



# County of Santa Clara

Office of the County Executive  
Procurement Department  
2310 N. First Street, Suite 201  
San Jose, CA 95131-1040

Telephone 408-491-7400 • Fax 408-491-7495

## AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND DOMINION VOTING SYSTEMS, INC.

This Agreement is entered into between the County of Santa Clara ("County") and Dominion Voting Systems, Inc. ("Contractor" or "Dominion") (collectively, the "Parties").

### RECITALS

WHEREAS, the County is a political subdivision of the state of California;

WHEREAS, Contractor is a corporation, duly organized, validly existing, and in good standing under the laws of the State of California and the United States with corporate power to carry out its business as specified in its Bylaws and Articles of Incorporation;

WHEREAS, the County desires to lease the Democracy Suite Voting System and obtain implementation and support services for the use of the County;

WHEREAS, Contractor desires to provide such a lease and services to the County;

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties, intending to be bound, mutually agree as follows:

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Approved: 08/13/2019

## KEY PROVISIONS

<b>AGREEMENT TITLE</b>	Democracy Suite Voting System
<b>AGREEMENT NUMBER</b>	CW2232168
<b>AGREEMENT TERM</b>	August 13, 2019 through August 12, 2027 unless terminated earlier or otherwise amended
<b>TOTAL AGREEMENT VALUE</b>	Not to Exceed \$ 16,145,660 Contractor understands that this not to exceed value does not represent a commitment by County to Contractor.
<b>PAYMENT TERMS</b>	Net 45
<b>COMMODITY NAME CODE</b>	Election and Voter Equipment and Supplies, Electronic   57834
<b>PURPOSE</b>	To contract with Dominion Voting Systems, Inc. for the Democracy Suite Voting System for use by the Registrar of Voters
<b>AUTHORIZED USER</b>	Registrar of Voters (ROV) 1555 Berger Dr. Bldg. 2 San Jose, CA. 95112
<b>COUNTY DEPARTMENT CONTACT</b>	Matthew Moreles, Assistant Registrar of Voters Phone: 408-299-8683 Email: <a href="mailto:matt.moreles@rov.sccgov.org">matt.moreles@rov.sccgov.org</a>
<b>COUNTY CONTRACT ADMINISTRATOR</b>	Anu Ethiraj, Procurement Contracts Specialist Phone: 408-491-7431 Email: <a href="mailto:anu.ethiraj@prc.sccgov.org">anu.ethiraj@prc.sccgov.org</a>  Albert Dy, Strategic Sourcing Officer Phone: 408-491-7497 Email: <a href="mailto:albert.dy@prc.sccgov.org">albert.dy@prc.sccgov.org</a>
<b>CONTRACTOR</b>	Dominion Voting Systems, Inc. 1201 18 <sup>th</sup> Street, Suite 210 Denver, CO 80202

<b>CONTRACTOR CONTACT</b>	Steven A. Bennett Regional Sales Manager Dominion Voting Systems, Inc 1201 18 <sup>th</sup> Street Suite 210 Denver CO 80202 909-362-1715 Steven.bennett@dominionvoting.com
<b>CONTRACTOR NUMBER</b>	1029534
<b>TAX STATUS</b>	Software Non-Taxable Hardware Taxable

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**EXHIBITS**

Contractor shall comply with the exhibits to this Agreement, which are attached hereto and incorporated into this Agreement by reference.

Exhibit A – County of Santa Clara Terms and Conditions

Exhibit B – Product and Services Fee Schedule

Exhibit B.1 – Optional Product and Services Fee Schedule

Exhibit C – Specifications and Requirements

Exhibit D – Statement of Work

Exhibit D.1 – Implementation Schedule

Exhibit E – Insurance Requirements

Exhibit F – County Information Technology User Responsibility Statement for Third Parties

Exhibit G – Software License/Warranty and Hardware Warranty Terms and Conditions

Exhibit H - Acronyms

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By signing below, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity, that he/she has the authority to bind the entity listed below to contractual obligations and that by his/her signature on this Agreement, the entity on behalf of which he/she acted, executed this Agreement.

**COUNTY OF SANTA CLARA**



S. JOSEPH SIMITIAN, President  
Board of Supervisors  
Date: AUG 13 2019

**CONTRACTOR**

DocuSigned by:

john.poulos@dominionvoting.com

E008FE1770E44CB...  
John Poulos, President & CEO  
Dominion Voting Systems, Inc.  
Date: 8/5/2019

**ATTEST:**



MEGAN DOYLE  
Clerk of the Board of Supervisors  
Date: AUG 13 2019

**APPROVED AS TO FORM AND LEGALITY**

DocuSigned by:

Lisa Harrison

1ED01F52E73A474...  
LISA M. HARRISON  
Lead Deputy County Counsel  
Date: 8/6/2019

**EXHIBIT A**  
**COUNTY OF SANTA CLARA TERMS AND CONDITIONS**

**DEFINITIONS**

Acronyms are defined in the Exhibit H (Acronyms).

- a. "County Confidential Information" shall include all material, non-public information (including material, non-public County Data) appearing in any form (including, without limitation, written, oral or displayed), that is disclosed, directly or indirectly, through any means of communication by County, its agents or employees, to Contractor, its agents or employees, or any of its affiliates or representatives.
- b. "County Data" shall mean data and information received by Contractor from County. County Data includes any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under the control and management of a contractor for use by County. As between Contractor and County, all County Data shall remain the property of County.
- c. "Deliverables" means goods, services, software, hardware, information technology, telecommunications technology, enhancements, updates, new versions or releases, documentation, and any other items to be delivered pursuant to this Agreement, including any such items furnished incident to the provision of services.
- d. "Documentation" means manuals and other printed materials (including updates and revisions) necessary or useful to the County in its use or maintenance of the Deliverables provided pursuant to this Agreement.
- e. When used in this Agreement, "days" shall refer to calendar days unless stated otherwise.
- f. "System" means Democracy Suite and all related components, software and hardware, as detailed in Exhibit B (Product and Services Fee Schedule), Exhibit B.1 (Optional Product and Services Fee Schedule) if the County exercises the option for Managed Services Product Order, Exhibit C (Specifications and Requirements), and Exhibit D (Statement of Work) of this agreement.
- g. "Contract Release Purchase Order" is a purchase order that the County issues pursuant to the Agreement for Deliverables specified in the Agreement.

## **1. NON-EXCLUSIVE AGREEMENT**

The Agreement does not establish an exclusive contract between the County and the Contractor. The County expressly reserves rights to, without limitation, the following: the right to utilize others to provide products, support and services; the right to request proposals from others with or without requesting proposals from the Contractor; and the unrestricted right to bid any such product, support or service.

## **2. DELIVERABLES**

Contractor agrees to provide the County all Deliverables on terms set forth in the Agreement, including all Exhibits that are attached to the Agreement and incorporated, as well as all necessary equipment and resources. However, Contractor shall not provide Deliverables unless the County issues a Contract Release Purchase Orders within the Agreement Term. Each and every Contract Release Purchase Order shall incorporate all terms of this Agreement and this Agreement shall apply to same.

ANY ADDITIONAL OR DIFFERENT TERMS OR QUALIFICATIONS SENT BY CONTRACTOR, INCLUDING, WITHOUT LIMITATION, ELECTRONICALLY OR IN MAILINGS, ATTACHED TO INVOICES OR WITH ANY DELIVERABLES SHIPPED, SHALL NOT BECOME PART OF THE CONTRACT BETWEEN THE PARTIES. COUNTY'S ACCEPTANCE OF CONTRACTOR'S OFFER IS EXPRESSLY MADE CONDITIONAL ON THIS STATEMENT.

Employees and agents of Contractor, shall, while on the premises of the County, comply with all rules and regulations of the premises, including, but not limited to, security requirements. As defined by the SOW, Contractor shall be responsible for installation, training and knowledge transfer activities in relation to the Deliverables being supplied.

All equipment shall be delivered to a County site specified in the Contract Release Purchase Order, or if not so specified therein, in the Statement of Work/Specifications.

Contractor holds itself out as an expert in the subject matter of the Agreement. Contractor represents itself as being possessed of greater knowledge and skill in this area than the average person. Accordingly, Contractor is under a duty to exercise a skill greater than that of an ordinary person, and the manner in which performance is rendered will be evaluated in light of the Contractor's superior skill. Contractor shall provide equipment and perform work in a professional manner consistent, at minimum, with industry standards.

Contractor represents that all prices, warranties, benefits and other terms being provided hereunder are fair, reasonable and commensurate with the terms otherwise being offered by Contractor to its current customers ordering comparable Deliverables and services. County does not guarantee any minimum orders.

## **3. NECESSARY ACTS AND FURTHER ASSURANCES**

The Contractor shall at its own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

## **4. COUNTING DAYS**

The time for any act to be performed under this Agreement, if not specified by a date certain in Exhibit D.1 (Implementation Schedule) or elsewhere in the Agreement, is to be calculated by

excluding the first day and including the last day, unless the last day is a Saturday, a Sunday, or a County legal holiday.

## **5. PRICING**

Unless otherwise stated, prices shall be fixed for the Agreement Term, including all extensions. If any Deliverable listed in this Agreement is discontinued or upgraded prior to delivery, Contractor shall extend the same pricing towards a comparable replacement which is functionally equivalent or an upgraded version.

Exhibit B (Product and Services Fee Schedule) and Exhibit B.1 (Optional Product and Services Fee Schedule), if the County exercises the option for Managed Services Product Order, of the Agreement is the basis for pricing and compensation throughout the Agreement Term.

Notwithstanding the above, if at any time during the Agreement Term the Contractor offers special, promotional, reduced pricing, or a larger discount to other entities when compared with the price paid or discount received by the County, County shall benefit from that pricing or discount, and that pricing shall apply to the County at the same time that it is offered to other entities. Contractor is required, on an ongoing basis, to inform the County of any such special, promotional, reduced pricing or larger discounts.

## **6. MODIFICATION**

This Agreement may be supplemented, amended, or modified only by the mutual agreement of the Parties. No supplement, amendment, or modification of this Agreement or Contract Release Purchase Order will be binding on County unless it is in writing and signed by the County's authorized representative.

## **7. TIME OF THE ESSENCE AND LIQUIDATED DAMAGES**

Time is of the essence in the provision of Deliverables by Contractor under this Agreement and any Contract Release Purchase Order.

By entering into this Agreement, Contractor agrees that in the event the Deliverables or Services are delayed beyond the Critical Milestones identified in Exhibit D.1, Table A – Critical Milestones, the County will suffer actual damages that will be impractical or extremely difficult to determine. Contractor agrees that the sum of \$1,000 per calendar day for each day of delay beyond scheduled milestones and timelines is not a penalty, but is a reasonable estimate of the loss that the County will incur based on the delay, established in light of the circumstances existing at the time this Agreement was awarded. The County may deduct a sum representing the liquidated damages from any money due to Contractor under this Agreement or any other contract between the County and Contractor. Such deductions shall not be considered a penalty, but rather agreed upon monetary damages sustained by the County because of Contractor's failure to furnish Deliverables or Services to County within the time fixed or such extensions of time permitted in writing by the County.

The rights and remedies of County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement. The acceptance by County of late or partial performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the rights or requirements for the complete and timely performance of any obligation remaining to be performed by the Contractor, or of any other claim, right or remedy of the County.

## **8. HAZARDOUS SUBSTANCES**

If any product being offered, delivered or supplied to the County is listed in the Hazardous Substances List of the Regulations of the Director of Industrial Relations with the California Occupational Safety and Health Standards Board, or if the product presents a physical or health hazard as defined in the California Code of Regulations, General Industry Safety Order, Section 5194 (T8CCR), Hazard Communication, the Contractor must include a Material Safety Data Sheet (MSDS) with delivery, or shipment. Each MSDS must reference the Contract Release Purchase Order and identify the "Ship To Address". All shipments and containers must comply with the labeling requirements of Title 49, Code of Federal Regulations by identifying the hazardous substance, name and address of manufacturer, and appropriate hazard warning regarding potential physical safety and health hazard.

## **9. SHIPPING AND RISK OF LOSS**

Goods shall be packaged, marked and otherwise prepared by Contractor in suitable containers in accordance with sound commercial practices. Contractor shall include an itemized packing list with each shipment and with each individual box or package shipped to the County. The packing list shall contain, without limitation, the applicable Contract Release Purchase Order number.

Unless otherwise specified in writing, all shipments by Contractor to County will be F.O.B. point of destination. Freight or handling charges are not billable unless such charges are referenced on the order. Transportation receipts, if required by Contract Release Purchase Order, must accompany invoice. Regardless of F.O.B. point, Contractor agrees to bear all risks of loss, injury, or destruction to goods and materials ordered herein which occur prior to delivery at County's destination; and such loss, injury or destruction shall not release Contractor from any obligation hereunder.

Any shipments returned to the Contractor shall be delivered as F.O.B. shipping point.

## **10. INSPECTION AND RELATED RIGHTS**

All Deliverables are subject to inspection, testing, approval, and acceptance by the County, including for those Deliverables subject to an Acceptance Test Plan (ATP) described in Exhibit D (Statement of Work). Inspection shall be made within 30 days. If the Deliverables, or the tender of delivery fail in any respect to conform to the contract, the County may reject the entire tender, accept the entire tender, or, if the deliverables are commercially divisible, may, at its option, accept any commercial unit or units and reject the rest.

Contractor shall be responsible to reclaim and remove any rejected goods or items at its own expense. Should Contractor fail to reclaim or remove any rejected goods or items within a reasonable time, County shall, at its option dispose of such goods or items and require reimbursement from Contractor for any costs or expenses incurred.

In the event that the Contractor's Deliverables are not accepted by County, the Contractor shall be liable for any costs incurred by the County because of such failure by Contractor. For instance, County may purchase or obtain the Deliverables elsewhere and the Contractor shall be liable for the difference between the price in the Agreement and the cost to the County, and any other costs incurred; or County may terminate for cause on grounds of material breach and Contractor shall be liable for County's damages.

The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract with the County.

The rights and remedies of County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement. The acceptance by County of late or partial performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the rights or requirements for the complete and timely performance of any obligation remaining to be performed by the Contractor, or of any other claim, right or remedy of the County.

## **11. ADJUSTMENT BY COUNTY**

The County reserves the right to accept a variation in specification of Deliverables supplied by the Contractor. Nothing in this clause shall excuse performance by Contractor if a variation is not accepted by Contractor.

## **12. INVOICING**

Contractor shall invoice according to the prices and payment schedule set out in Exhibit B (Product and Services Fee Schedule) of the Agreement or according to the prices and payment schedule set out in Exhibit B.1 (Optional Products and Services Fee Schedule) if the County exercises the option for Managed Services Product Order. Invoices shall be sent to the County customer or department referenced in the individual Contract Release Purchase Order. Invoices for goods or services not specifically listed in the Agreement will not be approved for payment.

Invoices shall include: Contractor's complete name and remit-to address; invoice date, invoice number, and payment term; County contract number; pricing per the Agreement; applicable taxes; and total cost.

Contractor and County shall make reasonable efforts to resolve all invoicing disputes within seven (7) days.

## **13. PAYMENT**

The County's standard payment term shall be Net 45, unless otherwise agreed to by the Parties. Payment shall be due Net 45 days from the date of receipt and approval of correct and proper invoices.

Notwithstanding the standard payment term set forth above, the Parties agree that the Payment Term for this Agreement shall be the term set forth in the Key Provisions section of the Agreement above. If the Payment Term is a prompt payment discount term, then payment shall be made accordingly. For example, if the Payment Term is 2.25% 10 Net 45, payment shall be due 10 days from the date the County receives and approves the correct and proper invoice, but no later than 45 days from that date, and the County would take a discount of 2.25% of the total amount of the invoice if the payment is made in 10 days. The Parties also agree that notwithstanding the Payment Term set forth in the Key Provisions section of the Agreement, that at any time during the contract term, either party may initiate an early payment discount on an invoice-by-invoice basis utilizing the Dynamic Discounting functionality of the Ariba Network. Contractor must have a registered account on the Ariba Network to utilize this functionality.

Payment is deemed to have been made on the date the County mails the warrant or initiates the electronic fund transfer.

#### **14. OTHER PAYMENT PROVISIONS**

Notwithstanding anything to the contrary, County shall not make payments prior to receipt of service or goods (i.e. the County will not make "advance payments"). Unless specified in writing in an individual Contract Release Purchase Order, the County will not accept partial delivery with respect to any Contract Release Purchase Order. Any acceptance of partial delivery shall not waive any of County's rights on an ongoing basis.

Sales tax shall be noted separately on every invoice. Items that are not subject to sales tax shall be clearly identified.

Contractor shall be responsible for payment of all state and federal taxes assessed on the compensation received under this Agreement or any Contract Release Purchase Order and such payment shall be identified under the Contractor's federal and state identification number(s).

The County does not pay Federal Excise Taxes (F.E.T). The County will furnish an exemption certificate in lieu of paying F.E.T. Federal registration for such transactions is: County #94730482K. Contractor shall not charge County for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose, unless expressly authorized by the County.

#### **15. LATE PAYMENT CHARGES OR FEES**

The Contractor acknowledges and agrees that the County will not pay late payment charges or fees.

#### **16. DISALLOWANCE**

In the event the Contractor receives payment for goods or services, which payment is later disallowed by the County or state or federal law or regulation, the Contractor shall promptly refund the disallowed amount to the County upon notification. At County's option, the County may offset the amount disallowed from any payment due to the Contractor under any contract with the County.

#### **17. TERMINATION FOR CONVENIENCE**

The County may terminate this Agreement or any Contract Release Purchase Order at any time for the convenience of the County, specifying the effective date and scope of such termination.

In no event shall the County be liable for costs incurred by the Contractor as a result of the termination or any loss of profits or any consequential damages. However, the County shall not withhold any payment due under the terms of this Agreement up to the date of termination unless otherwise permitted by the terms of the Agreement. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other materials (collectively referred to as "materials") prepared by Contractor under this Agreement or Contract Release Purchase Order shall become the property of the County and shall be promptly delivered to the County. If this Agreement is terminated, neither party may nullify obligations already incurred prior to the date of termination.

Termination for Convenience may be exercised anytime by and at the sole discretion of the County.

## **18. TERMINATION FOR CAUSE**

County may terminate this Agreement or any Contract Release Purchase Order, in whole or in part for cause upon thirty (30) days written notice to Contractor. For purposes of this Agreement, cause includes, but is not limited to, any of the following: (a) violation by Contractor of any applicable laws or regulations; (b) assignment or delegation by Contractor of the rights or duties under this Agreement without the written consent of County, (c) performance by Contractor that is not in strict conformance with terms, conditions, specifications, covenants, representations, warranties or requirements in this Agreement or any Contract Release Purchase Order; (d) failure of the System to meet the specifications in Exhibit C (Specifications and Requirements); or (e) other material breach of this Agreement or any Contract Release Purchase Order by Contractor not specifically identified above. In all cases except for (a) and (b), Contractor shall have thirty (30) days from the of the notice of breach to cure the identified cause.

In the event of a breach, the Contractor shall be liable for any costs incurred by the County because of Contractor's breach, whether or not the contract ultimately is terminated. The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract or Contract Release Purchase Order with the County.

If, after notice of termination under the provisions of this clause, it is determined for any reason that the County's termination was not for cause under this clause, the County has the option to convert its notice of termination to one pursuant to the Termination for Convenience clause and the rights and obligations of the Parties would be in accordance with that provision.

In the event that the County serves a notice of termination for cause for any cause not otherwise subject to a cure period, County may, at its option, provide written notice specifying the cause for termination and allow Contractor 10 days (or other specified time period by the County) to cure.

If, at the expiration of any cure period under this Agreement, Contractor has not cured to the satisfaction of the County, or if the breach cannot be reasonably cured within that time period, County may terminate this Agreement at any time thereafter. In the event that Contractor attempts to cure the breach, County shall determine whether Contractor's actions constitute complete or partial cure. County may, at its option, decide whether to (a) give Contractor additional time to cure while retaining the right to immediately terminate for cause at any point after the expiration of the cure period; or (b) terminate immediately for cause in the event of a partial cure.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other materials (collectively referred to as "materials") prepared by Contractor specifically and for the sole use of the County under this Agreement or Contract Release Purchase Order shall become the property of the County and shall be promptly delivered to the County, and County may retain copies of any and all Documentation such as all training materials whether prepared specifically for the County or not. If this Agreement is terminated, neither party may nullify obligations, if any, already incurred prior to the date of

termination. For avoidance of any doubt, Contractor grants to the County a non-exclusive, non-transferable, perpetual and irrevocable copyright license to the ballot formatting elements related to the functionality of Dominion's software. Ballots (including ballot layout) generated by the Software, whether electronic or physical, shall be the sole and exclusive intellectual property of the County.

#### **19. TERMINATION FOR BANKRUPTCY**

If Contractor suffers bankruptcy or should have a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of Contractor's insolvency, the County may terminate this Agreement immediately without penalty. For the purpose of this Section, bankruptcy shall mean the filing of a voluntary or involuntary petition of bankruptcy or similar relief from creditors; insolvency; the appointment of a trustee or receiver, or any similar occurrence reasonably indicating an imminent inability to perform substantially all of the party's duties under this Agreement. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other materials (collectively referred to as "materials") prepared by Contractor specifically and for the sole use of the County under this Agreement or Contract Release Purchase Order shall become the property of the County and shall be promptly delivered to the County, and County may retain copies of any and all Documentation such as all training materials whether prepared specifically for the County or not. If this Agreement is terminated, neither party may nullify obligations, if any, already incurred prior to the date of termination. For avoidance of any doubt, Contractor grants to the County a non-exclusive, non-transferable, perpetual and irrevocable copyright license to the ballot formatting elements related to the functionality of Dominion's software. Ballots (including ballot layout) generated by the Software, whether electronic or physical, shall be the sole and exclusive intellectual property of the County.

#### **20. BUDGETARY CONTINGENCY**

Performance and/or payment by the County pursuant to this Agreement is contingent upon the appropriation of sufficient funds by the County for services covered by this Agreement. If funding is reduced or deleted by the County for services covered by this Agreement, the County may, at its option and without penalty or liability, terminate this Agreement or offer an amendment to this Agreement indicating the reduced amount.

#### **21. DISENTANGLEMENT**

Contractor shall cooperate with County and County's other contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County's efforts to ensure that there is no interruption of work required under the Agreement and no adverse impact on the supply of goods, provision of services or the County's activities. Contractor shall return to County all County assets or information in Contractor's possession.

County shall be entitled to purchase at net book value those Contractor assets used for the provision of services to or for County, other than those assets expressly identified by the Parties as not being subject to this provision. Contractor shall promptly remove from County's premises, or the site of the work being performed by Contractor for County, any Contractor assets that County, or its designee, chooses not to purchase under this provision.

Contractor shall deliver to County or its designee, at County's request, all documents and data related to County, including, but not limited to, the County Data and client files, held by Contractor, within sixty (60) days of the request, and after return of same, Contractor shall destroy all copies thereof not turned over to County, all at no charge to County.

## **22. DISPUTES**

Except as otherwise provided in this Agreement, any dispute arising under this contract that is not disposed of by agreement shall be decided by the Director of Procurement or designee, who shall furnish the decision to the Contractor in writing. The decision of the Director of Procurement or designee shall be final and conclusive. The Contractor shall proceed diligently with the performance of the contract pending the Director of Procurement's decision. The Director of Procurement or designee shall not be required to decide issues that are legal or beyond his or her scope of expertise.

## **23. ACCOUNTABILITY**

Contractor will be the primary point of contact and assume the responsibility for all matters relating to this Agreement, including payment and warranty issues or any issues involving any manufacturer, deliverer, or subcontractor. If issues arise, the Contractor must take immediate action to correct or resolve the issues.

## **24. NO ASSIGNMENT, DELEGATION OR SUBCONTRACTING WITHOUT PRIOR WRITTEN CONSENT**

Contractor may not assign any of its rights, delegate any of its duties or subcontract any portion of its work or business under this Agreement or any Contract Release Purchase Order without the prior written consent of County. No assignment, delegation or subcontracting will release Contractor from any of its obligations or alter any of its obligations to be performed under the Agreement. Any attempted assignment, delegation or subcontracting in violation of this provision is voidable at the option of the County and constitutes material breach by Contractor. As used in this provision, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance, or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

## **25. MERGER AND ACQUISITION**

The terms of this Agreement will survive an acquisition, merger, divestiture or other transfer of rights involving Contractor. In the event of an acquisition, merger, divestiture or other transfer of rights the acquiring entity or the new entity is legally required to:

- (1) Honor all the terms negotiated in this Agreement and any pre-acquisition or pre-merger Agreement between Contractor and the County, including but not limited to a) established pricing and fees; b) guaranteed product support until the contract term even if a new product is released; and c) no price escalation during the Agreement Term.
- (2) Give immediate written notice to the County following the closing of an acquisition, merger, divestiture or other transfer of right involving Contractor.
- (3) Accept in writing that the County is a third-party beneficiary of any agreement evidencing acquisition, merger, divestiture, or any other transfer of any rights.

## **26. COMPLIANCE WITH ALL APPLICABLE LAWS & REGULATIONS**

Contractor shall comply with all laws, codes, regulations, rules and orders (collectively, "Regulations") applicable to the services to be provided hereunder. Contractor's violation of this provision shall be deemed a material breach by Contractor, giving County a right to terminate the contract for cause. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code § 6300 et. seq. the Fair Packaging and Labeling Act 15 U.S.C. §§ 1451 – 1461, and the standards and regulations issued thereunder. Contractor agrees to indemnify and hold harmless the County for any loss, damage, fine, penalty, or any expense whatsoever as a result of Contractor's failure to comply with the act and any standards or regulations issued thereunder.

## **27. FORCE MAJEURE**

Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the Parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service, excluding any breaches or attempted breaches of Contractor's security.

Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

The party asserting *Force Majeure* as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

The County shall reserve the right to terminate this Agreement and/or any applicable Contract Release Purchase Order upon non-performance by Contractor. The County shall reserve the right to extend the agreement and time for performance at its discretion.

## **28. INDEPENDENT CONTRACTOR**

Contractor shall provide all Deliverables pursuant to this Agreement as an independent contractor and not as an officer, agent, servant, or employee of County. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the County and Contractor. No person providing Deliverables shall be considered an officer, agent, servant, or employee of County, nor shall any such person be entitled to any benefits available or granted to employees of the County.

Contractor is responsible for payment to sub-contractors and must monitor and ensure sub-contractor(s) compliance with the terms of this Agreement.

## **29. INSURANCE**

Contractor shall maintain insurance coverage pursuant to Exhibit E.

## **30. DAMAGE AND REPAIR BY CONTRACTOR**

Any and all damages to County-owned or -leased property caused by Contractor's negligence shall be repaired, replaced or reimbursed by Contractor at no charge to the County. Repairs and replacements shall be completed within seventy-two (72) hours of the incident unless the County requests or agrees to an extension or another time frame. The cleanup of all damage related to accidental or intentional release of any/all non-hazardous or hazardous material (e.g. hydraulic fluid, fuel, grease, etc.) from Contractor's vehicles or during performance shall be the responsibility of the Contractor. All materials must be cleaned up in a manner and time acceptable to County (completely and immediately to prevent potential as well as actual environmental damage). Contractor must immediately report each incident to the County's Director of Procurement or designee. Damage observed by Contractor, whether or not resulting from Contractor's operations or negligence shall be promptly reported by Contractor to County. County may, at its option, approve and/or dictate the actions that are in County's best interests. This provision does not apply to property leased through this Agreement, the replacement and repair of which is governed by Exhibit D (Statement of Work) and Exhibit G (Software License/Warranty and Hardware Warranty Terms and Conditions).

## **31. LIENS, CLAIMS, AND ENCUMBRANCES AND TITLE**

The Contractor represents and warrants that all Deliverables are free and clear of all liens, claims or encumbrances of any kind. Title to the material and supplies purchased shall pass directly from Contractor to County at the F.O.B. point, subject to the right of County to reject upon inspection.

## **32. ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS**

Contractor hereby assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County pursuant to this Agreement.

## **33. INDEMNITY**

Contractor agrees to defend, indemnify, and hold harmless County, and each of its respective directors, officers, employees, and representatives (the "**Indemnified Parties**") from and against any and all liabilities, claims, damages, suits, judgments, losses, costs, and expenses (including reasonable attorneys' fees) to the extent incurred in connection with or arising out of, directly or indirectly: (a) any inaccuracy or breach of a representation or warranty of Contractor set forth in this Agreement or any agreement, instrument, or certificate, or document delivered in connection herewith (including Contractor's RFP Response); (b) any breach or failure to comply with any covenant or agreement made by Contractor in this Agreement or any agreement or instrument delivered in connection herewith; (c) any negligent, intentional or wrongful act or omission of the Contractor or any Contractor personnel; (d) any breach of contract; (e) any third-party claims of infringement or other violations of intellectual property rights; (f) any failure by Contractor or Contractor personnel to comply with applicable law; or (g) any failure by the Contractor to make all reports, payments and withholdings required by federal and state law

with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of California or the United States.

### **34. INTELLECTUAL PROPERTY INDEMNITY**

Contractor represents and warrants for the benefit of the County and its users that it is the exclusive owner or licensee of all rights, title and interest in the product or services to be supplied.

Contractor shall, at its own expense, indemnify, defend, and hold harmless the County and its agencies against any claim or potential claim that the Deliverables, or County's use of any Deliverables provided under this Agreement infringes any patent, trademark, copyright or other proprietary rights, including trade secret rights. Contractor shall pay all costs, damages and attorneys' fees that a court awards as a result of any such claim.

### **35. WARRANTY**

Warranty terms are provided in Exhibit G (Software License/Warranty and Hardware Warranty Terms and Conditions).

### **36. COOPERATION WITH REVIEW**

Contractor shall cooperate with County's periodic review of Contractor's performance. Contractor shall make itself available onsite to review the progress of the project and Agreement, as requested by the County, upon reasonable advance notice.

Contractor agrees to extend to the County or his/her designees and/or designated auditor of the County, the right to monitor or otherwise evaluate all work performed and all records, including service records and procedures to assure that the project is achieving its purpose, that all applicable County, State, and Federal regulations are met, and that adequate internal fiscal controls are maintained.

### **37. AUDIT RIGHTS**

Pursuant to California Government Code Section 8546.7, the Parties acknowledge and agree that every contract involving the expenditure of public funds in excess of \$10,000 may be subject to audit by the State Auditor.

All payments made under this Agreement shall be subject to an audit at County's option and shall be adjusted in accordance with said audit. Adjustments that are found necessary as a result of auditing may be made from current billings.

The Contractor shall be responsible for receiving, replying to, and complying with any audit exceptions set forth in any County audits. The Contractor shall pay to County the full amount of any audit determined to be due as a result of County audit exceptions. This provision is in addition to other inspection and access rights specified in this Agreement.

### **38. ACCESS TO AND RETENTION OF RECORDS AND PROVISION OF REPORTS**

Contractor shall maintain financial records adequate to show that County funds paid were used for purposes consistent with the terms of the contract between Contractor and County. Records shall be maintained during the terms of the Agreement and for a period of four (4) years from its termination, or until all claims have been resolved, whichever period is longer, unless a longer period is required under any contract.

All books, records, reports, and accounts maintained pursuant to the Agreement or related to the Contractor's activities under the Agreement, shall be open to inspection, examination, and audit by County, federal and state regulatory agencies, and to Parties whose Agreements with the County require such access. County shall have the right to obtain copies of any and all of the books and records maintained pursuant to the Agreement, upon the payment of reasonable charges for the copying of such records.

Contractor shall provide annual reports that include, at a minimum, (i) the total Contract Release Purchase Order value for the County as a whole and individual County departments, and (ii) the number of orders placed, the breakdown (by customer ID/department and County) of the quantity and dollar amount of each product and/or service ordered per year. Annual reports must be made available no later than 30 days of the contract anniversary date unless otherwise requested.

### **39. ACCESS TO BOOKS AND RECORDS PURSUANT TO THE SOCIAL SECURITY ACT**

If and to the extent that, Section 1861 (v) (1) (1) of the Social Security Act (42 U.S.C. Section 1395x (v) (1) (1) is applicable, Contractor shall maintain such records and provide such information to County, to any payor which contracts with County and to applicable state and federal regulatory agencies, and shall permit such entities and agencies, at all reasonable times upon request, to access books, records and other papers relating to the Agreement hereunder, as may be required by applicable federal, state and local laws, regulations and ordinances. Contractor agrees to retain such books, records and information for a period of at least four (4) years from and after the termination of this Agreement. Furthermore, if Contractor carries out any of its duties hereunder, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, through a subcontract with a related organization, such subcontract shall contain these same requirements. This provision shall survive the termination of this Agreement regardless of the cause giving rise to the termination.

### **40. COUNTY NO-SMOKING POLICY**

Contractor and its employees, agents and subcontractors, shall comply with the County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

### **41. FOOD AND BEVERAGE STANDARDS**

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by Contractor with County funds for County-sponsored meetings or events.

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, Contractor shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a

vegetarian option shall be provided, and the Contractor should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans-fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County's nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided

#### **42. DEBARMENT**

Contractor represents and warrants that it, its employees, contractors, subcontractors or agents (collectively "Contractor") are not suspended, debarred, excluded, or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, if applicable, or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration.

Contractor must within 30 calendar days advise the County if, during the term of this Agreement, Contractor becomes suspended, debarred, excluded or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, as defined by 42. U.S.C. 1320a-7b (f), or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. Contractor will indemnify, defend and hold the County harmless for any loss or damage resulting from the conviction, debarment, exclusion or ineligibility of the Contractor.

#### **43. CALIFORNIA PUBLIC RECORDS ACT**

The County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Contractor's proprietary information is contained in documents or information submitted to County, and Contractor claims that such information falls within one or more CPRA exemptions, Contractor must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Contractor prior to such disclosure. If Contractor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the County is required to respond to the CPRA request. If Contractor fails to obtain such remedy within the time the County is required to respond to the CPRA request, County may disclose the requested information.

Contractor further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Contractor.

In the event that County determines that Contractor possesses public records that may be responsive to a CPRA request propounded on the County, Contractor shall make such records available to the County within three (3) days.

#### **44. CONFLICT OF INTEREST; POLITICAL REFORM ACT DISCLOSURE REQUIREMENT**

Contractor shall comply with all applicable requirements governing avoidance of impermissible client conflicts; and federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 *et seq.*, the California Political Reform Act (California Government Code section 87100 *et seq.*) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 *et seq.*). Notwithstanding any other provision of this Agreement, failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not use any contractor or employ any person having such an interest. Contractor, including but not limited to contractor's employees, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

Contractor, including but not limited to contractor's employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under the Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Act are applicable to any individual providing service under the Agreement, Contractor shall, upon execution of the Agreement, provide the County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to Contractor's employees, agents and subcontractors, that could be substantively involved in "making a governmental decision" or "serving in a staff capacity and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position," as part of Contractor's service to the County under the Agreement. Contractor shall ensure that such individuals file Statements of Economic Interests within 30 days of commencing service under the Contract, annually by April 1, and within 30 days of their termination of service under the Contract.

#### **45. SEVERABILITY**

Should any part of the Agreement between County and the Contractor or any Contract Release Purchase Order be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity of the remainder of the Agreement or Contract Release Purchase Order which shall continue in full force and effect, provided that such remainder can, absent the excised portion, be reasonably interpreted to give the effect to the intentions of the Parties.

#### **46. NON-WAIVER**

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by County. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless the writing signed by the County so specifies.

#### **47. USE OF COUNTY'S NAME FOR COMMERCIAL PURPOSES**

Contractor may not use the name of the County or reference any endorsement from the County in any fashion for any purpose, without the prior express written consent of the County as provided by the Director of Procurement or designee.

#### **48. HEADINGS AND TITLES**

The titles and headings in this Agreement are included principally for convenience and do not by themselves affect the construction or interpretation of any provision in this Agreement, nor affect any of the rights or obligations of the Parties to this Agreement.

#### **49. HANDWRITTEN OR TYPED WORDS**

Handwritten or typed words have no greater weight than printed words in the interpretation or construction of this Agreement.

#### **50. AMBIGUITIES**

Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

#### **51. ENTIRE AGREEMENT; MERGER**

This Agreement, including its Exhibits, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties. It incorporates and supersedes all the agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Agreement.

#### **52. EXECUTION AND COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument. The Parties agree that this Agreement, its amendments, and ancillary agreements to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by a method described herein.

Unless otherwise prohibited by law or County policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract"

means a contract that is executed by applying an electronic signature using technology approved by the County.

### **53. NOTICES**

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested; when sent by overnight carrier; or upon email confirmation to sender of receipt of a facsimile communication which is followed by a mailed hard copy from sender. Notices shall be addressed to the individuals identified in the Key Provisions of the Agreement as the County Contract Administrator and the Supplier Contact. Each party may designate a different person and address by sending written notice to the other party, to be effective no sooner than ten (10) days after the date of the notice.

### **54. ACCOUNT MANAGER**

Contractor must assign an Account Manager, who may be the Dominion Project Manager or the Dominion Customer Relations Manager as defined in Exhibit D (Statement of Work) to the County upon execution of the Agreement to facilitate the contractual relationship, be fully responsible and accountable for fulfilling the County's requirements. Contractor represents and warrants that such person will ensure that the County receives throughout the Agreement Term adequate support, problem resolution assistance and required information on a timely basis.

### **55. SURVIVAL**

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the Parties to be a part of their Agreement, will survive the termination of this Agreement.

### **56. GOVERNING LAW, JURISDICTION AND VENUE**

This Agreement shall be construed and interpreted according to the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions shall be exclusively vested in federal or state court in the County of Santa Clara. The Parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara and waive all venue objections.

### **57. THIRD PARTY BENEFICIARIES**

This agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the Parties.

### **58. AUTHORITY**

This Agreement shall not be effective or binding unless it is in writing and approved by the County's authorized representative, or authorized designee, as evidenced by their signature as set forth in this Agreement.

### **59. LIVING WAGE**

Unless otherwise exempted or prohibited by law or County policy, Contractors that contract with the County to provide Direct Services, as defined in County of Santa Clara Ordinance Code Division B36 ("Division B36") and Board Policy section 5.5.5.5 ("Living Wage Policy"), and their subcontractors, where the contract value is \$100,000 or more, must comply with

Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If Contractor and/or a subcontractor violate this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited to, the following:

- (1) Suspend, modify, or terminate the Direct Services Contract.
- (2) Require the Contractor and/or Subcontractor to comply with an appropriate remediation plan developed by the County.
- (3) Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee's rights to bring any legal action for violation of the employee's rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring any action seeking the cancellation or suspension of a County contract. By entering into this contract, Contractor certifies that it is currently complying with Division B36 and the Living Wage Policy with respect to applicable contracts and warrants that it will continue to comply with Division B36 and the Living Wage Policy with respect to applicable contracts.

## **60. CONTRACTING PRINCIPLES**

All entities that contract with the County to provide services where the contract value is \$100,000 or more per budget unit per fiscal year and/or as otherwise directed by the Board, shall be fiscally responsible entities and shall treat their employees fairly. To ensure compliance with these contracting principles, all contractors shall: (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the Agreement Term; and (4) upon the County's request, provide the County reasonable access, through representatives of the Contractor, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules.

## **61. CONTRACTOR TRAVEL EXPENSES**

Contractor shall be solely responsible for any travel fees or out of pocket expenses.

## **62. SECURITY CISO COMPLIANCE**

(1) For purposes of this section, the following definitions shall apply:

(A) "Breach" means unauthorized access to, or use of, County Data or information security networks or systems that compromises confidentiality, integrity, and/or availability those systems or County Data.

(B) "Independent Penetration Testing," or "pen testing," means the County's practice - by using an independent third party - of testing a computer system, network or web application to find security vulnerabilities that an attacker could exploit.

(2) Contractor shall do all of the following:

(A) Protect the confidentiality, integrity, and availability of any County Data provided pursuant to this Agreement and comply with any information security requirements provided to Contractor by the County Information Security Office (ISO) for the entire term of the Agreement.

(B) Upon discovering any Breach that could impact the County, whether caused by Contractor, its officers, employees, contractors or agents or others, the Contractor shall notify the ISO at [o365-iso-team@sccconnect.onmicrosoft.com](mailto:o365-iso-team@sccconnect.onmicrosoft.com) within 24 hours. Contractor shall also comply with all of its other obligations in this Agreement relating to breaches and potential breaches.

### **63. IMMEDIATE TERMINATION FOR CAUSE**

Notwithstanding any other provision in this Agreement:

- (1) Contractor's failure to comply with all terms and conditions set forth in Section (62) (Security CISO Compliance), Exhibit F (County Information User Responsibility Statement for Third Parties) or failure to require such compliance of its officers, employees, contractors and agents ("Contractor's personnel") engaged in performance of this Agreement, shall constitute a material breach of this Agreement and the County may immediately terminate this Agreement for cause.
- (2) Contractor shall not allow Contractor's personnel to perform services for the County unless and until its employees sign Exhibit F. If Contractor's personnel access County Data or County systems without first signing, that will constitute a material breach of this Agreement and the County may immediately terminate this Agreement for cause.
- (3) Contractor shall monitor the compliance of Contractor's personnel with the terms in Section 62 and Exhibit F, and shall notify County no later than 24 hours after Contractor discovers any violations. Contractor's failure to monitor Contractor's employees or timely notify the County shall constitute a material breach of this Agreement, and the County may immediately terminate this Agreement for cause.

In the event of Immediate Termination for Cause, the rights and obligations in Section 18 (Termination for Cause) apply, except for the thirty (30) day notice period and ten (10) day cure period.

### **64. COUNTY DATA**

- (1) Contractor shall not acquire any ownership interest in County Data (including County

Confidential Information). As between Contractor and County, all County Confidential Information and/or County Data shall remain the property of the County. Contractor shall not, without County's written permission, use or disclose County Data (including County Confidential Information) other than in the performance of its obligations under this Agreement.

- (2) Contractor shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, and protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to County or any end users. Upon termination or expiration of this Agreement, Contractor shall seek and follow County's direction regarding the proper disposition of County Data.
- (3) Contractor shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remedying the issue that resulted in such unauthorized access, and notifying County by phone or in writing within 24 hours of any incident of unauthorized access to County Data, or any other breach in Contractor's security that materially affects County or end users. If the initial notification is by phone, Contractor shall provide a written notice within 5 days of the incident. Contractor shall be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality, privacy, and information security requirements of this Agreement. Should County Confidential Information and/or legally protected County Data be divulged to unauthorized third parties, Contractor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Contractor's sole expense. Contractor shall not charge County for any expenses associated with Contractor's compliance with these obligations.
- (4) Contractor shall defend, indemnify and hold County harmless against any claim, liability, loss, injury or damage arising out of, or in connection with, the unauthorized use, access, and/or disclosure of County Confidential Information by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County.

## **65. ACCESS TO COMPETITIVELY BID AGREEMENTS**

Where the contract award is a result of a formal competitive solicitation, Contractor may opt to permit the use of this Agreement by other political subdivisions, municipalities, tax supported agencies and non-profit entities in the United States. Such participating agencies shall make

purchases in their own name, make payments directly to the Contractor and shall be liable directly to Contractor holding the County of Santa Clara harmless.

Contractor shall be required to maintain a list of cooperative entities using this Agreement. The list shall report dollar volumes spent annually and shall be provided on an annual basis to the County, at the County's request.

## **66. CONTINUITY OF PROVISION OF PRODUCTS AND/OR SERVICES**

As the County's prime and/or primary vendor for a voting system, in the event of a declared emergency or natural disaster affecting County or Contractor, Contractor agrees to use commercially reasonable efforts to prioritize the County and maintain the continuous flow of Deliverables to the County. To facilitate the continuous flow of Deliverables, in the event of such emergency or natural disaster, the Dominion Project Manager or Relations Manager (defined in Exhibit D (Statement of Work)), or their designee, shall be available on a 24x7 hour basis, 365 days. In the event of scarcity of goods affecting Contractor's ability to provide goods to its customers, Contractor agrees that County will receive first priority among its customers in receiving such goods.

## **67. COMPLIANCE WITH ALL LAWS AND REGULATIONS INCLUDING NONDISCRIMINATION, EQUAL OPPORTUNITY, AND WAGE THEFT PREVENTION**

Contractor shall comply with all laws, codes, regulations, rules and orders (collectively, "Regulations") applicable to the goods and/or services to be provided hereunder. Contractor's violation of this provision shall be deemed a material default by Contractor, giving County a right to terminate the contract. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 et. seq. the Fair Packaging and Labeling Act. and the standards and regulations issued there under. Contractor agrees to indemnify and hold harmless the County for any loss, damage, fine, penalty, or any expense whatsoever as a result of Contractor's failure to comply with the act and any standards or regulations issued there under.

(1) Compliance with All Laws. Contractor shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.

(2) Compliance with Non-Discrimination and Equal Opportunity Laws: Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color,

national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

(3) Compliance with Wage and Hour Laws: Contractor shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local Minimum Wage, Prevailing Wage, or Living Wage laws.

(4) Definitions: For purposes of this Section, the following definitions shall apply. A “Final Judgment, Decision, Determination, or Order” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality Assurance.

(5) Prior Judgments, Decisions or Orders against Contractor: BY SIGNING THIS AGREEMENT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS, DETERMINATIONS, OR ORDERS THAT (A) WERE ISSUED IN THE FIVE YEARS PRIOR TO EXECUTING THIS AGREEMENT BY A COURT OR INVESTIGATORY GOVERNMENT AGENCY AND (B) FOUND THAT CONTRACTOR VIOLATED AN APPLICABLE WAGE AND HOUR LAW OR PAY EQUITY LAW. CONTRACTOR FURTHER AFFIRMS THAT IT HAS SATISFIED AND COMPLIED WITH—OR HAS REACHED AGREEMENT WITH THE COUNTY REGARDING THE MANNER IN WHICH IT WILL SATISFY—ANY SUCH FINAL JUDGMENTS, DECISIONS, DETERMINATIONS, OR ORDERS.

(6) Violations of Wage and Hour Laws or Pay Equity Laws During Term of Agreement: If at any time during the term of this Agreement, Contractor receives a Final Judgment, Decision, Determination, or Order rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Contractor shall promptly satisfy and comply with any such Final Judgment, Decision, Determination or Order. Contractor shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment, Decision, Determination, or Order against it within 30 days of the Final Judgment, Decision, Determination, or Order becoming final or of learning of the Final Judgment, Decision,

Determination, or Order, whichever is later. Contractor shall also provide any documentary evidence of compliance with the Final Judgment, Decision, Determination, or Order within 5 days of satisfying the Final Judgment, Decision, Determination, or Order. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

(7) Access to Records Concerning Compliance with Pay Equity Laws: In addition to and notwithstanding any other provision of this Agreement concerning access to Contractor's records, Contractor shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, Contractor shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records, that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during Contractor's normal business hours upon no less than 10 business days' advance notice.

(8) Pay Equity Notification: Contractor shall (1) directly provide each employee working in California and each person applying for a job in California with a written copy of any applicable pay equity Laws, or (2) electronically disseminate the text of applicable pay equity Laws to each California employee and job applicant, either directly or by posting a copy in conspicuous places available to employees and applicants. Such notification shall occur at least once during the term of this Agreement and, if this Agreement is a multi-year Agreement, at least annually thereafter.

(9) Material Breach: Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and/or at law. County may, among other things, take any or all of the following actions:

- (i) Suspend or terminate any or all parts of this Agreement.
- (ii) Withhold payment to Contractor until full satisfaction of a Final Judgment, Decision, Determination, or Order.
- (iii) Offer Contractor an opportunity to cure the breach.

(10) Subcontractors: Contractor shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment, Decision, Determination, or Order for violation of an applicable wage and hour Law promptly satisfies and complies with such Final Judgment, Decision, Determination, or Order.

## **68. Copyright License**

Contractor grants to the County a non-exclusive, non-transferable, perpetual and irrevocable copyright license to the ballot formatting elements related to the functionality of Dominion's software and to all training materials whether prepared specifically for the County or not. Further, County may retain copies of any and all Documentation such as all training materials whether

prepared specifically for the County or not. Ballots (including ballot layout) generated by the Software, whether electronic or physical, shall be the sole and exclusive intellectual property of the County.

**EXHIBIT B**  
**PRODUCT AND SERVICES FEE SCHEDULE**

**I. Leasing Provisions**

1. Contractor and County agree to a Managed Services Agreement (MSA) whereby Contractor agrees to lease, and the County agrees to rent, the Deliverables described below and in Exhibit D (Statement of Work) for the Agreement Term. Lease payments shall cover the costs of Deliverables that Contractor agrees to provide as described in this Exhibit and in Exhibit D (Statement of Work). In the event of an inconsistency between the quantities in this Exhibit and in Exhibit D, then Exhibit D shall control. Contractor represents and warrants that it has title to and/or the authority to lease Hardware to County, free and clear of all liens, claims and encumbrances.
2. All pricing below shall be firm for the Agreement Term. No additional costs, other than those identified below, will be incurred to the County.
3. Contractor shall provide annual invoices for lease payments, identifying the hardware currently in possession of the County and the services provided by Contractor. Invoicing shall proceed pursuant to paragraph 12 of Exhibit A (County of Santa Clara Terms and Conditions).

Notwithstanding any other term of this Agreement, the County shall retain ten percent (10%) of any annual lease payment until the County has certified the results of the November 3, 2020 election. County shall pay the retainage to Contractor within 30 days of certification of the election if Contractor's performance has been satisfactory, as reasonably determined by the County.

4. Hardware Buy-Out: County has the option to buy hardware at the end of the 8-year term at a price that takes into account the payments already made. In addition, the County has the option to extend the software licenses and warranties at the rates specified in this Agreement.
5. Upon termination or expiration of this Agreement, Contractor shall be fully responsible for pickup and disposal of the Democracy Suite Voting System at Contractor's expense.
6. Contractor will be responsible for the costs of all labor described in the Statement of Work and all labor related to the warranty and licensing of the Democracy Suite Voting System as described in Exhibit G. Contractor will be responsible for parts and replacement equipment, including relevant shipping costs, as described in Exhibit D (Statement of Work) without separate invoicing.
7. The quantities of consumables identified below are an estimate of the number of consumables required for two elections. Contractor will work with the County to determine an appropriate re-order rate for consumables. County reserves the right to source consumables from other vendors rather than through Contractor.

## II. Leasing Schedule for Managed Services Agreement

The MSA anticipates that the County will pay one lease payment per year to cover the rental of hardware and licensing of software from Contractor, the delivery of services by Contractor, the costs of upgrade of software, and the maintenance, repair, and replacement of hardware and software by Contractor. Shipping costs are included in the lease payment and will not be separately billed.

DESCRIPTION	TERM	Lease Payment per Year	Total Payments
Democracy Suite Voting System Managed Services Agreement	8 Years	\$1,755,607.57	\$14,044,860.56  (without options)
Optional Modules		RAVBM \$ 12,512.50 RCV \$ 87,587.50	

## III. Leasing Changes

The County retains the right throughout the Agreement Term to lease additional Deliverables at the list price and discount rate specified below in quantities up to 10% more than identified below. If County requests leasing of additional quantities, Contractor will provide those quantities pursuant to the same terms and conditions of this Agreement. Contractor will prorate the cost of the additional quantities based on the remaining portion of the Agreement Term and payments shall be divided equally over the remaining years of the Agreement Term.

## IV. Products and Services

This pricing sheet is included to show the quantities of Deliverables provided under the Agreement as well as to show the list price and discounts to be applied if the County exercises its option to request additional trainings or additional products. County is leasing Deliverables at the lease payment identified in Section II above, rather than the unit purchase prices below.

Dominion is providing a 30% discount for hardware, software, support services, and 20% discount for annual licenses, warranty and maintenance from its standard prices.

**All items listed below are for Certified version: Democracy Suite 5.2 9 languages**

DESCRIPTION	QTY	UNIT PRICE	EXTENSION
<b>A. Central Scanning Solution: Absentee / Vote By Mail Hardware</b>			
<b>ImageCast Central (ICC) Kit - HSS:</b> Includes HiPro high speed scanner, Workstation with 24" monitor, cables, administrator ibutton and ibutton programmer, USB 8GB flash drive.	10	\$ 183,000.00	\$ 1,830,000.00
<b>ImageCast Central Kit – G1130:</b> Includes Canon Model DR-G1130, Computer w/ 23" Monitor, Keyboard & Mouse, One 8GB USB Flash Drive & One I-Button, patch cable	8	\$ 25,000.00	\$ 200,000.00
<b>Sub-Total:</b>			<b>\$ 2,030,000.00</b>

<b>B. In-Person Voting Solution: Vote Center Hardware</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
<b>ImageCast X (ICX) Kit - Classic BMD 21"</b> : Includes 21.5" tablet, laser printer, printer cable, USB ATI cable, 5 voter smart cards.	900	\$ 3,175.00	\$2,857,500.00
<b>ImageCast X Classic Voter Activation Kit</b> : Includes Dell e3480 laptop, smart card reader/writer, pollworker smart card.	150	\$ 1,200.00	\$ 180,000.00
<b>ImageCast X Classic Poll Worker Smartcard</b>	300	\$ 8.10	\$ 2,430.00
<b>ImageCast X Classic Technician Smartcard</b>	50	\$ 8.10	\$ 405.00
<b>ImageCast Evolution (ICE) Scanner KIT</b> : Includes ICE tabulator, on/off switch cover kit, plastic ballot box, Internal Battery, Printer w/Paper roll, 2x Flash Memory Cards, 2x iButton.	450	\$ 8,200.00	\$ 3,690,000.00
<b>Sub-Total:</b>			<b>\$ 6,730,335.00</b>

<b>C. Peripherals Hardware</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
ATI (Audio Tactile Interface) Kit - ICX - USB	900	\$ 375.00	\$ 337,500.00
ImageCast X Voting Booth - Standard	900	\$ 295.00	\$ 265,500.00
ImageCast X Classic BMD Transport Bag Kit (15"/21" Tablet + Printer)	900	\$ 125.00	\$ 112,500.00
ATI Kit - ICE/ICP	175	\$ 240.00	\$ 42,000.00
USB Flash Drive – 8GB – 3.0	50	\$ 16.60	\$ 830.00
ICE Memory Cards 16GB	900	\$ 36.75	\$ 33,075.00
ICE Tech Key (Yellow)	50	\$ 25.00	\$ 1,250.00
<b>Sub-Total:</b>			<b>\$ 792,655.00</b>

<b>D. Election Management Hardware</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
<b>EMS Standard Server Kit (R630/WS2012/SS2016)</b> : Includes PowerEdge R630 rack server, 24 port switch, 24" monitor, keyboard/mouse, patch cable, Cepstral, Avast. One extra 24-port switch included.	4	\$ 17,000.00	\$ 68,000.00
<b>EMS Client Workstation Kit</b> : Includes Dell T3420, 24" monitor, iButton programmer, high speed media reader, patch cable, smart card reader/writer.	36	\$ 1,700.00	\$ 61,200.00
<b>EMS Adjudication Workstation Kit</b> : Includes Dell T3420, 24" monitor, SQL Server 2016 CAL, cables, Windows 10 Pro.	16	\$ 1,700.00	\$ 27,200.00
Reformatting Station Kit	2	\$ 1,200.00	\$ 2,400.00
EMS Report Printer - LBP6230DW	4	\$ 125.00	\$ 500.00
<b>Sub-Total:</b>			<b>\$ 159,300.00</b>

<b>E. Software</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
Democracy Suite (EMS) Light (> 850K)	1	\$ 175,000.00	\$ 175,000.00
Adjudication Module (> 850K)	1	\$ 150,000.00	\$ 150,000.00
Automated Test Deck Module (>850K)	1	\$ 52,500.00	\$ 52,500.00
<b>Sub-Total:</b>			<b>\$ 377,500.00</b>

<b>F. Support Services</b>	<b>DAYS</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
<b>1. Implementation</b>			
Project Management & Implementation	30	\$ 2,000.00	\$ 60,000.00

Product Implementation & Support	15	\$ 2,000.00	\$ 30,000.00
System Acceptance Training	5	\$ 2,000.00	\$ 10,000.00
<b>Sub-Total:</b>			<b>\$ 100,000.00</b>
<b>2. Training</b>			
Train The Trainer: Poll worker	5	\$ 2,000.00	\$ 10,000.00
Democracy Suite Full System Training	5	\$ 2,000.00	\$ 10,000.00
ICC Operator Training	2	\$ 2,000.00	\$ 4,000.00
ICC Adjudication Training	2	\$ 2,000.00	\$ 4,000.00
ICX Operator Training	2	\$ 2,000.00	\$ 4,000.00
ICE Operator Training	2	\$ 2,000.00	\$ 4,000.00
<b>Sub-Total:</b>			<b>\$ 36,000.00</b>

**Calculation of Discount:**

<b>Total Purchase Subtotal</b>			<b>\$ 10,225,790.00</b>
<b>Discount</b>			<b>(\$ 3,067,737.00)</b>
<b>Year 1 Purchase Total:</b>			<b>\$ 7,158,053.00</b>

<b>G. Election Support (per election)</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
Election Support Services	4	\$ 78,000.00	\$ 312,000.00
<b>Sub-Total:</b>			<b>\$ 312,000.00</b>

<b>H. Annual Licenses</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
Democracy Suite (EMS) Light Annual License Fee (> 850K)	1	\$ 35,000.00	\$35,000.00
Adjudication Annual Software License Fee (> 850K)	1	\$ 30,000.00	\$30,000.00
Automated Test Deck Annual Software License Fee (> 850K)	1	\$10,500.00	\$10,500.00
ImageCast Central Annual Firmware License - G1130	8	\$ 2,575.00	\$20,600.00
ImageCast X Annual Firmware License - Classic BMD 21"	900	\$ 150.00	\$135,000.00
ImageCast Central Annual Firmware License - HSS	10	\$ 10,300.00	\$ 103,000.00
ImageCast Evolution Annual Firmware License	450	\$ 228.00	\$ 102,600.00
<b>Sub-Total:</b>			<b>\$ 436,700.00</b>
<b>Discount</b>			<b>(\$ 87,340.00)</b>
<b>Total:</b>			<b>\$ 349,360.00</b>

<b>I. Warranty and Maintenance</b>	<b>QTY</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
ImageCast Central Annual Hardware Warranty - G1130	8	\$1,500.00	\$ 12,000.00
ImageCast X Annual Hardware Warranty - Classic BMD 21"	900	\$ 155.00	\$ 139,500.00
ImageCast Central Annual Hardware Warranty - HSS	10	\$ 8,500.00	\$ 85,000.00
ImageCast Evolution Annual Hardware Warranty	450	\$ 235.00	\$ 105,750.00
<b>Sub-Total:</b>			<b>\$ 342,250.00</b>
<b>Discount</b>			<b>(\$ 68,450.00)</b>
<b>Total:</b>			<b>\$ 273,800.00</b>

**J. Additional Optional Hardware (separately billed, shipping included in cost)**

Component	Product	Description	Cost
Switch	Dell X1026	24 ports. (24x 1GbE PoE (up to 12x PoE+) and 2x 1GbE SFP ports.) Networking X-Series smart web managed switch	\$ 500.00

**K. Consumables (separately billed, shipping included in cost)**

Component	Product	Replacement Cycle	Cost
Canon DRG 1130	ICC Scanner Roller Kit	After 450,000 pages	\$ 109.60
	ICC Imprinter Mechanism	Mechanism is the lifetime of the unit.	\$ 430.00
	ICC Red Ink imprinter cartridge	Due to the fact that ink in this cartridge is used only for imprinting/validation, Dominion conservatively estimates replace after 50,000 to 100,000 imprints. However, due to storage limitations of ink cartridges, we recommend having a second cartridge available to replace a cartridge after each election cycle.	\$ 26.00
	ICC Black Imprinter Ink Cartridge	Due to the fact that ink in this cartridge is used only for imprinting/validation, Dominion conservatively estimates replace after 50,000 to 100,000 imprints. However, due to storage limitations of ink cartridges, we recommend having a second cartridge available to replace a cartridge after each election cycle.	\$ 39.00
InterScan HiPro	Input Roller Kit	Lifetime of unit.  Unit comes with 2 kits. We recommend cleaning every 20,000 scans while using the second Kit for continuous use.	\$ 567.00
	Friction Roller Kit	Lifetime of unit.  Unit comes with 2 kits. We recommend cleaning every 20,000 scans while using the second kit for continuous use.	\$ 313.00
	Input Roller Assembly	Lifetime of unit.  Unit comes with 2 input assemblies. We recommend cleaning every 20,000 scans while using the second assembly for continuous use.	\$ 770.00
	Separation Roller Assembly	Lifetime of unit.  Unit comes with 2 separation assemblies. We recommend cleaning every 20,000 scans while using the second assembly for continuous use.	\$395
	Input tires	Minimum of 1,500,000 scans.  Recommended cleaning every 20,000 scans as detailed in the kit and assembly descriptions above	\$ 172.00
	Friction Tires	Minimum of 5,000,000 scans.  Recommended cleaning every 20,000 scans as detailed in the kit and assembly descriptions above.	\$ 86.00
	Cleaning Kit		\$ 410.00
	Accessories kit		\$ 380.00

<b>Component</b>	<b>Product</b>	<b>Replacement Cycle</b>	<b>Cost</b>
ICE – Tabulator	Printer Ink Cartridge	Annually	\$ 25.00
	UCE Thermal Paper roll 72'	As Needed	\$ 3.00
	ICE Thermal paper roll 98'	As needed	\$ 4.00
	Cleaning Sheet	When needed	\$ 20.00
ICE X	Printer Toner CF226A	Every 3100 pages	\$ 175.00
	Printer Toner CF226X	Every 9000 pages	\$ 290.00
Activation Station	Technician Smart Card	100,000 read write cycles	\$ 8.10
	Poll work smart card	100,000 read write cycles	\$ 8.10
	Voter Activation Card	100,000 read write cycles	\$ 8.10
Seal – High Residue Label	2" x 9" Red		\$ 0.58
Seal Non-Residue	1-1/16" x 4-5/16" Blue		\$ 0.75
Seals	Pull UP/PullTight – Plastic Red	25/pkg	\$ 14.00

**EXHIBIT B.1**  
**OPTIONAL PRODUCT AND SERVICES FEE SCHEDULE<sup>1</sup>**

**I. List Price for Optional Products available during the Term.**

1. ImageCast Precinct Hardware Version 2 (“ICP-2”): \$3,900.00 (includes ICP-2 tabulator, internal battery, printer w/ paper roll, and power cord)
2. Collapsible Ballot Box for ICP-2: \$900.00
3. ICP-2 Transport Bag: \$75.00
4. ICP-2 Memory Cards 16G: \$36.00
5. HiPro Imprinter Kit: (PCB): \$444.43
6. HiPro Imprinter Ink Cartridge: \$30.00

**II. Leasing Schedule for Optional Managed Services Product Order**

In the event that the County, in its sole discretion, opts to lease ICP-2 scanner kits in lieu of the ICE scanner kits (ICP-2 Scanner Kits including the following: ICP-2 tabulator, collapsible ballot box, internal battery, printer w/Paper roll, 2x Memory Cards, 2x iButton, power cord and an ICP-2 transport bag), as well as a HiPro Imprinter Kit for each HiPro scanner, the following managed services leasing schedule shall apply.

<b>DESCRIPTION</b>	<b>TERM</b>	<b>Lease Payment per Year</b>	<b>Total Payments</b>
Democracy Suite Voting System Managed Services Agreement	8 Years	\$1,645,610.00	\$13,164,880.00 (without options)
Optional Modules		RAVBM \$ 12,512.50 RCV \$ 87,587.50	

<sup>1</sup> Products only available for consideration once certified or otherwise authorized for use by the California Secretary of State.

**EXHIBIT C**  
**Specifications and Requirements**

1. The Democracy Suite Voting System (“System,” as defined in Exhibit A) is certified for use in California by the California Secretary of State pursuant to Elec. Code § 19001 et seq., 2 CCR § 20700 et seq., and the California Voting System Standards. Contractor shall ensure the System is certified and compliant with the current and valid certification and Administrative Approvals pursuant to 2 CCR § 20707 or other relevant law or regulation issued by the California Secretary of State at the time of Agreement execution and at the time of any upgrades to the System. The System must comply with all applicable state and federal requirements, including, but not limited to, the voting system requirements as set forth in the California Elections Code, the Help America Vote Act of 2002 and the California Code of Regulations in effect at the time of the System’s certification.
  
2. The System shall have the following capabilities, but under no circumstance will the capabilities violate the California Use Procedures:
  - 2.1. Ability to import and use election definition files from the County’s Election Information Management System to define the parameters of the election.
  
  - 2.2. Supports data such as voting locations, precincts, political subdivisions/districts, offices, parties and machines to be imported from the County’s voter registration system or copied from a previous election to prevent the need for repeat manual data entry.
  
  - 2.3. Allows for the County to configure an election from beginning to end without any required assistance from the vendor.
  
  - 2.4. Includes a ballot generation component, an audio ballot generation component, and a ballot image generation and interface component.
  
  - 2.5. System can simultaneously accept input from multiple users in the Ballot Layout module: One user can be working on templates for a given language and types, while other users can be working on the same language and different type. At the same time, other users may be working on different templates/languages.
  
  - 2.6. ICE units can be configured to reject a provisional ballot or vote by mail ballot.
  
  - 2.7. ICE units at a vote center can be configured to only accept and tabulate non-provisional ballots printed at vote centers for the election in question.
  
  - 2.8. If a ballot is rejected by the ICE unit, the unit will display a message specified by the County to the voter.
  
  - 2.9. Ability for a ballot layout worker building a ballot to preview draft ballot images in the ballot layout module without switching to an emulation program or utilize a voting unit to verify the ballot.

- 2.10. Ability to create and display ballots and instructional material in English, Spanish, Vietnamese, Tagalog, Chinese (Mandarin and Cantonese), Hindi, Khmer, Japanese, and Korean.
- 2.11. Ability to add capability to create and display ballots and instructional material in any additional languages required by County.
- 2.12. Ability to render any ballot and instructional material in print, screen, and audio formats for all languages.
- 2.13. Ability to generate a log or logs that cannot be disabled or altered of all actions taken on all devices and within all software programs.
- 2.14. Ability to generate a log or logs that cannot be disabled or altered of all events on all devices and software.
- 2.15. Ability to print ballot image pages for proofreading purposes and for printing in the County Voter Information Guide (CVIG) by individual ballot type, precinct, and ballot group.
- 2.16. Ability to generate and print a composite ballot for an election.
- 2.17. Ability to report on election night the number and identity of ICE units reporting out of total number of ICE units.
- 2.18. Ability to support ranked choice voting and single transferable vote on the same ballot as all other contests.
- 2.19. Allows for the review and verification of batch level ballot results at any point in the tabulation process without interfering with tabulation, adjudication, or other ongoing processes.
- 2.20. Provides easily customizable reports for a wide variety of purposes, including the reporting of partial election returns throughout Election Night, final unofficial election returns, and canvass reports.
- 2.21. The ICE warns voter of overvotes and undervotes and gives the voter an opportunity to correct before casting the ballot.
- 2.22. The ICX prevents a voter from marking an overvote, warns voter of an undervote, and gives the voter an opportunity to correct. ICX accepts write-in votes on contests that allow write-in votes in all languages.
- 2.23. All Vote Center Hardware generates audit logs that provide a record of physical activity, including, where applicable, power up and down, opening and closing of ballot box door, opening and closing of cartridge compartment, and running on battery.

- 2.24. For all vote center scanners/tabulators and central scanners the system captures a digital image of all ballots cast, creates and stores cast vote records of each ballot cast. For all central scanners, the system enables each digital image to be matched to its corresponding cast vote record and keeps a record of the scanner and batch for each digital image and cast vote record to facilitate matching the digital images to the original paper ballot. Central count scanners capable of imprinting a reference number on the original ballot to facilitate matching the original ballot to the corresponding digital image.
- 2.25. Allows for electronic review of scanned ballot images for comparison to cast vote record in order to verify that the system has correctly tallied ballots.
- 2.26. Allows staff to adjust tally based on review of scanned ballot images.
- 2.27. Logs all tally adjustments identifying the user making the adjustment, the adjudicated cast vote record, original cast vote record, digital ballot image, and original paper ballot.
- 2.28. Facilitates quick and easy write-in vote allocation and tabulation without interfering with tabulation of the remaining contests on the ballot and supports allocation of write-in votes to official write-in candidates on visual review.
- 2.29. Generates test decks and simulation scripts to facilitate pre-election logic and accuracy testing according to the current California Use Procedures approved by the California Secretary of State.
- 2.30. Supports risk limiting auditing of results with cast vote records and batch results reports of those records.
- 2.31. Produces electronic results reports for automated transfers to the California Secretary of State and to transfer to an Election Night Reporting system of the County's choice.
- 2.32. Ability to provide two results reporting options for multiple "vote-for" contests in order to report the percentage of votes received by each individual candidate in the following manner:
  - a) as a percentage based on the total number of votes cast (which shall not exceed the number of ballots cast multiplied by the "vote-for" number); and
  - b) as a percentage based on the total number of ballots cast in the contest.

## EXHIBIT D

### STATEMENT OF WORK (“SOW”)

#### 1 Project Team Roles and Responsibilities

##### 1.1 *Dominion*

###### a. Dominion Project Manager

Dominion will appoint the Dominion Project Manager as its representative through the Agreement Term. The Dominion Project Manager shall communicate with the County Registrar of Voters (ROV) information and status regarding milestones, procedures, and progress on the work related to this Agreement. The Dominion Project Manager will also advise the ROV upon the occurrence of any event requiring a material change in such plans to obtain the ROV’s written consent to any such material changes. The Dominion Project Manager will be dedicated solely to this project through the completion of the first two statewide elections, including canvass, recounts, and other post-election activities, will be on-site as requested by the ROV, and will be available commencing with the Effective Date of the Agreement. The Dominion Project Manager will be responsible for arranging all meetings, visits, and consultations between the Parties and for all administrative matters such as invoices, payments, and amendments.

The Dominion Project Manager is the primary point of contact for Dominion, including for change requests, and will coordinate the availability of Dominion resources.

The Dominion Project Manager shall have the requisite skills and experience to provide the services required for the implementation including, without limitation: complete knowledge of election technology, elections support services, project management, excellent verbal and written communications skills, strong organizational skills including multi-tasking and time management skills, and the ability to manage detail-oriented projects with fixed deadlines.

###### b. Dominion Customer Relations Manager

After the completion of the implementation (i.e. after certification of the second statewide election), Dominion will assign a Customer Relations Manager (CRM) to directly support the ROV for the duration of the contract. The Dominion CRM will provide ongoing product support and ensure project teams address and resolve issues to the ROV’s satisfaction. The CRM will work closely with the ROV to properly plan for the scope and requirements all project events, including the assignment of the correct resources. These project events include, but are not limited to: ballot programming, maintenance, logic and accuracy testing, and election day support. Additionally, the CRM will ensure accurate and timely

invoicing, while working with the appropriate Dominion and customer personnel needed to resolve any outstanding account(s) receivables.

c. Dominion Product Specialists

Under the direction of the Dominion Product Manager, Dominion Product Specialists will provide technical support throughout Agreement Term. These resources will assist in the installation, operation, repair, and maintenance of the System.

d. Election Programmers

Dominion will provide Election Programmers who will assist with the Ballot Programming and Election Definition Services set out below in Section 3.1 of this Exhibit during the Agreement Term.

e. Additional Personnel

Dominion will provide sufficient personnel to perform the tasks for which it is responsible in this Exhibit throughout the Agreement Term. These additional personnel shall have knowledge, skills, and experience sufficient to perform these tasks efficiently and competently.

f. Requirements for all Dominion Personnel

Dominion shall provide County with a list of its personnel authorized to perform services under this Agreement and shall update the list based on any personnel changes. All personnel provided by Dominion shall have the knowledge, skills, and experience sufficient to perform the described tasks efficiently and competently. Dominion shall only use personnel who have first successfully completed Dominion’s background checks, which are performed at time of hire and on an annual basis and include a Criminal History Check, Reference Checks, and Credit History Report as described in the table below. Dominion shall notify County immediately if any of its authorized personnel are terminated for disciplinary or criminal reasons or fail a background check. Dominion shall provide substitute personnel if at ROV’s sole discretion, assigned personnel are not adequately providing Deliverables.

<b>Type of Investigation</b>	<b>Guidelines</b>	<b>Coverage</b>
Criminal History Check	Dominion Voting will request criminal records related to felony and misdemeanor convictions. Crimes of particular concern include crimes against persons, crimes involving weapons, crimes involving theft or fraud, and crimes involving drugs or alcohol. The Criminal History Check will consider at least the past 7 years, however, will extend to a complete criminal history check as permitted by federal, provincial, and state laws.	All fulltime, part-time, temporary, casual, employees; temporary staff employed by third-party agencies; independent contractors; all rehired fulltime, part-time, temporary, casual employees; all rehired temporary staff employed by third-party agencies; all rehired independent contractors.

<b>Type of Investigation</b>	<b>Guidelines</b>	<b>Coverage</b>
Reference checks; verification of past employment, education, military record, professional certifications, and other information provided by an applicant	Dominion Voting will request references from past employers and verify previous employment, education, military service, and professional certifications. Dominion Voting will also verify any other information provided by an applicant that it determines is job related.	All fulltime, part-time, temporary, casual, employees; temporary staff employed by third-party agencies; independent contractors.
Credit History Report	Dominion Voting will obtain a credit report in situations where there is a business necessity for such information, e.g., security sensitive positions.	Security-sensitive positions include positions in Finance, Accounting, Human Resources, Information Technology, Leadership, and Executive departments; as well as other positions that may be deemed as having access to significant levels of access to, or responsibility of, financial, personal, and/or computer systems information.

### **1.2 ROV Resources**

The ROV will designate the ROV Project Manager, who is responsible for the coordination of ROV personnel, equipment, and facilities.

ROV will designate an Executive Sponsor who is empowered to make decisions on behalf of ROV with respect to the work being performed under this SOW including the allocation of required resources.

### **1.3 Primary Contacts**

<b><i>Primary ROV Contacts</i></b>
Matt Moreles Assistant Registrar of Voters, Executive Sponsor <a href="mailto:Matt.Moreles@rov.sccgov.org">Matt Moreles@rov.sccgov.org</a> (408) 282-3003
Martin Weakley ROV Project Manager <a href="mailto:Martin.Weakley@isd.sccgov.org">Martin.Weakley@isd.sccgov.org</a> (408) 282-3283
<b><i>Primary Dominion Contacts</i></b>
Steven Bennett Sales Executive Email: <a href="mailto:steven.bennett@dominionvoting.com">steven.bennett@dominionvoting.com</a> Telephone: (909)-362-1715

Alex Soto Vasquez Dominion Project Manager Email: <a href="mailto:alex.sotovasquez@dominionvoting.com">alex.sotovasquez@dominionvoting.com</a> Telephone: (720) 257-5209
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## 2 Project Overview / Activities

### 2.1 Project Management

- a. The Dominion Project Manager will coordinate the implementation of the System, including planning, communication and maintaining the implementation schedule (“Implementation Schedule”) attached hereto as Exhibit D.1. The Dominion Project Manager will provide the direction, expertise and leadership for the project planning of all tasks required for the successful implementation of the Systems, as well as coordinating with the ROV Project Manager.
- b. The Dominion Project Manager will meet weekly with the ROV Project Manager and include other personnel as appropriate. The weekly meetings will include tracking milestones (completed or missed), tracking use of resources, evaluating the status of issues, and identifying any actions needed to meet deadlines. The Dominion Project Manager will maintain and distribute meeting minutes during the implementation.
- c. All work shall proceed on the timelines set out in the Implementation Schedule. The Dominion Project Manager and the ROV Project Manager shall each be responsible for the tasks assigned to their respective parties on the Implementation Schedule, specifying the details for all tasks necessary to successfully complete the project, working cooperatively to set hard and soft deadlines. Each task identified will include a start and end date and the responsible parties involved. The Implementation Schedule will include milestones and activities, which includes product delivery and installation, acceptance testing, and training schedule.
- d. The Parties agree that during the implementation, changes to the Implementation Schedule may be required. Any changes to Implementation Schedule must be mutually agreed to in writing by both Parties, which shall not be unreasonably withheld.

### 2.2 Project Meetings

The Project Management Team, consisting of the Dominion Project Manager and the ROV Project Manager along with other personnel as appropriate, will hold weekly coordination meetings throughout the term of the Implementation Schedule. The purpose of these meetings will be for Dominion and the ROV to report on the status of pending tasks, discuss any challenges encountered, and identify any potential risks. The scheduling and frequency of coordination meetings may vary at the mutual agreement of both Parties. Additionally, the Project Management Team will meet monthly with a Steering Committee composed of County representatives to provide an

overview of the project's status. These project meetings will be distinct from the Training Classes described in Section 2.5.3 of this SOW.

The Project Management Team will hold Implementation and Transition Planning meetings for review of current ROV processes and transition to Democracy Suite. These meetings will cover topics including:

- a. **Ballot Templates and Creation**  
Discussion of the Democracy Suite's functions for creating specific ballot designs for different election content such as headers, voting target positioning, and the width and height for contest placement.
- b. **Reporting**  
A full review of the ROV's existing reporting requirements and the formats of these reports in comparison to the new System's analogous reporting functionalities.
- c. **Vote-Marking Interpretation**  
Dominion will provide the ROV instruction on how the Democracy Suite processes and assesses vote-markings that record voter intent and how the Democracy Suite determines when a review is required.
- d. **Data Integration**  
Democracy Suite shall have the ability to import the candidate/contest information directly from the ROV's DFM election information management system and create the absentee ballot, ICX ballot, and sample ballot from the same imported file. Democracy Suite shall be capable of importing audio and text files.
- e. **Overview of WinEDS in relation to Democracy Suite**  
Dominion will provide an overview that demonstrates the similarities and differences of the functionalities between the current WinEDS system, and Democracy Suite.

### ***2.3 Voter Outreach Support***

Dominion will provide materials and training in connection with voter outreach and education, which may involve assisting in performing public demonstrations of the new voting equipment or a mock election and providing how-to-vote resources. Dominion will provide sample voter education and outreach materials.

### ***2.4 Warehouse Logistics Planning***

Dominion will assist the ROV in planning its warehouse space for storing and maintaining the new voting equipment.

## 2.5 ***Implementation Milestones***

All Deliverables in this section shall be provided on the schedule provided in Exhibit D.1 (Implementation Schedule). Total Quantities to be delivered are specified in Exhibit B (Product and Services Fee Schedule). When the Implementation Schedule provides a multi-day time period for delivery, Dominion and ROV shall mutually agree on a schedule for periodic deliveries throughout the time period to ensure adequate time for installation, acceptance testing, and preparation for storage.

### 2.5.1 **Procurement / Delivery**

- a. Unless otherwise specified by the County in a Contract Release Purchase Order, all deliveries shall be made to the Registrar of Voters' Warehouse at 1553 Berger Drive, Building 1, San Jose, CA 95112.
- b. Initiation of the equipment and consumables procurement phase begins upon receipt of a signed Contract Release Purchase Order from the ROV. ROV and Dominion shall coordinate the procurement so that the System and any consumables are shipped to the ROV in accordance with the Implementation Schedule.
- c. The Dominion Project Manager will manage the shipment process through an authorized shipper to ensure delivery is successful.
- d. In the event any shipping problems or discrepancies occur, the ROV will make the driver aware of the issues and note them on the bill of lading along with the name and number of the shipper's agent for claim resolution. This applies only to shipping problems or discrepancies that are visible and noticeable at the time of delivery with the equipment and supplies sealed in packaging, such as externally visible damage to packaging and missing pallets or parcels.

### 2.5.2 **Installation / Configuration / Acceptance Testing**

- a. Dominion has placed a copy of the source code for the Democracy Suite Software to be provided under this Agreement in escrow with an independent escrow agent for the benefit of the California Secretary of State pursuant to a separate escrow agreement. Contractor shall on or before full execution of this Agreement name the County as a beneficiary of such escrow agreement in place for the entire term of this Agreement.
- b. The initial version of the Software to be provided is Democracy Suite 5.2. If upgraded Software is to be provided pursuant to this Agreement, Contractor shall update the materials on deposit with the escrow agent promptly upon its release of the upgrade such that the source code corresponds to the version of the Software in use by the County. Contractor shall provide County with an acknowledgement that County has been named as a beneficiary of such escrow agreement which will include the name of the escrow agent and will have such acknowledgement renewed each year this

Agreement is in effect.

- c. Upon full execution of this Agreement, Dominion will promptly coordinate with the California Secretary of State for the ROV to acquire the State of California certified and approved trusted build of the Democracy Suite Software.
- d. Dominion shall support ROV in installing the software on all equipment.
- e. Dominion shall not establish remote access to the System when providing services. Dominion shall not install remote access capability on the System.
- f. Dominion shall provide an Acceptance Test Plan (“ATP”) subject to review and approval by the ROV. The ATP shall identify all tests necessary to demonstrate System compliance with the requirements for California and the ROV.
- g. Dominion shall be responsible for providing all training and training materials required to support the acceptance testing.
- h. Dominion and the ROV shall finalize the development of the ATP and procedures prior to the acceptance testing phase.
- i. Dominion shall assist the ROV in creating an ATP log sheet, to be used as a control sheet showing which System items have been received, tested, and accepted. This log sheet will be completed individually for each item, noting any physical damage, and shall contain the results of each test conducted.
- j. Dominion will provide an ATP log sheet template to the ROV for printing and distribution during the acceptance testing process. For each System item, the ROV, working with a Dominion Product Specialist, will complete the Acceptance test for each System item. Each form will be signed and stored by the ROV with copies made or scanned for Dominion to ensure that each System component is in proper working order upon receipt and unpacking.
- k. After delivery of any Dominion Software or Dominion Hardware, the ROV will conduct acceptance testing of such components according to the ATP.
- l. Throughout the Agreement Term, Dominion will update the ATP to accommodate new or updated components as needed, subject to review and approval by the ROV.
- m. The ROV will provide Dominion with records that identify units that did not successfully pass acceptance testing. System component(s) that cannot successfully pass acceptance testing will be rejected and the ROV will send

a notice to Dominion indicating the issues and reason for rejection. Upon receipt of notice, Dominion will have fifteen (15) business days to repair or replace the System component(s).

### 2.5.3 **Training**

a. Training Standard:

Dominion shall ensure that Dominion's training described in the table below is sufficient such that ROV staff could operate the System and run the election without support or intervention of Dominion staff.

b. Training Outline for ROV Personnel:

During Transition Planning, the Project Management Team will identify training materials that Dominion shall prepare including training manuals and technical reference manuals. The content of training materials and the methods of training will be responsive to the ROV's requirements. Dominion will provide resources and trainings that will develop County personnel's technical proficiencies for using the new System and provide educational materials and opportunities to users of the new System, which includes pollworkers.

Dominion's training shall be tailored, using various teaching methods, learning principles, and proper course pacing. Training customization begins with tailoring the courses to the ROV's needs. Dominion's training courses shall cover the System's operations, poll worker "train the trainer" materials, and will provide the ROV with finished content to use during voter outreach. Dominion will provide training on and off-site and coordinate all scheduling with the ROV.

c. Poll Worker Training:

Dominion will provide finished content to the ROV for use in training poll workers. The content will include procedures on assisting voters at vote centers. Additionally, the content will include manuals, forms and procedures and Dominion will assist the ROV in redesigning forms, manuals, and procedures according to the ROV's requests in relation to implementing and using the new System.

Dominion will assist the ROV in developing these poll worker training guides, quick reference guides that poll workers can use to assist voters, and training videos. Dominion will provide instruction manuals for poll worker training such as "train the trainer" materials. Dominion shall assist the ROV in organizing materials and content and then observe a minimum of two mock poll worker training sessions that the ROV conducts. The purpose of the mock training sessions is for Dominion to assess the accuracy and delivery of information to poll workers.

d. **Trainings:**

The following table lists the subject matter for which Dominion shall provide materials and training to the ROV’s personnel. The ROV shall determine the number of attendees at each training session. The training sessions provided by Dominion shall include the content described in the class overview column and meet the described objective.

Throughout the Agreement Term, Dominion shall provide additional training requested by the County at the rate specified in Exhibit B. Dominion shall also permit County personnel to attend training Dominion provides to other counties, at that county’s discretion, at no additional cost to the County.

e. **User Definitions:**

The table below mentions several user types. For purposes of clarity, the user types may be understood / classified as follows:

- **Administrator** – ROV managers, supervisors, and leads who will be responsible for overseeing or supervising operations of the system (e.g., ballot layout, ballot tabulation)
- **Super User** –ROV permanent staff who will be responsible/have elevated privileges for conducting and/or understanding system/election activities, including staff who will provide training and technical support to other users
- **Support Staff** – ROV permanent and extra help line staff who will be responsible for supporting/participating in system/election activities
- **Senior ROV Staff** – ROV executive staff
- **Poll workers** – County staff and volunteers responsible for the proper and orderly voting at polling locations.

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
Election Management System - Administrator	Administrator and/or Super Users	Competence with the import of election definition data, completing election definition, laying out and styling paper ballots, importing dynamic and static audio files, styling screen content, creating tabulators and preparing the election project for an election.	<p><b>I. Election Preparation Overview</b></p> <ul style="list-style-type: none"> <li>a. Phases of Election Setup</li> <li>b. Applications used during election setup (EDT, EED, AS)</li> </ul> <p><b>II. Import Election definition data</b></p> <ul style="list-style-type: none"> <li>a. Working with external data from the voter</li> </ul>	7 days

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>registration system</li> <li>b. Preparing the import file</li> </ul> <p><b>III. Layout/Style Paper Ballots</b></p> <ul style="list-style-type: none"> <li>a. Determine consolidation level</li> <li>b. Layout &amp; Style ballots</li> </ul> <p><b>IV. Import/Edit Audio Files</b></p> <ul style="list-style-type: none"> <li>a. Working with static audio (common sets of voter instructions)</li> <li>b. Working with and editing dynamic audio (audio associated with each election)</li> </ul> <p><b>V. Styling on-screen content (for ICX)</b></p> <p><b>VI. Defining tabulators and counting groups</b></p> <p><b>VII. Finalize and prepare database for LAT</b></p>	
<b>ImageCast X Administrator Training</b>	<b>Administrator and/or Super Users</b>	<b>Competence with the setup and configuration of the ICX devices in an election, use of the ICX, and general troubleshooting</b>	<ul style="list-style-type: none"> <li>I. Setup of the ICX-BMD <ul style="list-style-type: none"> <li>a. Storage</li> <li>b. Transport</li> <li>c. Boxing/Unboxing</li> <li>d. Sealing/unsealing</li> <li>e. Power requirements</li> <li>f. Hardware review</li> </ul> </li> <li>II. Basic security protocols, including safeguards to prevent and detect tampering</li> <li>III. Preparing the devices for the election <ul style="list-style-type: none"> <li>a. Loading election files</li> <li>b. Opening Polls</li> <li>c. Conducting Logic and Accuracy Testing</li> <li>d. Resetting the ICX for use in the election</li> </ul> </li> </ul>	<b>1 day</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>e. Reviewing Audit Logs</li> <li>IV. Voting on the ICX               <ul style="list-style-type: none"> <li>a. Working with regular Voting Sessions</li> <li>b. Working with accessible voting sessions</li> </ul> </li> <li>V. Troubleshooting and Usage               <ul style="list-style-type: none"> <li>a. Loading paper into the printer</li> <li>b. Changing the printer toner</li> <li>c. Troubleshooting</li> </ul> </li> <li>VI. Closing Polls</li> </ul>	
<b>ImageCast Evolution Administrator Training</b>	<b>Administrator and/or Super Users</b>	<b>Competence with the setup and configuration of the ICE tabulator in an election, use of the ICE and general troubleshooting</b>	<ul style="list-style-type: none"> <li>I. Setup of the ImageCast Evolution               <ul style="list-style-type: none"> <li>a. Storage</li> <li>b. Transport</li> <li>c. Plugging in and Turning on</li> <li>d. Hardware review</li> </ul> </li> <li>II. Basic security protocols, including safeguards to prevent and detect tampering</li> <li>III. Preparing the devices for the election               <ul style="list-style-type: none"> <li>a. Loading Election Files</li> <li>b. Opening polls</li> <li>c. Running a zero report/tape</li> <li>d. Conducting Logic and Accuracy Testing</li> <li>e. Running a Results Tape</li> <li>f. Resetting the ICE for use in the election</li> <li>g. Reviewing audit logs</li> </ul> </li> <li>IV. Voting on the ICE               <ul style="list-style-type: none"> <li>a. Processing ballots</li> <li>b. Accessible Voting Sessions</li> <li>c. QR Code ballot verification</li> </ul> </li> <li>V. Troubleshooting and Usage               <ul style="list-style-type: none"> <li>a. Changing the thermal tape</li> <li>b. Changing the ink</li> </ul> </li> </ul>	<b>1 day</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>cartridge</li> <li>c. Technician functions</li> <li>d. Troubleshooting</li> <li>VI. Closing Polls</li> </ul>	
<b>ImageCast X Operator Training</b>	<b>Support staff and/or pollworkers</b>	<b>Competence with the use of the ICX devices in a vote center</b>	<ul style="list-style-type: none"> <li>I. Setup of the ICX-BMD               <ul style="list-style-type: none"> <li>a. Plugging in and turning on</li> <li>b. Best practices for use in a vote center</li> </ul> </li> <li>II. Basic security protocols, including safeguards to prevent and detect tampering</li> <li>III. Opening Polls</li> <li>IV. Voting on the ICX               <ul style="list-style-type: none"> <li>a. Working with regular voting sessions</li> <li>b. Working with accessible voting sessions</li> </ul> </li> <li>V. Troubleshooting and Usage               <ul style="list-style-type: none"> <li>a. Loading paper into the printer</li> <li>b. Changing the printer Toner</li> <li>c. Troubleshooting</li> </ul> </li> <li>VI. Closing polls</li> </ul>	<b>0.5 days</b>
<b>ImageCast Evolution Operator Training</b>	<b>Support staff and/or pollworkers</b>	<b>Competence with the use of the ICE tabulator in a vote center</b>	<ul style="list-style-type: none"> <li>I. Setup of the ImageCast Evolution               <ul style="list-style-type: none"> <li>a. Plugging in and Turning on</li> <li>b. Hardware review</li> </ul> </li> <li>II. Basic security protocols, including safeguards to prevent and detect tampering</li> <li>III. Opening polls</li> <li>IV. Voting on the ICE               <ul style="list-style-type: none"> <li>a. Processing ballots</li> <li>b. Accessible Voting Sessions</li> <li>c. QR Code ballot verification</li> </ul> </li> <li>V. Troubleshooting and Usage               <ul style="list-style-type: none"> <li>e. Changing the thermal tape</li> </ul> </li> </ul>	<b>0.5 days</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>f. Troubleshooting</li> <li>VI. Closing Polls</li> </ul>	
<b>Train the Trainer: Pollworker Training</b>	<b>Pollworkers</b>	<b>Competence with how to set up and use the vote center equipment and handle / triage basic equipment issues on Election Day</b>	<ul style="list-style-type: none"> <li>I. Vote Center Equipment Setup               <ul style="list-style-type: none"> <li>a. Setting up the Voting Booth</li> <li>b. Setting up the UPS</li> <li>c. Setting up the ICX</li> </ul> </li> <li>II. Basic security protocols, including safeguards to prevent and detect tampering</li> <li>III. Getting Started               <ul style="list-style-type: none"> <li>a. Power up the equipment</li> <li>b. Getting the equipment ready for voting</li> </ul> </li> <li>IV. Voting               <ul style="list-style-type: none"> <li>a. Working with regular voting sessions</li> <li>b. Working with accessible voting sessions</li> </ul> </li> <li>V. Troubleshooting and Usage               <ul style="list-style-type: none"> <li>d. Loading paper into the ICX-BMD printer</li> <li>e. Changing the ICX-BMD printer Toner</li> <li>f. Troubleshooting</li> </ul> </li> <li>VII. Closing polls</li> </ul>	<b>0.5 days</b>
<b>ImageCast Central (ICC) Administrator</b>	<b>Administrator and/or Super Users</b>	<b>Competence with the setup and configuration of the central count scanners, use of the central count scanners, and general troubleshooting during ballot scanning</b>	<ul style="list-style-type: none"> <li>I. <b>Central Count Scanning Overview</b> <ul style="list-style-type: none"> <li>a. Preparation               <ul style="list-style-type: none"> <li>o Ballot Inspection</li> <li>o Working with folded ballots</li> </ul> </li> <li>b. Working with batches               <ul style="list-style-type: none"> <li>o Batch Size</li> <li>o Batch Tracking/Manifests</li> </ul> </li> </ul> </li> <li>II. Using the ICC Application HiPro and Canon Scanners               <ul style="list-style-type: none"> <li>b. Overview of ICC workstation functionality and structure</li> <li>c. Loading Election Tabulation Files to ICC               <ul style="list-style-type: none"> <li>o Configuration of the</li> </ul> </li> </ul> </li> </ul>	<b>1 day</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>application <ul style="list-style-type: none"> <li>○ Confirmation of scan options and settings</li> <li>○ Producing a zero report</li> <li>○ Opening Polls</li> <li>○ Troubleshooting</li> <li>○ Closing Polls</li> <li>○ Backing up data</li> </ul> </li> <li>d. Central Count Scanning <ul style="list-style-type: none"> <li>○ Loading ballots into the hopper</li> <li>○ Accepting batches</li> <li>○ Discarding batches</li> <li>○ Handling misread ballots</li> <li>○ Diagnosing misread ballots</li> <li>○ Troubleshooting</li> <li>○ Cleaning the scanner(s)</li> </ul> </li> </ul>	
<b>ImageCast Central (ICC) Operator</b>	<b>Support staff</b>	<b>Competence with the daily operations of central count scanning and basic troubleshooting during ballot scanning</b>	<p><b>I. Central Count Scanning Overview</b></p> <ul style="list-style-type: none"> <li>a. Preparation <ul style="list-style-type: none"> <li>○ Ballot Inspection</li> <li>○ Working with folded ballots</li> </ul> </li> <li>b. Working with batches <ul style="list-style-type: none"> <li>○ Batch Size</li> <li>○ Batch Tracking/Manifests</li> </ul> </li> </ul> <p><b>II. Using the ICC Application and Canon and Hi Pro Scanners</b></p> <ul style="list-style-type: none"> <li>a. Overview of ICC workstation functionality</li> <li>b. Central Count Scanning <ul style="list-style-type: none"> <li>○ Loading ballots into the hopper</li> <li>○ Accepting batches</li> <li>○ Discarding batches</li> <li>○ Handling misread ballots</li> <li>○ Basic Troubleshooting</li> </ul> </li> </ul>	<b>1 day</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
<b>Adjudication Administrator Training</b>	<b>Administrator and/or Super Users</b>	<b>Competence with the setup and configuration of the adjudication setup for use in an election, operation of the application, supervisorial /administrative functions of adjudication and general troubleshooting during adjudication activities</b>	<ul style="list-style-type: none"> <li><b>I. Adjudication Overview</b> <ul style="list-style-type: none"> <li>a. Workflow: How ballots are delivered from ICCs</li> <li>b. Determining which ballots should be presented for adjudication</li> <li>c. Functions performed by adjudication users / administrators</li> <li>d. Daily Adjudication Procedures</li> <li>e. Best Practices/ Developing processes for determining voter intent</li> </ul> </li> <li><b>II. Preparing for Adjudication</b> <ul style="list-style-type: none"> <li>a. Setting up a new adjudication session</li> <li>b. Defining outstack /adjudication criteria</li> </ul> </li> <li><b>III. Adjudication of ballots</b> <ul style="list-style-type: none"> <li>a. Adding Marks</li> <li>b. Removing Marks</li> <li>c. Resolving Write-ins</li> </ul> </li> <li><b>IV. Administrative Functions</b> <ul style="list-style-type: none"> <li>a. Reviewing adjudicated ballots</li> <li>b. Making changes / corrections</li> <li>c. Submitting Batches</li> <li>d. Running reports</li> </ul> </li> <li><b>V. Back-up and Close out</b> <ul style="list-style-type: none"> <li>a. Backing up adjudication data and reports</li> <li>b. Closing out/ stopping adjudication</li> </ul> </li> </ul>	<b>2 days</b>
<b>Adjudication Operator</b>	<b>Support staff</b>	<b>Competence with the daily operations of</b>	<ul style="list-style-type: none"> <li><b>I. Adjudication Overview</b> <ul style="list-style-type: none"> <li>a. Workflow: How</li> </ul> </li> </ul>	<b>1 day</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
<b>Training</b>		<b>ballot adjudication</b>	ballots are presented for Adjudication b. Which ballots will be presented for adjudication c. Identifying why a ballot has been presented for adjudication d. Daily Adjudication User Procedures II. Adjudication of ballots a. Adding Marks b. Removing Marks c. Resolving Write-ins	
<b>Results Tally and Reporting Training – Administrator</b>	<b>Administrator and/or Super Users</b>	<b>Competence with the setup and configuration of the Results, Tally, and Reporting application, setting up all reporting configuration for an election, managing batches during ballot tabulation, supervisory functions, and general troubleshooting</b>	I. <b>Results Tally and Reporting Overview</b> a. Workflow: How batches (result files) are delivered to the application b. Workflow: How batches are moved through RTR to Adjudication c. Navigating within the application d. User management (creating and managing application users) II. <b>Preparing the System</b> a. Enabling the project for adjudication b. Turning on Automatic Results Loading c. Managing Preferences III. <b>Working with Batches (results files)</b> a. Receiving batches from ICCs b. How to reject, reset, and/or delete batches c. Use cases for rejecting, resetting and/or deleting batches IV. <b>Reporting</b> a. Election Summary	<b>5 Days</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>Report <ul style="list-style-type: none"> <li>o Available report parameters</li> <li>o Available report filters</li> <li>o Report output formats</li> <li>o Report output review</li> </ul> </li> <li>b. Statement of Votes Cast <ul style="list-style-type: none"> <li>o Available report parameters</li> <li>o Available report filters</li> <li>o Report output formats</li> <li>o Report output review</li> </ul> </li> <li>c. Cards Cast Report <ul style="list-style-type: none"> <li>o Available report parameters</li> <li>o Available report filters</li> <li>o Report output formats</li> <li>o Report output review</li> </ul> </li> <li>V. Exports <ul style="list-style-type: none"> <li>a. Available Exports</li> <li>b. Cast Vote Record Export</li> <li>c. Image Export</li> <li>d. Auditmark File export</li> </ul> </li> <li>VI. Troubleshooting</li> </ul>	
<b>Adjudication, Results Tally and Reporting Training – Executive</b>	<b>Senior ROV Staff members</b>	<b>Competence with understanding and describing report contents to be able to explain to public/media what the information contained on reports from the System mean</b>	<b>I. Results Tally and Reporting Overview</b> <ul style="list-style-type: none"> <li>a. Workflow: How batches (result files) are delivered to the application</li> <li>b. Workflow: How batches are moved through RTR to Adjudication</li> </ul> <b>II. Reporting</b> <ul style="list-style-type: none"> <li>a. Election Summary Report <ul style="list-style-type: none"> <li>o Available report parameters</li> </ul> </li> </ul>	<b>0.5 days</b>

Training Class Title	User Category	Class Objective	Class Overview	Number of Days (Each day of training shall be 6 to 8 hours long.)
			<ul style="list-style-type: none"> <li>o Available report filters</li> <li>o Report output formats</li> <li>o Report output review</li> <li>b. Statement of Votes Cast <ul style="list-style-type: none"> <li>o Available report parameters</li> <li>o Available report filters</li> <li>o Report output formats</li> <li>o Report output review</li> </ul> </li> <li>c. Cards Cast Report <ul style="list-style-type: none"> <li>o Available report parameters</li> <li>o Available report filters</li> <li>o Report output formats</li> <li>o Report output review</li> </ul> </li> <li>III. Exports <ul style="list-style-type: none"> <li>a. Cast Vote Record Export</li> <li>b. Image Export</li> <li>c. Auditmark File export</li> </ul> </li> </ul>	

**2.6 Removal of ROV’s Existing Election Equipment**

Dominion will remove the ROV’s current voting system, at no cost to the ROV. Prior to the disposal, Dominion shall clear all equipment with a minimum of a two-pass wipe so that no software, firmware or data remains on the equipment. At the time of disposal Dominion shall return the equipment solely to a non-functioning piece of hardware and provide documentation to the County of the following for each piece of equipment:

- Whether the machine is void of all software, firmware and data.
- The hardware model name.
- The hardware model number.
- The hardware serial number.

**3 Ongoing Support / Election Support Services**

Throughout the Agreement Term, Contractor will provide the services described in this Section 3. In addition, Contractor will provide the ROV with technical support through the

Agreement Term in relation to storing, maintaining, and operating the System at no additional cost. Contractor shall deliver services according to the Implementation Schedule for the first two statewide elections. For subsequent elections during the Agreement Term, the ROV shall provide a schedule with substantially similar deadlines that Contractor must meet.

After the completion of the Post Implementation Debriefing after the November 3, 2020 election, Contractor will assign a Dominion Customer Relations Manager to directly support the ROV.

### **3.1 *Ballot Programming and Election Definition Services***

- a. Dominion shall provide election definition services (import election definition files from EIMS, lay out ballots, prepare audio content in all required languages, and generate ballot test deck files) for the Agreement Term. The ROV will provide Dominion with a schedule of milestone dates and target completion dates prior to each election. Ballot programming services will be provided in English only and will include the following: Democracy Suite Election project setup, provide the ballot PDF artwork, verification and proofing for each Election, provide audio setup for audio voting using a synthesizer. Any outside recording charges would be at ROV's expense.
- b. The ROV shall review and approve, or identify issues, in all Deliverables, with attention to ballot proofs and audio files. In the event the ROV discovers an issue, it shall provide written notice to Dominion as soon as practicable following the discovery of any issue and Dominion shall rectify the issue within 24-hours at no additional cost to the ROV.
- c. Democracy Suite will support English, Spanish, Chinese (Mandarin and Cantonese), Filipino (Tagalog), Hindi, Khmer, Korean, Japanese and Vietnamese in both written and audio formats. Dominion will add any additional languages requested by the ROV who will provide ballot language content in both written and audio formats.
- d. Democracy Suite shall be able to import from the ROV's voter registration system, without manual modification of the election definition content from the ROV's voter registration system, including but not limited to contest, candidate, measure, jurisdictional, precinct, and voter registration information. If such data cannot be imported, Dominion shall perform the work necessary to input the data into Democracy Suite at no cost to the County. Democracy Suite will allow the ROV to edit all ballot layout files in all languages to reorganize the placement of contests and voting targets and to edit text and graphics.
- e. Democracy Suite shall use the same election definition content to create all ballots, e.g. vote-by-mail, precinct, voting center, audio ballots, digital ballots, sample ballots, and test ballots. Democracy Suite shall allow audio files using recorded human voices and/or voice simulation programs.
- f. Democracy Suite will support profile data such as voting locations, precincts,

political subdivisions, offices, and party affiliations.

- g. Democracy Suite will generate PDF files of finished ballots for full-sized, press-ready ballot artwork. To create ballots, Democracy Suite will provide options to control fonts, line weights, determine the number of columns, include multiple languages on one ballot card, create multi-card ballots with content appearing on both sides of all of the cards, provide for formatting content in both portrait-style and landscape orientations, and allow for ballot-card headers of different colors. Democracy Suite will allow for final ballot proofs that are 8.5 inches in width and variable lengths of 11, 14, 17, 18, 19, 20 and 22 inches. Democracy Suite will allow the ROV to determine the appropriate length of the ballots depending on the amount of content to format.
- h. Democracy Suite will generate accessible ballot content in large print formats. Additionally, the System will generate accessible sample ballots in PDF or other accessible format that allows the ROV to post the sample ballots on its website, which meet the legal standards set by California and federal law.

**3.2 Support Hours / Response Times**

The following table represents timeframes by which Dominion will respond to the ROV’s requests for technical assistance or notice that any component of the System has malfunctioned.

<b>Phase</b>	<b>Type of Support</b>	<b>Hours of Availability</b>	<b>Initial Response</b>	<b>Review Completed</b>	<b>Resolution of Issue</b>
Outside an election period (after the most recent election is certified until 120 days before the next election).	On-site, telephone, and, video calls.	9am - 5pm Pacific Monday to Friday	No later than the next business day.	No later than two business days.	No later than 10 business days.
During definition of the election and the creation of ballots (120 days before Election Day through 60 days before Election Day).	On-site, telephone, and video calls.	9am - 5pm Pacific Monday to Friday	No later than four hours.	Within 24 hours.	Within 48 hours.
From mailing of military and overseas ballots to vote center operations start (60 days before Election Day through 11 days before Election Day).	On-site, telephone, and video calls.	7am - 7pm Pacific Monday to Friday	Within 30 minutes.	Within two hours.	Within four hours.

<b>Phase</b>	<b>Type of Support</b>	<b>Hours of Availability</b>	<b>Initial Response</b>	<b>Review Completed</b>	<b>Resolution of Issue</b>
Vote Center operations E-10 to E-1	On-site, telephone, and video calls.	7am - 7pm Pacific Sunday to Saturday	Immediate.	Within 60 minutes.	Within one hour.
Election Day	On-site (if requested), telephone and video calls.	24 hours starting at 7am	Immediate.	Within 60 minutes.	Within one hour.
The day after Election Day until election is certified.	On-site (if requested), telephone, and video calls.	7am – 7pm Pacific	Within 30 minutes.	Within two hours.	Within four hours.
During a recount	On-site (if requested), telephone, and video calls.	7am - 7pm Pacific Monday to Saturday	Within six hours.	Within 24 hours.	Within the next business day.

In the event that a deficiency in a Deliverable materially affects the County’s ability to prepare for and conduct an election, the Contractor shall provide at no additional cost to County additional human resources required to assist the County with preparing for and conducting an election.

These remedies are in addition to any other remedies provided to County by this Agreement, including but not limited to termination for cause as provided in section 18 of Exhibit A (County of Santa Clara Terms and Conditions), and the County’s rights pursuant to the warranties provided in Exhibit G (Software License/Warranty and Hardware Warranty Terms and Conditions).

### ***3.3 Project Management***

- a. The Dominion Project Manager, during implementation, or the Dominion Customer Relations Manager, for ongoing support, will be available to provide election-related support services pursuant to the timeframes and method of availability in the table in section 3.2.

### ***3.4 Pre-Election Logic and Accuracy Testing***

- a. The ROV will conduct Pre-Election Logic and Accuracy Testing (Pre-LAT) on all ICX BMD, ICE and ICC tabulators using paper ballot test decks, rather than simulation scripts. The Pre-LAT procedures will involve programming all voting machines with the final election definition and scanning hand-marked or pre-marked (computer generated) test decks through each tabulator. After test decks have been scanned and the results report tapes have been verified, test results will

be uploaded into Democracy Suite's Results Tally and Reporting module.

- b. Dominion will have technical support personnel available onsite throughout the Pre-LAT process who can identify the reasons for any issues or anomalies and resolve any equipment malfunctions that require repairs, including conducting repairs of equipment onsite in the ROV's warehouse.

### **3.5 *Vote Center Support***

Dominion shall provide qualified and competent personnel onsite during the hours required by this Agreement to support and enable the ROV's personnel to successfully conduct each Election.

### **3.6 *Post-Election Support***

#### **3.6.1 Official Canvass**

Dominion will provide instruction regarding Democracy Suite generating reports associated with conducting the official canvass including, but not limited to, Interim, Semi-Final, and Final Statement of the Votes reports. Dominion will be available to assist the ROV's staff in operation of Democracy Suite during the Canvass period. Dominion shall provide sample procedures and recommendations for the ROV to review while developing the County-specific canvass processes.

#### **3.6.2 One Percent Manual Tally / Risk Limiting Audit**

The ROV will conduct the one-percent manual tally or Risk Limiting Audit required during the official canvass. Dominion will be available to assist the ROV's staff in operation of Democracy Suite during the conduct of any one-percent manual tally or Risk Limiting Audit. Dominion shall provide sample procedures and recommendations for the ROV to review while developing County-specific canvass processes.

#### **3.6.3 Recount**

The System will support manual recount processes that enable the County to utilize either the physical ballots or the ballot images with the appended AuditMark interpretation of vote markings, Cast Vote Records, and EMS Statement of Vote reports. Dominion will be available to assist the ROV's staff in operation of Democracy Suite during the conduct of any recounts. Dominion will provide examples of recount procedures that the ROV can review when creating procedures for recounts.

## **4 Refresh of server hardware**

Contractor will refresh EMS server hardware and related third party software one time at County's request, at a time of County's choosing during the Agreement Term, at no additional cost to the County.

**Exhibit D.1  
Implementation Schedule**

**The following table provides an overview of the implementation milestones and activities for the first statewide primary and the first statewide general election during the Agreement Term.**

Table A – Critical Milestones. All critical milestones are for every election for Agreement Term unless otherwise stated.

<b>Critical Milestone</b>	<b>Due Date</b>
End-to-end System component functional testing is completed	E-90
Training for all personnel is completed.	E-90
Full System Acceptance testing is completed (exclusive of complete Ballot Box order)	E-60
Election Certified – March and November 2020 Presidential Contest	E+28
Election Certified – All other contests March 2020 Primary and November 2020 General Election	E+30

Table B – Implementation Milestones

Task Name	Duration	Start	Finish
<b>1 Implementation Planning</b>			
1.1 Agreement Signed	1 day	13-Aug-19	13-Aug-19
1.2 Kickoff Meeting	1 day	14-Aug-19	14-Aug-19
1.3 Create Project Charter	3 day	15-Aug-19	19-Aug-19
1.4 Approve Project Charter	1 day	19-Aug-19	19-Aug-19
1.5 Create Steering Committee Charter	3 day	15-Aug-19	19-Aug-19
1.6 Approve Steering Committee Charter	1 day	19-Aug-19	19-Aug-19
<b>2 Transition Planning</b>	<b>20 days</b>	20-Aug-19	16-Sep-19
<b>2.1 Computer Room(s)</b>	<b>10 day</b>	20-Aug-19	2-Sep-19
2.1.1 Walkthrough with Dominion Technical Lead and ROV IT Resources	1 day	20-Aug-19	20-Aug-19
2.1.2 Review setup / determine retrofit necessary	1 day	21-Aug-19	21-Aug-19
2.1.3 Retrofit / Complete changes necessary for EMS installation	8 day	22- Aug-19	2-Sep-19
<b>2.2 Warehouse Facilities</b>	<b>5 day</b>	20-Aug-19	26-Aug-19
2.2.1 Walkthrough with Dominion Technical Lead and ROV It Resources	1 day	20-Aug-19	20-Aug-19
2.2.2 Review setup / determine retrofit necessary	1 day	21-Aug-19	21-Aug-19
2.2.3 Retrofit / Complete changes necessary for Warehouse equipment	3 day	22-aug-19	26-Aug-19
<b>2.3 Staff Training</b>	<b>5 day</b>	22-Aug-19	26-Aug-19
2.3.1 Deliver Acceptance Test Plan and Scripts	1 day	26-Aug-19	22-Aug-19
2.3.2 Develop training schedule	2 day	22-Aug-19	23-Aug-19

Task Name	Duration	Start	Finish	
2.3.3 Determine training locations(s)	2 day	24-Aug-19	25-Aug-19	
2.3.4 Identify training participants	1 day	26-Aug-19	26-Aug-19	
<b>2.4 Voter Education</b>	<b>2 day</b>	27-Aug-19	28-Aug-19	
2.4.1 Identify voter outreach activities	1 day	27-Aug-19	27-Aug-19	
2.4.2 Determine setup for outreach activities (equipment and type of election)	2 day	27-Aug-19	28-Aug-19	
<b>2.5 Vote Center Supplies</b>	<b>1 day</b>	27-Aug-19	27-Aug-19	
2.5.1 Review current Vote Center supplies	1 day	27-Aug-19	27-Aug-19	
2.5.2 Review recommended changes to Vote Center supplies	1 day	27-Aug-19	27-Aug-19	
2.5.3 Review recommended changes to Vote Center supplies	1 day	27-Aug-19	27-Aug-19	
<b>2.6 Election Processes</b>	<b>5 day</b>	9-Sep-19	16-Sep-16	
2.6.1 Complete System functional review with area/ROV managers	5 day	9-Sep-19	16-Sep-16	
2.6.2 Determine process / ballot handling flow	1 day	28-Aug-19	28-Aug-19	
<b>2.7 Pollworker Training</b>	<b>1 day</b>	3-Sep-19	3-Sep-19	
2.7.1 Complete equipment review with pollworker trainers	1 day	3-Sep-19	3-Sep-19	
2.7.2 Determine pollworker training scope and develop training program	1 day	3-Sep-19	3-Sep-19	
<b>3 Equipment Delivery, Installation, Configuration, Acceptance Training and Testing</b>	<b>62 days</b>	22-Aug-19	15-Nov-19	
<b>3.1 Election Management System Infrastructure (EMS) consists of</b>	<b>17 days</b>			
<ul style="list-style-type: none"> <li>EMS Standard Server Kit (R630/WS2012/SS2016)</li> <li>EMS Client Workstation Kit</li> <li>EMS Adjudication Workstation Kit</li> <li>Reformatting Station Kit</li> <li>EMS Report Printers - LBP6230DW</li> </ul>		22-Aug-19	9-2ep-19	
3.1.1 EMS Delivery		2	22-Aug-19	23-aug-19
3.1.2 EMS Installation and configuration		5	26-Aug-19	8-Aug-19
3.1.3 EMS ROV Acceptance Training		10	2-Sep-19	13-Sep-19
3.1.4 EMS ROV Acceptance Testing	10	2-Sep-19	13-Sep-19	
<b>3.2 ImageCast Central Count Scanners (ICC) consists of</b>	<b>17 days</b>			
<ul style="list-style-type: none"> <li>ImageCast Central Kit - HSS</li> <li>ImageCast Central Kit – G1130</li> </ul>		22-Aug-19	9-2ep-19	
3.2.1 ICC Delivery	2	22-Aug-19	23-aug-19	

Task Name	Duration	Start	Finish
3.2.2 ICC Installation & Configuration	5	26-Aug-19	8-Aug-19
3.2.3 ICC ROV Acceptance Training	10	2-Sep-19	13-Sep-19
3.2.4 ICC ROV Acceptance Testing	10	2-Sep-19	13-Sep-19
<b>3.3 ImageCast Evolution Kit (ICE)</b> <ul style="list-style-type: none"> <li>• ICE Tabulator</li> <li>• Ballot Box</li> <li>• On/Off Switch Cover Kit</li> <li>• ATI Kit – ICE/ICP</li> <li>• Compact Flash Memory Card 16GB</li> <li>• ICE I-Button Technician Key – Yellow</li> </ul>	<b>55 Days</b>	2-Sep-19	15-Nov-19
3.3.1 ICE Device Delivery	45	2-Sep-19	1-Nov-19
3.3.3 ICE Installation & Configuration	45	2-Sep-19	1-Nov-19
3.3.4 ICE ROV Acceptance Training	5	9-Sep-19	13-Sep-19
3.3.5 ICE ROV Acceptance Testing	45	16-Sep-19	15-Nov-19
<b>3.4 ImageCast X Ballot Marking Devices (ICX) consists of</b> <ul style="list-style-type: none"> <li>• ImageCast X Kit – Classic BMD 21”</li> <li>• ImageCast X Classic Voter Activation Kit (ICVA)</li> <li>• ImageCast X Classic Poll Worker Smart Card</li> <li>• ImageCast X Classic Technician Smart Card</li> <li>• ATI Kit – ICX – USB</li> <li>• ImageCast X Voting Booth Standard</li> <li>• ImageCast X Classic BMD Transport Bag Kit</li> <li>• USB Flash Drive – 8GM – 3.0</li> </ul>	<b>55 Days</b>	2-Sep-19	15-Nov-19
3.4.1 ICX Delivery	45 days	2-Sep-19	1-Nov-19
3.4.2 ICX Installation & Configuration	45 days	2-Sep-19	1-Nov-19
3.4.3 ICX ROV Acceptance Training	5 days	9-Sep-19	13-Sep-19
3.4.4 ICX ROV Acceptance Testing	45 days	16-Sep-19	15-Nov-19
<b>4 System Documentation &amp; Manuals</b>	<b>1 day</b>	20-Aug-19	20-Aug-19
<b>4.1 Dominion to provide System documentation and manuals to Santa Clara County</b>	<b>1 day</b>	20-Aug-19	20-Aug-19
4.1.1 Ballot Layout and Creation	1 day	20-Aug-19	20-Aug-19
4.1.2 ImageCast Central (ICC) Operator Training	1 day	20-Aug-19	20-Aug-19
4.1.3 Adjudication Training	1 day	20-Aug-19	20-Aug-19
4.1.4 ImageCast Central Operator Training	1 day	20-Aug-19	20-Aug-19
4.1.5 ImageCast X Administrator Training	1 day	20-Aug-19	20-Aug-19
4.1.6 ImageCast X Operator Training	1 day	20-Aug-19	20-Aug-19

Task Name	Duration	Start	Finish
4.1.7 Train the Trainer: Pollworker Training	1 day	20-Aug-19	20-Aug-19
<b>4.2 Santa Clara County to complete review of documentations and develop county specific materials</b>	<b>20 day</b>		
4.2.1 Ballot Layout and Creation	20 day	20-Aug-19	16-Sep-19
4.2.2 ImageCast Central (ICC) Administrator Training	20 day	20-Aug-19	16-Sep-19
4.2.3 Adjudication Training	20 day	20-Aug-19	16-Sep-19
4.2.4 ImageCast Central Operator Training	20 day	20-Aug-19	16-Sep-19
4.2.5 ImageCast X Administrator Training	20 day	20-Aug-19	16-Sep-19
4.2.6 ImageCast X Operator Training	20 day	20-Aug-19	16-Sep-19
4.2.7 Train the Trainer: Pollworker Training	20 day	20-Aug-19	16-Sep-19
<b>5 End to End System Test / Mock Election</b>	<b>22 days</b>	<b>23-Oct-19</b>	<b>21-Nov-19</b>
5.1 Mark ballots on ImageCast X machines	5 days	23-Oct-19	29-Oct-19
5.2 Scan and tabulate ballots in ImageCast Central Machines	3 days	4-Nov-19	6-Nov-19
5.3 Adjudicate ballots	3 days	7-Nov-19	11-Nov-19
5.4 Validate and publish results, generate results reports	3 days	12-Nov-19	14-Nov -9
5.5 Identify precincts/batches to be manually tallied	1 day	15-Nov-19	15-Nov-19
5.6 Run reports for manual tally	1 day	18-Nov-19	18-Nov-19
5.7 Complete manual tally	3 days	19-Nov-19	21-Nov-19
<b>6 Primary Election Activities</b>	<b>84 days</b>	12-Dec-19	7-Apr-20
<b>6.1 Ballot Production / Creation</b>	<b>15 days</b>	12-Dec-19	1-Jan-20
6.1.2 Complete election definition (EED)	1 day	13-Dec-19	13-Dec-19
6.1.3. Proof Election Definition reports	3 days	14-Dec-19	17-Dec-19
6.1.4 Generate Audio (EDD, AS, External)	1 day	18-Dec-19	18-Dec-19
6.1.5 Generate Ballot proofs (EDD)	2 days	19-Dec-19	20-Dec-19
6.1.6 Proof Ballots	1 day	20-Dec-19	20-Dec-19
6.1.7 Generate Audio (EED, AS, External)	4 days	21-Dec-19	25-Dec-19
6.1.8 Proof Audio	1 day	26-Dec-19	26-Dec-19
6.1.9 Generate Screen Content (EED)	2 days	27-Dec-19	30-Dec-19
6.1.10 Proof Screen Content (EED, ICX)	15 days	27-Dec-19	16-Jan-20
<b>6.2 Logic and Accuracy Testing</b>	<b>1 day</b>	27-Jan-20	27-Jan-20
6.2.1 Program USB Stick	1 day	28-Jan-20	28-Jan-20
6.2.2 Program Pollworker cards	3 days	29-Jan-20	31-Jan-20
6.2.3 Load Election Files to ICXes	3 days	31-Jan-20	4-Feb-20
6.2.4 Load Activation files to ICVA	1 day	30-Jan-20	30-Jan-20
6.2.5 Load Election Files to ICCes	1 day	31-Jan-20	31-Jan-20
6.2.6 Mark Test Decks/Run VoteSim on ICXes	2 days	3-Feb-20	4-Feb-20
6.2.7 Tabulate Test Decks on ICCes	2 days	4-Feb-20	5-Feb-20
6.2.8 Run Results Reports	2 days	5-Feb-20	6-Feb-20

Task Name	Duration	Start	Finish
6.2.9 Reset the System for the elections	2 days	7-Feb-20	10-Feb-20
<b>6.3 In-person Voting</b>	1 day	3-Feb-20	3-Feb-20
6.3.1 Pollworker Training	25 days	17-Jan-20	18-Feb-20
6.3.2 Deliver equipment to vote centers	3 days	17-Feb-20	20-Feb-20
6.3.3 In-person voting begins	11 days	22-Feb-20	3-Mar-20
<b>6.4 Ballot Processing</b>	1 day	24-Feb-20	24-Feb-20
6.4.2 Ballot Scanning and tabulation	17 days	20-Feb-20	7-Mar-20
6.4.3 Adjudication	17 days	20-Feb-20	7-Mar-20
<b>6.5 Election Day</b>	1 day	3-Mar-20	3-Mar-20
6.5.1 Election Day Support	3 days	2-Mar-20	4-Mar-20
<b>6.6 Post Election: Canvass</b>	<b>1 day</b>	4-Mar-20	4-Mar-20
6.6.1 Identify batches or precincts to be audited	1 day	5-Mar-20	5-Mar-20
6.6.2 Run reports for manual tally	1 day	9-Mar-20	9-Mar-20
6.6.3 Complete manual tally	9 days	10-Mar-20	20-Mar-20
6.6.4 Compile the Statement of Vote	1 day	23-Mar-20	23-Mar-20
6.6.5 Certify the election	1 day	2-Apr-20	2-Apr-20
<b>6.7 Recount Activities</b>	30 days	4-Apr-20	4-May-20
<b>7 Post Election / Post Implementation Debriefing</b>	1 day		
		5-May-20	5-May-20
<b>8 General Election Activities</b>	<b>84 days</b>	13-Aug-20	8-Dec-20
<b>8.1 Ballot Production / Creation</b>	<b>15 days</b>	13-Aug-20	2-Sep-20
8.1.2 Complete election definition (EED)	1 day	14-Aug-20	14-Aug-20
8.1.3. Proof Election Definition reports	3 days	15-Aug-20	18-Aug-20
8.1.4 Generate Audio (EDD, AS, External)	1 day	19-Aug-20	19-Aug-20
8.1.5 Generate Ballot proofs (EDD)	2 days	20-Aug-20	21-Aug-20
8.1.6 Proof Ballots	1 day	21-Aug-20	21-Aug-20
8.1.7 Generate Audio (EED, AS, External)	4 days	22-Aug-20	26-Aug-20
8.1.8 Proof Audio	1 day	27-Aug-20	27-Aug-20
8.1.9 Generate Screen Content (EED)	2 days	28-Aug-20	31-Aug-20
8.1.10 Proof Screen Content (EED, ICX)	15 days	28-Aug-20	17-Sep-20
<b>8.2 Logic and Accuracy Testing</b>	<b>1 day</b>	28-Sep-20	28-Sep-20
8.2.1 Program USB Stick	1 day	29-Sep-20	29-Sep-20
8.2.2 Program Pollworker cards	3 days	30-Sep-20	2-Oct-20
8.2.3 Load Election Files to ICXes	3 days	2-Oct-20	6-Oct-20
8.2.4 Load Activation files to ICVA	1 day	1-Oct-20	1-Oct-20
8.2.5 Load Election Files to ICCes	1 day	2-Oct-20	2-Oct-20
8.2.6 Mark Test Decks/Run VoteSim on ICXes	2 days	5-Oct-20	6-Oct-20
8.2.7 Tabulate Test Decks on ICCes	2 days	6-Oct-20	7-Oct-20
8.2.8 Run Results Reports	2 days	7-Oct-20	8-Oct-20
8.2.9 Reset the System for the elections	2 days	9-Oct-20	12-Oct-20

Task Name	Duration	Start	Finish
<b>8.3 In-person Voting</b>	1 day	5-Oct-20	5-Oct-20
8.3.1 Pollworker Training	25 days	17-Sep-20	18-Oct-20
8.3.2 Deliver equipment to vote centers	3 days	17-Oct-20	20-Oct-20
8.3.3 In-person voting begins	11 days	22-Oct-20	3-Mar-20
<b>8.4 Ballot Processing</b>	1 day	26-Oct-20	26-Oct-20
8.4.1 Ballot Scanning and tabulation	17 day	20-Oct-20	7-Nov-20
8.4.2 Adjudication	17 day	20-Oct-20	7-Nov-20
<b>8.5 Election Day</b>	1 day	3-Nov-20	3-Nov-20
8.5.1 Election Day Support	3 days	2-Nov-20	4-Nov-20
<b>8.6 Post Election: Canvass</b>	<b>1 day</b>	4-Nov-20	4-Nov-20
8.6.1 Identify batches or precincts to be audited	1 day	5-Nov-20	5-Nov-20
8.6.2 Run reports for manual tally	1 day	9-Nov-20	9-Nov-20
8.6.3 Complete manual tally	9 days	10-Nov-20	20-Nov-20
8.6.4 Compile the Statement of Vote	1 day	23-Nov-20	23-Nov-20
8.6.5 Certify the election	1 day	3-Dec-20	3-Dec-20
<b>8.7 Recount Activities</b>	30 days	4-Dec-20	4-Jan-21
<b>9 Post Election / Post Implementation Debriefing</b>	1 day	5-Jan-21	5-Jan-21

**Exhibit E**  
**INSURANCE REQUIREMENTS**

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

- a. Each occurrence - \$1,000,000
- b. General aggregate - \$2,000,000
- c. Products/Completed Operations aggregate - \$1,000,000
- d. Personal Injury - \$1,000,000

2. General liability coverage shall include:

- a. Premises and Operations
- b. Personal Injury liability
- c. Products/Completed
- d. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to owned, non-owned and hired vehicles.

4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned non-owned and hired aircraft/watercraft.

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

6. Professional Errors and Omissions Liability Insurance

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence/aggregate.
- b. If coverage contains a deductible or self-retention, it shall not be greater than fifty thousand dollars (\$50,000) per occurrence/event.
- c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this Agreement.

7. Cyber Liability

- a. Each occurrence - \$1,000,000
- b. General aggregate - \$2,000,000

8. Cyber liability coverage shall include at a minimum, but not limited to:

- a. Information Security and Privacy Liability
- b. Privacy Notification Costs

9. Claims Made Coverage

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Contractor's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

E. Special Provisions

The following provisions shall apply to this Agreement:

- 1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
- 2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial

capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.

4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

**Exhibit F**  
**County Information Technology User Responsibility Statement for Third Parties**

**1. DEFINITIONS**

- (a) “*County Confidential Information*” is all material non-public information, written or oral, disclosed, directly or indirectly, through any means of communication or observation by County to Contractor or any of its affiliates or representatives
- (b) “*County Systems*” include but are not limited to, all County-owned, leased or managed servers, mainframe computers, desktop computers, laptop computers, handheld devices (including smart phones, wireless PDAs and Pocket PCs), equipment, networks, application systems, databases, software, phone systems, any device with network capabilities (e.g., a workstation with an attached modem, routers, switches, laptop computers, handheld devices), and any other system that stores, processes, and/or transmits County-owned information/data. These items are typically under the direct control and management of the County. “*County Systems*” also include these items when they are under the control and management of a service provider for use by County, as well as any personally-owned device that an individual has express written permission to use for County purposes.
- (c) “*County-owned information/data,*” for purposes of this Exhibit is any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under the control and management of a service provider for use by County. This information/data is the exclusive property of County unless constitutional provision, State or Federal statute or case law provide otherwise. County-owned information/data does not include a User’s personal, non-County business information, communications, data, files and/or software transmitted by or stored on a personally-owned device if that information/data is not transported across a County network or does not reside in a County System or on a network or system under the control and management of a service provider for use by County.
- (d) “*Mobile Device*” is any portable computing device that fits one of the following categories: laptops, smartphones, or tablets. “*Mobile Device*” does not include devices that are used exclusively for the purpose of making telephone calls.
- (e) “*Users*” include all employees, agents and/or representatives of Contractor performing services under this Agreement.

**2. GENERAL REQUIREMENTS**

- (a) Contractor will provide Users with a written copy of this Exhibit and will ensure that Users know, understand and comply with the requirements of this Exhibit. Users allowed access to County resources shall sign the Acknowledgement and Receipt. In all cases, such access shall be subject to approval by an authorized County representative.
- (b) Users are personally responsible for knowing and understanding these requirements, and are personally responsible for any actions they take that do not comply with County policies and standards. If a User is unclear as to requirements, User shall ask County for guidance.

- (c) If a User is issued an account for a County System, User shall comply with the following County standards for password definition, use, and management:
- (i) Minimum password length is 12 characters unless a particular County System has a different requirement or is not technically feasible.
  - (ii) The password must be high complexity (contains one of each, upper, lower, number, symbol).
  - (iii) The password must be rotated every 90 days.
  - (iv) User must not reuse the last 10 passwords.
  - (v) Access to County System is denied after 5 failed logon attempts.
- (d) Only authorized County staff may attach any form of computer equipment to a County network or system. This includes, but is not limited to, attachment of such devices as mobile devices, peripherals (e.g., external hard drives, printers), and USB storage media. It excludes County wireless networks provided specifically for the use of guests or visitors to County facilities.
- (e) User shall not use USB storage media on any County System. All such devices shall be County-owned, formally issued to User by County, and used only for legitimate County purposes.
- (f) User shall not connect County-owned computing equipment, including USB storage media, to non-County systems or networks, unless County gives its express written permission. This formal approval process ensures that the non-County system or network in question has been evaluated for compliance with County security standards. An example of a permitted connection to a non-County system or network would be approved connection of a County issued laptop to a home network.
- (g) User shall not install, configure, or use any device intended to provide connectivity to a non-County network or system (such as the Internet), on any County System, without County's express written permission. If authorized to install, configure or use such a device, User shall comply with all applicable County standards designed to ensure the privacy and protection of data, and the safety and security of County Systems. Any allowed installation shall not be activated until it is reviewed and approved in writing by an authorized County representative.
- (h) The unauthorized implementation or configuration of encryption, special passwords, biometric technologies, or any other methods to prevent access to County resources by those individuals who would otherwise be legitimately authorized to do so is prohibited.
- (i) Users shall not attempt to elevate or enhance their assigned level of privileges unless County gives its express written permission. Users who have been granted enhanced privileges due to their specific roles, such as system or network administrators, shall not abuse these privileges and shall use such privileges only in the performance of appropriate, services performed under this Agreement.
- (j) Users shall use County-approved authentication mechanisms when accessing County networks and systems, and shall not deactivate, disable, disrupt, or bypass (or *attempt* to deactivate,

disable, disrupt, or bypass) any security measure or security configuration implemented by County.

- (k) Users shall not circumvent, or attempt to circumvent, legal guidelines on software use and licensing. If a User is unclear as to whether a software program may be legitimately copied or installed, it is the responsibility of the User to check with County.
- (l) All software on County Systems shall be installed by authorized County support staff except as provided in this Agreement. Users may not download or install software on any County system unless express written permission has been obtained from County such as in this Agreement.
- (m) Users shall immediately report to the County TechLink Center the loss or theft of County-owned computer equipment, or of personally-owned computer equipment that has been approved for use in conducting County business or performing services under a Supplemental Agreement. The TechLink Center's contact information is (408) 918-7000, [TLC@isd.sccgov.org](mailto:TLC@isd.sccgov.org).
- (n) Users must be aware of security issues and shall immediately report incidents to the County Information Security Office involving breaches of the security of County Systems or breaches of County-owned information/data, such as the installation of an unauthorized device, or a suspected software virus or other occurrences of malicious software or content. The Information Security Office's contact information is [o365-iso-team@scccconnect.onmicrosoft.com](mailto:o365-iso-team@scccconnect.onmicrosoft.com).
- (o) Users shall respect the sensitivity, privacy and confidentiality aspects of all County-owned information. In particular:
  - (i) Users shall not access, or attempt to access, County Systems or County-owned information/data unless specifically authorized to do so by the terms of this Agreement.
  - (ii) If User is assigned a County account, User shall not allow unauthorized individuals to use their account; this includes the sharing of account passwords.
  - (iii) Users shall not without County's written permission, use or disclose County-owned information/data other than in the performance of its obligations under this Agreement.
  - (iv) Users shall take every precaution to ensure that all confidential or restricted information is protected from disclosure to unauthorized individuals.
  - (v) Users shall not make or store paper or electronic copies of information unless required to provide services under this Agreement.
  - (vi) Users shall comply with all confidentiality requirements in Contractor's Agreement with the County. Users shall not use or disclose County Confidential Information other than in the performance of its obligations for County. All County Confidential Information shall remain the property of the County. User shall not acquire any ownership interest in County Confidential Information.
- (p) Users shall do all of the following:

- (i) Users shall not change or delete County-owned information/data unless performing such changes is required to perform services under this Agreement.
  - (ii) Users shall avoid actions that might introduce malicious software, such as viruses or worms, onto any County system or network.
  - (iii) Upon termination or expiration of this Agreement, Users shall not retain, give away, or remove any County-owned information/data or document from any County System or County premises. Users shall return to County all County-owned assets, including hardware and data.
- (q) Electronic information transported across any County network, or residing in any County System, is potentially subject to access by County technical support staff, other County personnel, and the general public. Users should not presume any level of privacy for data transmitted over a County network or stored on a County System.
- (r) Users must protect, respect and not infringe upon all intellectual property rights, including but not limited to rights associated with patents, copyrights, trademarks, trade secrets, proprietary information, County Confidential Information, and confidential information belonging to any other third party.
- (s) All information resources on any County System are the property of County and are therefore subject to County policies regarding acceptable use. No User may use any County System or County-owned information/data for the following purposes:
- (i) Personal profit, including commercial solicitation or conducting or pursuing their own business interests or those of another organization that are not related to the User conducting County business. This prohibition does not apply to User's performance of contractual obligations for the County.
  - (ii) Unlawful or illegal activities, including downloading licensed material without authorization, or downloading copyrighted material from the Internet without the publisher's permission.
  - (iii) To access, create, transmit, print, download or solicit material that is, or may be construed to be, harassing or demeaning toward any individual or group for any reason, including but not limited to on the basis of sex, age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation, unless doing so is legally permissible and necessary in the course of conducting County business.
  - (iv) To access, create, transmit, print, download or solicit sexually-oriented messages or images, or other potentially offensive materials such as, but not limited to, violence, unless doing so is legally permissible and necessary in the course of conducting County business.
  - (v) Knowingly propagating or downloading viruses or other malicious software.
  - (vi) Disseminating hoaxes, chain letters, or advertisements.

### 3. INTERNET AND EMAIL

- (a) Users shall not use County Systems for personal activities.
- (b) When conducting County business or performing services under this Agreement, Users shall not configure, access, use, or participate in any Internet-based communication or data exchange service unless express written permission has been given by County. Such services include, but are not limited to, file sharing (such as Dropbox, Box, Google OneDrive), Instant Messaging (such as AOL IM), email services (such as Hotmail and Gmail), peer-to-peer networking services (such as Kazaa), and social networking services (such as blogs, Instagram, Snapchat, MySpace, Facebook and Twitter). If a User has received express written permission to access such services, User shall comply with all relevant County policies, procedures, and guidelines.
- (c) Users assigned a County email account must comply with the County's Records Retention and Destruction Policy.
- (d) Users shall not use an internal County email account assigned to another individual to either send or receive email messages.
- (e) Users shall not configure a County email account so that it automatically forwards messages to an external Internet email system unless County gives its express written permission.

### 4. REMOTE ACCESS

- a. Users are not permitted to implement, configure, or use any remote access mechanism unless the County has authorized the remote access mechanism.
- b. County may monitor and/or record remote access sessions, and complete information on the session logged and archived. Users have no right, or expectation, of privacy when remotely accessing County Systems or County-owned information/data. County may use audit tools to create detailed records of all remote access attempts and remote access sessions, including User identifier, date, and time of each access attempt.
- c. User shall configure all computer devices used to access County resources from a remote location according to NIST 800-53 standards, or an equivalent industry standard. These include approved, installed, active, and current: anti-virus software, software or hardware-based firewall, full hard drive encryption, and any other security software or security-related system configurations that are required and approved by County.
- d. Users that have been provided with a County-owned device intended for remote access use, such as a laptop or other Mobile Device, shall ensure that the device is protected from damage, access by third parties, loss, or theft. Users shall immediately report loss or theft of such devices to the County TechLink Center at (408) 918-7000, [TLC@isd.sccgov.org](mailto:TLC@isd.sccgov.org).
- e. Users shall protect the integrity of County Systems and County-owned information/data while remotely accessing County resources, and shall immediately report any suspected security incident or concern to the County Information Security Office at [o365-iso-team@sccconnect.onmicrosoft.com](mailto:o365-iso-team@sccconnect.onmicrosoft.com).

- f. Users shall comply with any additional remote access requirements in this Agreement such as an Exhibit on Remote Access.

## 5. THIRD PARTY-OWNED DEVICES

- a. This Section 5 applies if County permits Users to perform services under this Agreement with devices not owned by the County ("Third-party owned device"). Third-party owned devices include devices with email and/or data storage capability (such as laptops, iPhones, iPads, Android phones and tablets, BlackBerry and other "smart" devices).
- b. The third party-owned device in question shall use existing, County-approved and County-owned access/authentication systems when accessing County Systems.
- c. Users shall allow County to configure third party-owned devices as appropriate to meet security requirements, including the installation of specific security software mandated by County policy.
- d. Use of a third party-owned device shall comply with County policies and procedures for ensuring that software updates and patches are applied to the device according to a regular, periodic schedule on at least a monthly basis. County may verify software installations and updates.
- e. Users have no expectation of privacy with respect to any County-owned communications, information, or files on any third party-owned device. User agrees that, upon request, the County may immediately access any and all work-related or County-owned information/ data stored on these devices, in order to ensure compliance with County policies.
- f. Users shall adhere to all relevant County security policies and standards, just as if the third party-owned device were County property. This includes, but is not limited to, policies regarding password construction and management, physical security of the device, device configuration including full storage encryption, and hard drive and/or storage sanitization prior to disposal.
- g. Users shall not make modifications of any kind to operating system configurations implemented by County on the device for security purposes, or to any hardware or software installed on the device by County.
- h. Users shall treat the contract-related or County-owned communications, information or files the third-party owned device contains as County property. User shall not allow access to or use of any work-related or County-owned communications, information, or files by individuals who have not been authorized by County to access or use that data.
- i. Users shall report immediately to the County Information Security Office [o365-iso-team@sccconnect.onmicrosoft.com](mailto:o365-iso-team@sccconnect.onmicrosoft.com), any incident or suspected incident of unauthorized access and/or disclosure of County resources, data, or networks that involve the third-party owned device, and shall report immediately to the Tech Link Center at (408) 918-7000, [TLC@isd.sccgov.org](mailto:TLC@isd.sccgov.org), the loss or theft of the device.

**6. ACKNOWLEDGEMENT AND RECEIPT**

This Acknowledgement hereby incorporates the URS.

*By signing below, I acknowledge that I have read and understand all sections of this URS. I also acknowledge that violation of any of its provisions may result in disciplinary action, up to and including termination of my relationship with County and/or criminal prosecution.*

User Signature:

Date Signed:

\_\_\_\_\_

Print User Name:

\_\_\_\_\_

## EXHIBIT G

### SOFTWARE LICENSE/WARRANTY AND HARDWARE WARRANTY TERMS AND CONDITIONS

**1. Definitions.** Capitalized terms used herein have the meaning given in the Agreement unless otherwise defined herein.

1.1. “Hardware” means the Dominion ImageCast® system and all related hardware components identified in Exhibit B (Products and Services Fee Schedule) or Exhibit B.1 (Optional Products and Services Fee Schedule) if the County exercises the option for Managed Services Product Order, Exhibit C (Specifications and Requirements), and Exhibit D (Statement of Work).

1.2. “Licensee” means County.

1.3. “Licensor” means Dominion Voting Systems, Inc.

1.4. “Software” means the certified version of Dominion Democracy Suite 5.2 (9 languages) and the related software identified in Exhibit B (Products and Services Fee Schedule), Exhibit C (Specifications and Requirements), and Exhibit D (Statement of Work), and any updated versions provided pursuant to this Agreement.

1.5. “Specifications” means descriptions and data regarding the features, functions and performance of the Software, as set forth in user manuals or other applicable documentation provided by Licensor.

1.6. “Third-Party Products” means any software or hardware obtained from third-party manufacturers or distributors and provided by Licensor hereunder.

## **2. License Terms.**

2.1. **License.** Upon mutual execution of the Agreement, Licensor grants to Licensee a non-exclusive, non-transferable license (“License”) to use the Software subject to the terms of this Agreement, including this Exhibit G. Licensor represents and warrants that it has title to and/or the authority to grant the License to Licensee.

2.2. In addition to all other remedies provided for in the Agreement, Licensor agrees that in the event that it completely ceases to provide services for the Software, and there is no successor in interest by merger, operation of law, assignment, purchase or otherwise, it will provide Licensee, without charge, one (1) copy of the then-current source code for all of the Software and supporting documentation for the Software then operating and/or installed. County shall have a nonexclusive and nontransferable limited license to use the source code solely and exclusively to perform Licensor’s services under this Agreement.

2.3. **License Limitations.** Licensee’s use of the Software pursuant to the License granted in the Agreement is subject to the terms herein. Licensee may only use the Software for its own internal business purposes and conducting elections and solely in conjunction with the Hardware. The License shall only be effective during the Term and cannot be transferred or sublicensed.

2.4. **Third-Party Products.** When applicable, Licensor hereby sublicenses any software that constitutes or is contained in Third-Party Products, in object code form only, to Licensee for use during the Term.

2.5. Copyright License. Contractor grants to the County a non-exclusive, non-transferable, perpetual and irrevocable copyright license to the ballot formatting elements related to the functionality of Dominion's software and to all training materials whether prepared specifically for the County or not. Further, County may retain copies of any and all Documentation such as all training materials whether prepared specifically for the County or not. Ballots (including ballot layout) generated by the Software, whether electronic or physical, shall be the sole and exclusive intellectual property of the County.

2.6. No Other Licenses. Other than as expressly set forth herein, (a) Licensor grants no licenses, expressly or by implication, and (b) Licensor's entering into the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party. Licensee agrees not to use the Software as a service bureau for elections outside the Licensee's jurisdiction and agrees not to reverse engineer or otherwise attempt to derive the source code of the Software. The Licensee shall have no power to transfer or grant sub-licenses for the Software. Any use of all or any portion of the Software not expressly permitted is strictly prohibited.

2.7. Intellectual Property Infringement Indemnification. If a third party claims that the Software or System infringes any patent, copyright, trade secret or similar intellectual property right, Dominion shall, at its own expense, defend, indemnify, and hold harmless Licensee against such claim at Dominion's expense and pay all costs, damages and attorney's fees that a court or other adjudicatory body awards against Licensee. If such a claim is made or appears possible, Dominion shall, within sixty (60) days of such claim, and at its option: (a) secure for Licensee the right to continue to use the infringing portion of the Software or System; or (b) modify or replace the Software and System so that it is non-infringing but retains equivalent functionality and complies with the most recent State of California certification requirements and election laws. The foregoing notwithstanding, Dominion shall have no obligation to indemnify Licensee for any infringement claim based on Licensee's unauthorized modification or misuse of the Software, if the claim would have been avoided had the Software not been modified or misused.

**3. Payment.** In consideration of the grant of the license, the Licensee shall pay the license fees set forth in Exhibit B (Product and Services Fee Schedule) or Exhibit B.1 (Optional Products and Services Fee Schedule) if the County exercises the option for Managed Services Product Order.

**4. Upgrades and Certification.** During the Term, Licensor may provide upgrades to Licensee under the following terms and conditions.

4.1. Upgrades. In the event that Licensor, at its sole discretion, certifies a Software upgrade under the applicable laws and regulations of the State of California, Licensor shall make the certified Software upgrade available to the Licensee at no additional cost.

4.2. Certification Requirement. Notwithstanding any other terms of this Agreement, Licensor shall not provide, and shall not be obligated to provide under this Agreement any upgrade, enhancement or other software update that has not been certified under the applicable provisions of the election laws and regulations of the State of California.

**5. Prohibited Acts.** The Licensee shall not, without the prior written permission of Licensor:

- 5.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;
- 5.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;
- 5.3. Alter or modify the Software in any way or prepare any derivative works of the Software or any part of parts of the Software;
- 5.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software.

**6. Return of Software.** Upon termination or expiration of this Agreement, Licensee shall forthwith return to Licensor all Software in its possession or control, or destroy all such Software from any electronic media, and certify in writing to Licensor that it has been destroyed.

**7. Warranties.** The following warranties shall apply notwithstanding any acceptance of Deliverables by the County.

7.1. Software Warranty Terms. Licensor warrants that the Software will function substantially in accordance with the Specifications during the Term. Licensor warrants that the Software shall be free of illicit or harmful code, not contain hidden files or viruses, not replicate, transmit or activate themselves, not alter, damage or erase data or computer programs, and not contain open source code. The Licensor also warrants that the initially installed Software shall comply with the State of California certification requirements and election laws (collectively the "Requirements") in effect as of the date the Software is certified by the State of California. Any subsequent upgrades to the software pursuant to Section 4 shall comply with the Requirements in effect as of the date of the most recent certification by the State. However, the Licensor will not be required to make modifications to the Software or System as a result of changes in the Requirements. The foregoing warranty will be void in the event of the Software (i) having been modified by any party other than Licensor or (ii) having been used by the Licensee for purposes other than those for which the Software was designed by Licensor. If Licensor establishes that a failure of the foregoing warranty that is reported by Licensee is not covered by the foregoing warranty, the Licensee shall be responsible for the costs of Licensor's investigative and remedial work at Licensor's then current rates.

7.2. Corrections. If the Licensee believes that the Software is not functioning substantially in accordance with the Specifications or Requirements, the Licensee shall provide Licensor with written notice of the material failure within thirty (30) days of discovering the material failure, provided that the Licensee can reproduce the material failure to Licensor. The Licensor shall correct the deficiencies, at no additional cost to the Licensee and incorporate such corrections into the next version certified by the State of California. If Licensor is unable to correct the deficiencies within 180 days, Licensee may terminate this Agreement for cause at no cost to Licensee.

7.3. Hardware Warranty Terms. Dominion warrants that when used with the hardware and software configuration purchased through or approved by Dominion, each component of Hardware will be free of defects that would prevent the Hardware from operating in conformity in all material respects with its specifications as documented by Dominion. The Hardware Warranty shall remain in effect throughout the Agreement Term ("warranty period").

7.4. Hardware Warranty Services. If any Hardware component fails to operate in conformity with its specifications during the warranty period, Dominion shall provide a replacement within 15 days for the Hardware component or, at Dominion's sole option, shall repair the Hardware component, so long as the Hardware is operated with its designated Dominion Software and with third party products approved by Dominion for use with the Hardware. However, during the time period starting 60 days before an election and ending upon certification of election results, Dominion will repair or replace any malfunctioning equipment immediately or within a time frame deemed reasonable by the County. Newer and updated hardware or components may only be substituted if such hardware or components offer the same functionality as previous models, are compatible with the existing hardware and software components already provided to the County and their use would not violate the most recent certification granted by the Secretary of State in effect at the time of delivery.

7.5. If Licensor is unable to correct the deficiencies within the time periods above, Licensee may terminate this Agreement for cause at no cost to Licensee and/or Licensor shall provide the remedies set forth in Section 3.2 of Exhibit D (Statement of Work). The following conditions apply to the Hardware warranty:

7.5.1. Dominion shall perform one (1) on-site preventative maintenance inspection ("PM") per year on Hardware during the Agreement Term at a time mutually agreed to by the Parties. This on-site PM is expected to be scheduled at least ninety (90) days prior to requested test date. Dominion shall perform the annual PM and will replace any and all parts that fail due to normal use during the warranty period. There are no additional charges for parts covered by this warranty.

7.5.2. At the County's request, Dominion shall repair or replace Hardware at the rates and costs specified in Exhibit B when repair or replacement is needed for the following reasons: The following services are not covered by this Agreement, but may be available at Dominion's current time and material rates:

- (a) Accident, disaster, theft, vandalism, neglect, abuse, or any improper usage;
- (b) Modifications by any person other than those authorized in writing by Dominion;
- (c) Removal or change of serial numbers on the Hardware.

7.6. Third-Party Products. The warranties herein do not apply to any Third-Party Products. However, to the extent permitted by the manufacturers of Third-Party Products, Licensor shall pass through to Licensee all warranties such manufacturers make to Licensor regarding the operation of such Third-Party Products.

7.7. NO OTHER WARRANTIES. EXCEPT AS SET FORTH IN THE AGREEMENT AND HEREIN, LICENSOR DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

**EXHIBIT H**  
**ACRONYMS**

Abbreviation	Definition
ATI	Audio Tactile Interface
ATP	Acceptance Testing Plan
BMD	Ballot Marking Device
CVIG	County Voter Information Guide
DFM	Owner of the Election Information Management System
EED	Election Event Designer
EIMS	Election Information Management System owned by DFM
EMS	Election Management System
ICC	ImageCast Central
ICE	ImageCast Evolution
ICX	ImageCast X
LAT	Logic & Accuracy Testing
MSA	Managed Services Agreement
Pre-LAT	Pre-election Logic & Accuracy Testing
RAVBM	Remote Accessible Vote by Mail
RCV	Ranked Choice Voting
ROV	County of Santa Clara Registrar of Voters
RTR	Results Tally & Reporting
UOCAVA	Uniformed and Overseas Citizens Absentee Voting Act
VBM	Vote by Mail