2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third Party Items required to operate the Updates as well as the cost of any replacements, retrofits or modifications to the ES&S Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S may charge Customer at its then-current rates to (i) deliver the Updates to the Customer, (ii) train Customer on Updates, if such training is requested by Customer; (iii) install the Updates or (iv) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. 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 ES&S 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 ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:

- (i) the total cost of any third party items that are required in order to operate the Updates;
- (ii) the total cost of any replacements, retrofits or modifications to the ES&S Equipment contracted for herein that may be developed and offered by ES&S in order for such ES&S Equipment to remain compliant with applicable laws and regulations; and
- (iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.

Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the Equipment and/or Licensed Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.

6. **Delivery; Risk of Loss.** The Estimated Delivery Dates set forth on the reverse side are merely estimates and may be revised by ES&S because of delays in executing this Agreement, changes requested by Customer and other events. ES&S will notify Customer of revisions to the Estimated Delivery Dates as soon as ES&S becomes aware of such revisions. Risk of loss for the Equipment and Software shall pass to Customer when such items are delivered to Customer's designated location.

7. **Warranty.**

a. **ES&S Equipment/ES&S Software.** ES&S warrants that during the period commencing upon the delivery of the equipment and software through December 31, 2018 (the "Warranty Period"), it will repair or replace any component of the Equipment or Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty 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 printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards or marking devices. Any repaired or replaced item of Equipment or Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Equipment or Software will become the property of ES&S. This warranty is effective provided that (I) Customer promptly notifies ES&S of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (II) the Equipment or Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (III) the Equipment or Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or 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, and (IV) Customer has installed and is using the most recent update, or the second most recent update, provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. The terms of post-warranty maintenance and support are set forth on Exhibit A. In addition to the foregoing, ES&S warrants that it will perform all services under this Agreement in accordance with the prevailing standard of care and skill in the Customer's state for the same or similar services.

b. **Exclusive Remedies. IN THE EVENT OF A BREACH OF SUBSECTION 7(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special, liquidated 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. Each party's total liability to the other arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of the Equipment and Software to achieve Customer's intended results; (b) the use of the Equipment and Software; (c) the results obtained from the use of the Equipment and Software; (d) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Equipment or Software; or (e) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S 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 (y) Customer's failure to timely or properly install and use the most recent update, or the second most recent update, provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the Software Maintenance and Support.

9. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the Software, all Documentation and training materials provided by ES&S, the design and configuration of the Equipment and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the Equipment. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Equipment, the Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

ES&S acknowledges that the Customer is a governmental entity and, as such, the Customer is subject to the Nevada Public Records Act. ES&S is to mark all information as "confidential" and/or "trade secret" which is to be provided to the Customer under this Agreement and which ES&S requests be withheld from disclosure pursuant to the Nevada Public Records Act. In the event a request is made under the Nevada Public Records Act for information provided by ES&S to the Customer under this Agreement, Customer shall notify ES&S of such request in order to provide ES&S the opportunity to obtain an appropriate order to withhold the requested information. Notwithstanding the foregoing, in the event ES&S fails to obtain an appropriate order and the Customer releases any information which is not marked as "confidential" and/or "trade secret," the City shall not be liable to ES&S for any damages for the disclosure of such information which is subject to a valid open records request.

10. **Indemnification.**

a. **By Customer.** To the fullest extent permitted under applicable law, Customer shall indemnify and hold harmless ES&S from and against any and all claims, damages, amounts paid in settlement and reasonable fees and costs (including reasonable attorneys' fees) (collectively "Adverse Consequences") arising out of or relating to the following:

i. Any claim that any of the ES&S Equipment or ES&S Software infringes upon any third party's copyright, trademark or patent existing as of the date hereof (a "Third Party Infringement Claim") resulting from (i) Customer's failure to timely or properly install and use any Update provided to it by ES&S; (ii) the use of any ES&S Equipment or ES&S Software in combination with other equipment, hardware or software not meeting ES&S' specifications for use with such ES&S Equipment or ES&S Software; or (iii) Customer's modification or alteration of any item of ES&S Equipment or ES&S Software without the prior written consent of ES&S;

ii. Any claims by third parties arising out of or relating to the use or misuse by Customer, its employees and any other persons under its authority or control ("Customer's Representatives") of any third party items;

iii. Personal injury (including death) or property damage that is caused by any negligent or willful act, error or omission of one or more of Customer's Representatives; and

iv. Customer's election not to receive, or to terminate, Hardware Maintenance Services or Software Maintenance and Support.

b. **By ES&S.** To the fullest extent permitted under applicable law, ES&S shall indemnify and hold harmless Customer from and against any Adverse Consequences arising out of or relating to the following:

i. a Third Party Infringement Claim. Customer shall notify ES&S immediately if it becomes aware of any Third Party Infringement Claim. Customer hereby gives ES&S full and complete authority, and shall provide such information and assistance as is necessary (at ES&S' expense with respect to reasonable out-of-pocket costs), to enable ES&S to defend, compromise or settle a Third Party Infringement Claim. In addition, if Customer is prevented by a Third Party Infringement Claim from using any of the ES&S Equipment or ES&S Software in substantially the manner contemplated by this Agreement, ES&S, at its sole option and expense, shall procure for Customer the right to continue such use or shall replace or modify the infringing item. If neither option is commercially reasonable, ES&S may direct Customer to cease use of the infringing item, and shall refund the depreciated cost for the infringing item (as determined in accordance with GAAP) to Customer, and Customer shall cease and desist from any further use thereof and return the infringing item to ES&S; provided, however, that if loss of the infringing item causes the voter tabulation system to fail to (i) perform in accordance with its Documentation, (ii) be compliant with all applicable federal and state election laws and regulations, or (iii) remain certified by the appropriate state authorities for use in the Jurisdiction, and ES&S is unable, despite commercially reasonable efforts, to modify the voter tabulation system to resolve such failures, then ES&S shall instead refund the depreciated amount paid by Customer for the voter tabulation system under this Agreement (as determined in accordance with GAAP). **THE FOREGOING STATES ES&S' ENTIRE LIABILITY FOR ANY INTELLECTUAL PROPERTY INFRINGEMENT ARISING UNDER THIS AGREEMENT;**

ii. Personal injury (including death) or property damage that is caused by any negligent or willful act, error or omission of one or more of ES&S or ES&S' representatives; and

Each party shall notify the other immediately if it becomes aware of any claim for which it may be entitled to indemnification under this Section 10, and hereby gives such party full and complete authority, and shall provide such information and assistance as is necessary (at the indemnifying party's expense with respect to reasonable out-of-pocket costs), to enable the indemnifying party to defend, compromise or settle any such claim.

11. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

12. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. If Customer's payment is past due for more than 60 days and is undisputed, ES&S may declare the total amount remaining due under this Agreement to be immediately due and payable, enter the premises where the Equipment is located and remove it. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

13. **Assignment.** Except in the case of a sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed. ES&S may assign its right to receive payments under this Agreement to such third party(ies) as ES&S may desire without the prior consent of Customer, provided that ES&S provides written notice (including evidence of such assignment) to Customer thirty (30) days in advance of any payment(s) so assigned.

14. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the Equipment and Licensed Software sold and licensed under this Agreement will comply with all applicable requirements of state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state.

15. **State Recertifications.** In the event that any future state certifications or recertifications are required that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the Licensed Software and/or Equipment licensed and sold hereunder, Customer shall be responsible for:

(i) the total cost of any third party items that are required in order for the Equipment and/or Licensed Software to remain certified;

(ii) Customer's pro-rata share of such future state certification or recertification costs; and

(iii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the Equipment and/or Licensed Software that may result from such future state certifications or recertifications.

Customer's pro-rata share of the costs included under subsections 15(ii) and 15(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the Equipment and/or Licensed Software purchased and licensed by Customer under this Agreement.

16. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties,

whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing Equipment, Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Equipment, Software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-5, 7(b), 8-10, 12(b), 13-16 these General Terms shall survive the termination of this Agreement, to the extent applicable.



11208 JOHN GALT BLVD
OMAHA, NE 68137-2364
(402) 593-0101

Sales Order Agreement

Customer P.O. #: _____

1st Election Date: To be Agreed Upon by the Parties

Estimated Delivery Date: To be Agreed Upon by the Parties

Phone Number: (775) 887-2087

Fax Number: (775) 887-2146

Customer Contact, Title: Sue Merriwether - County Clerk

Customer Name: Carson City County, Nevada

Type of Sale: ☒ **NEW**

Type of Equip: ☒ **NEW** ☐ **REFURBISHED**

Bill To: _____

Carson City County, Nevada

Sue Merriwether - County Clerk

885 E. Musser - Suite 1025

Carson City, NV 89701

Ship To: _____

Carson City County, Nevada

Sue Merriwether - County Clerk

885 E. Musser - Suite 1025

Carson City, NV 89701

Item		Description	Qty	Price	Total
1	DS200	Model DS200 Digital Image Scanner with Internal Backup Battery, Plastic Ballot Box with Steel Door and e-Bin, Paper Roll, and 4GB Jump Drive	5	\$5,750.00	\$28,750.00
2	DS450	Model DS450 High Speed Digital Image Scanner with Steel Table, Report Printer, Audit Printer, Start-Up Kit, Dust Cover, Battery Backup, Two (2) USB Cables, and Two (2) 8GB Thumb Drives	1	\$49,950.00	\$49,950.00
3	Initial Annual License Fee	Model DS450 Scanner	1	Included	Included
4	ExpressVote	ExpressVote BMD Terminal with Internal Backup Battery, Power Supply with AC Cord, ADA Keypad, Headphones, and 4GB Flash Drive	100	\$3,325.00	\$332,500.00
5	Other	Soft-Sided Carrying Case	72	\$175.00	\$12,600.00
6	Other	ExpressVote BMD Kiosk	28	\$825.00	\$23,100.00
7	Other	ExpressLink Printer	22	\$725.00	\$15,950.00
8	Other	4GB Flash Drive (Additional)	12	\$105.00	\$1,260.00
9	Software	ElectionWare Software - Reporting Only (ERM)	1	\$4,200.00	\$4,200.00
10	Third Party Items	3rd Party Items as set forth on Exhibit B	1	\$2,232.67	\$2,232.67
11	Network Installation	3rd Party Configuration and Installation - ES&S In-House	1	\$1,300.00	\$1,300.00
12	Equipment Installation	Model DS200 Scanners	5	\$115.00	\$575.00
13	Equipment Installation	Model DS450 Scanner	1	\$1,925.00	\$1,925.00
14	Equipment Installation	ExpressVote BMD Terminals	100	\$105.00	\$10,500.00
15	Equipment Installation	ExpressVote Kiosk	28	\$30.00	\$840.00
16	Services	Model DS200/ExpressVote Operations Training Day	2	\$1,650.00	\$3,300.00
17	Services	Model DS450 Training Fee	1	\$1,650.00	\$1,650.00
18	Services	Poll Worker Train-the-Trainer Day	2	\$1,650.00	\$3,300.00
19	Services	Software Training Day	1	\$1,650.00	\$1,650.00
20	Services	Election On-Site Support Event	1	\$4,525.00	\$4,525.00

Sales Order Agreement

21	Trade-In Allowance	Equipment Being Traded-In by Customer Includes: 3 - AccuVote OS Scanner with Ballot Box 132 - AccuVote TSX Terminal	1	(\$10,200.00)	(\$10,200.00)
22	Shipping	Shipping & Handling	1	\$6,813.75	\$6,813.75

Order Subtotal	\$ 496,721.42
Discount	(\$41,745.45)
Order Total	\$ 454,975.97

Freight Billable: yes ☒ no ☐

Dan Clark

Regional Sales Manager

Customer Signature

Date

V.P. of Finance

Date

Title

Trade-In Equipment:

ES&S will coordinate and pay for the pickup and transportation of the trade-in equipment from Customer's site on a date to be mutually agreed upon by the parties. ES&S is responsible for preparing, packaging and palletizing the trade-in equipment for shipment.

Special Notes:

Payment Terms

\$394,975.97 due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of Corresponding ES&S Invoice.

\$60,000.00 due on or before July 1, 2018.

Note 1: Any applicable state and local taxes are not included, and are the responsibility of the Customer.

Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.

Warranty Period (Years):

Commences upon equipment delivery through December 31, 2018

Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)

The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.

SEE GENERAL TERMS AND CONDITIONS

BARBARA K. CEGAVSKE

Secretary of State

GAIL J. ANDERSON

Deputy Secretary for Southern Nevada

CADENCE MATIJEVICH

Deputy Secretary for Operations

STATE OF NEVADA



**OFFICE OF THE
SECRETARY OF STATE**

SCOTT W. ANDERSON

Chief Deputy Secretary of State

KIMBERLEY PERONDI

Deputy Secretary for Commercial Recordings

WAYNE THORLEY

Deputy Secretary for Elections

September 6, 2017

Via Hand Delivery

Susan Merriwether
Carson City Clerk-Recorder
885 E. Musser Street, Ste. 1025
Carson City, NV 89701

RE: AB 519 Grant Fund Allocation

Dear Ms. Merriwether,

As you are aware, the 2017 Legislature passed Assembly Bill 519, which appropriated \$8 million to the Secretary of State's office for the award of grants of money to the counties in Nevada for the purchase of voting machines and related costs. Grant awards not to exceed specific amounts were included in the bill for Clark County and Washoe County; however, specific grant amounts for the remaining 15 counties were not identified in the bill. Section 1 of the bill merely states, "[T]he Secretary of State shall use not more than \$1,800,000 to award grants of money to the counties other than Clark and Washoe Counties, upon application, for the purchase of voting machines."

Using a formula that includes base funding of \$40,000 for each of the 15 counties and then allocates the remaining funds based on each county's percentage of active registered voters, the Secretary of State's office has determined that Carson City will be eligible to apply for an AB 519 grant of up to \$231,388. More details about of the formula used to determine this amount, as well as the method for applying for the grant funds, will be sent to you in a memorandum later this week.

Should you have any questions regarding this letter, please contact the undersigned at (775) 684-5705.

Respectfully,

Barbara K. Cegavske
Secretary of State

By: 

Wayne Thorley, Deputy Secretary for Elections



CARSON CITY CLERK-RECORDER

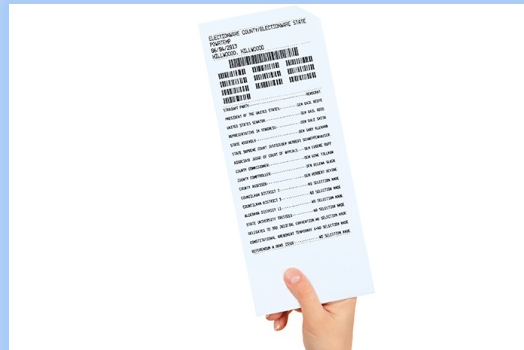
Sue Merriwether

PURCHASE OF:
EXPRESSVOTE UNIVERSAL VOTING SYSTEM
ELECTION SYSTEMS & SOFTWARE
October 19, 2017



THERE'S A NEW LOOK TO CARSON CITY'S VOTING SYSTEM

- ❖ The ExpressVote Universal System utilizes touch screen technology that produces a paper based record for tabulation.
- ❖ The ExpressVote includes a vote summary screen that requires the voter to confirm or revise selections prior to printing their vote summary ballot.
- ❖ Once printed, the voter places their vote summary ballot into a ballot scanner to cast their ballot.



DIFFERENCES BETWEEN THE NEW VOTING SYSTEM AND THE VOTING SYSTEM USED IN THE PAST?



DRE Previous Voting System	BMD New Voting System
Machines directly record voters' votes and retains the votes on the voting machine.	Votes are cast by the voter placing the ballot into the ballot scanner. The ballot marking devices do <u>not</u> retain votes on voting machine.
A printer is assigned to each voting machine as the back-up paper audit.	The paper ballot is the back-up audit.

DS200 BALLOT SCANNER



- Ballot scanners (ballot boxes) will be located at the polling location exits.
- Trained election workers will monitor voters as they leave to verify they have cast their ballot by inserting their ballot into the ballot scanner.
- After the polls close, the results cartridge and ballots will be removed from each ballot scanner and returned to the central counting location for tabulation and reporting.

DS450

HIGH SPEED BALLOT SCANNER



- The DS450 is a high speed ballot scanner.
- Reads ballots accurately protecting voter intent.
- Out-stacking ability for ballots that require further review.



VOTING MADE SIMPLE!

- PAPER BALLOTS PROVIDE A RELIABLE AND ACCURATE AUDIT TRAIL
- ELECTRONIC MARKING OF PAPER BALLOTS CLARIFIES VOTER INTENT ON EACH BALLOT CAST
- PHYSICALLY CASTING A PAPER BALLOT RETURNS THE PHYSICAL ACT OF VOTING TO THE INDIVIDUAL VOTER