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**SOFTWARE LICENSES, SOFTWARE AND HARDWARE WARRANTIES,
AND SERVICE AGREEMENT**

This Software Licenses, Software and Hardware Warranties, and Service Agreement (“Agreement”) is dated December 3, 2024 and is between Dominion Voting Systems, Inc., a Colorado Corporation (“Contractor”), and the County of Fresno, a political subdivision of the State of California (“County”).

Recitals

- A. The County and the Contractor entered into Agreement No. 19-227, dated 14th May 2019, pursuant to which the Contractor provided a comprehensive voting system, software licenses, warranties, and support to County; and
- B. The County and Contractor amended Agreement No. 19-227 on July 13, 2021 to modify equipment quantities and increase the maximum compensation; and
- C. The County and the Contractor desire to enter into a new agreement for continued software licenses, software and hardware warranties, and support of existing voting system equipment.

The parties therefore agree as follows:

Article 1

Contractor’s Services

- 1.1 **Scope of Services.** The Contractor shall perform all of the services and grant to the County the software licenses and software and hardware warranties provided in Exhibit A to this Agreement, titled “Scope of Services, Grant of Software Licenses, and Software and Hardware Warranty Terms.”
- 1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and able to perform all of the services and grant to the County the software licenses and software and hardware warranties provided in this Agreement. The Contractor further represents that it has the right to grant the licenses and warranties granted to the County hereunder.
- 1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations

1 under this Agreement, including but not limited to workers compensation, labor, and
2 confidentiality laws and regulations.

3
4 **Article 2**

5 **County's Responsibilities**

6 2.1 The County shall perform its obligations and duties as provided herein, including but
7 not limited to Exhibit A to this Agreement, titled "Scope of Services, Grant of Software Licenses,
8 and Software and Hardware Warranty Terms," and Exhibit B to this Agreement, titled
9 "Compensation."

10 2.2 The County shall provide Contractor and its staff, employees, and authorized agents
11 any necessary access to the County Clerk/Registrar of Voters' Department facilities. Access
12 shall be provided upon mutual agreement between the County Clerk/Registrar of Voters or
13 his/her designee. Access shall be provided during the County's usual business hours, Monday
14 through Friday, 8:00 a.m. to 5:00 p.m., except on County holidays, upon reasonable prior notice
15 except in the case of an emergency when access shall be provided as soon as is reasonably
16 practicable.

17
18 **Article 3**

19 **Compensation, Invoices, and Payments**

20 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for
21 the performance of its services and grant to the County of the software licenses and software
22 and hardware warranties under this Agreement as described in Exhibit B to this Agreement,
23 titled "Compensation."

24 3.2 **Maximum Compensation.** The maximum compensation payable to the Contractor
25 under this Agreement is One Million Two Hundred Six Thousand Seven Hundred Eighty-One
26 Dollars and 31 Cents. (\$1,206,781.31) for a full five-year term. For the period of May 14, 2024 to
27 May 13, 2025, the maximum compensation payable by the County to the Contractor shall not
28 exceed One Hundred Forty-Seven Thousand Eight Hundred Three Dollars and Eighty-Two

1 Cents (\$147,803.82). For the period of May 14, 2025 to May 13, 2026, the maximum
2 compensation payable by the County to the Contractor shall not exceed Two Hundred Fifty-Four
3 Thousand Five Hundred Forty-Eight Dollars and Fifty-Five Cents (\$254,548.55). For the period
4 of May 14, 2026 to May 13, 2027, the maximum compensation payable by the County to the
5 Contractor shall not exceed Two Hundred Sixty-One Thousand Two Hundred Eleven Dollars
6 and Fifty-One Cents (\$261,211.51). Should this Agreement be extended under Section 4.2
7 hereof, the maximum compensation payable by the County to the Contractor for each
8 subsequent 12-month period shall be as follows: May 14, 2027 to May 13, 2028, the maximum
9 compensation payable by the County to the Contractor shall not exceed Two Hundred Sixty-
10 Eight Thousand Seventy-Four Dollars and Thirty-five Cents (\$268,074.35); and May 14, 2028 to
11 May 13, 2029, the maximum compensation payable by the County to the Contractor shall not
12 exceed Two Hundred Seventy-Five Thousand One Hundred Forty-Three Dollars and Eight
13 Cents (\$275,143.08). The Contractor acknowledges that the County is a local government
14 entity, and does so with notice that the County's powers are limited by the California
15 Constitution and by State law, and with notice that the Contractor may receive compensation
16 under this Agreement only for services performed according to the terms of this Agreement and
17 while this Agreement is in effect, and subject to the maximum amount payable under this
18 section. The Contractor further acknowledges that County employees have no authority to pay
19 the Contractor except as expressly provided in this Agreement.

20 **3.3 Invoices.** The Contractor shall submit invoices to County Clerk/Elections, Business
21 Manager, countyclerkfinance@fresnocountyca.gov. The Contractor shall submit the initial
22 invoice for Annual Software License Fees and Optional Annual Warranty Fees within 60 days of
23 contract execution and subsequent invoices on July 1 of each subsequent contract year.
24 Support services described in Exhibit B to this Agreement, titled "Compensation," are purchased
25 on an as-needed basis and shall be invoiced and submitted by the Contractor within 60 days
26 after the month in which the Contractor performs support services.

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5.2 **Change of Contact Information.** Either party may change the information in section 5.1 by giving notice as provided in section 5.3.

5.3 **Method of Delivery.** Each notice between the County and the Contractor provided for or permitted under this Agreement must be in writing, state that it is a notice provided under this Agreement, and be delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, by telephonic facsimile transmission, or by Portable Document Format (PDF) document attached to an email.

(A) A notice delivered by personal service is effective upon service to the recipient.

(B) A notice delivered by first-class United States mail is effective three County business days after deposit in the United States mail, postage prepaid, addressed to the recipient.

(C) A notice delivered by an overnight commercial courier service is effective one County business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient.

(D) A notice delivered by telephonic facsimile transmission or by PDF document attached to an email is effective when transmission to the recipient is completed (but, if such transmission is completed outside of County business hours, then such delivery is deemed to be effective at the next beginning of a County business day), provided that the sender maintains a machine record of the completed transmission.

5.4 **Claims Presentation.** For all claims arising from or related to this Agreement, nothing in this Agreement establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

1 **Article 6**

2 **Termination and Suspension**

3 6.1 **Termination for Non-Allocation of Funds.** The terms of this Agreement are
4 contingent on the approval of funds by the appropriating government agency. If sufficient funds
5 are not allocated, then the County, upon at least 30 days' advance written notice to the
6 Contractor, may:

7 (A) Modify the services provided by the Contractor under this Agreement; or

8 (B) Terminate this Agreement.

9 6.2 **Termination for Breach.**

10 (A) Upon determining that a breach (as defined in paragraph (C) below) has
11 occurred, the County may give written notice of the breach to the Contractor. The written
12 notice may suspend performance under this Agreement, and must provide at least 30
13 days for the Contractor to cure the breach.

14 (B) If the Contractor fails to cure the breach to the County's satisfaction within the
15 time stated in the written notice, the County may terminate this Agreement immediately.

16 (C) For purposes of this section, a breach occurs when, in the determination of the
17 County, the Contractor has:

18 (1) Obtained or used funds illegally or improperly;

19 (2) Failed to comply with any part of this Agreement;

20 (3) Submitted a substantially incorrect or incomplete report to the County; or

21 (4) Improperly performed any of its obligations under this Agreement.

22 6.3 **Termination without Cause.** In circumstances other than those set forth above, the
23 County may terminate this Agreement by giving at least 30 days advance written notice to the
24 Contractor.

25 6.4 **No Penalty or Further Obligation.** Any termination of this Agreement by the County
26 under this Article 6 is without penalty to or further obligation of the County.

27 6.5 **County's Rights upon Termination.** Upon termination for breach under this Article
28 6, the County may demand repayment by the Contractor of any monies disbursed to the

1 Contractor under this Agreement that, in the County's sole judgment, were not expended in
2 compliance with this Agreement. The Contractor shall promptly refund all such monies upon
3 demand. This section survives the termination of this Agreement.

4 **Article 7**

5 **Independent Contractor**

6 7.1 **Status.** In performing under this Agreement, the Contractor, including its officers,
7 agents, employees, and volunteers, is at all times acting and performing as an independent
8 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint
9 venturer, partner, or associate of the County.

10 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the
11 manner or method of the Contractor's performance under this Agreement, but the County may
12 verify that the Contractor is performing according to the terms of this Agreement.

13 7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no
14 right to employment rights or benefits available to County employees. The Contractor is solely
15 responsible for providing to its own employees all employee benefits required by law. The
16 Contractor shall save the County harmless from all matters relating to the payment of
17 Contractor's employees, including compliance with Social Security withholding and all related
18 regulations.

19 7.4 **Services to Others.** The parties acknowledge that, during the term of this
20 Agreement, the Contractor may provide services to others unrelated to the County.

21 **Article 8**

22 **Indemnity and Defense**

23 8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the
24 County (including its officers, agents, employees, and volunteers) against all claims, demands,
25 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
26 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to
27 the performance or failure to perform by the Contractor (or any of its officers, agents,
28 subcontractors, or employees) under this Agreement. The County may conduct or participate in

1 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or
2 defend the County.

3 8.2 **Survival.** This Article 8 survives the termination of this Agreement.

4 **Article 9**

5 **Insurance**

6 9.1 The Contractor shall comply with all the insurance requirements in Exhibit D to this
7 Agreement.

8 **Article 10**

9 **Inspections, Audits, and Public Records**

10 10.1 **Inspection of Documents.** The Contractor shall make available to the County, and
11 the County may examine at any time during business hours and as often as the County deems
12 necessary, all of the Contractor's records and data with respect to the matters covered by this
13 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon
14 request by the County, permit the County to audit and inspect all of such records and data to
15 ensure the Contractor's compliance with the terms of this Agreement.

16 10.2 **State Audit Requirements.** If the compensation to be paid by the County under this
17 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
18 California State Auditor, as provided in Government Code section 8546.7, for a period of three
19 years after final payment under this Agreement. This section survives the termination of this
20 Agreement.

21 10.3 **Public Records.** The County is not limited in any manner with respect to its public
22 disclosure of this Agreement or any record or data that the Contractor may provide to the
23 County. The County's public disclosure of this Agreement or any record or data that the
24 Contractor may provide to the County may include but is not limited to the following:

25 (A) The County may voluntarily, or upon request by any member of the public or
26 governmental agency, disclose this Agreement to the public or such governmental
27 agency.
28

1 (B) The County may voluntarily, or upon request by any member of the public or
2 governmental agency, disclose to the public or such governmental agency any record or
3 data that the Contractor may provide to the County, unless such disclosure is prohibited
4 by court order.

5 (C) This Agreement, and any record or data that the Contractor may provide to the
6 County, is subject to public disclosure under the Ralph M. Brown Act (California
7 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

8 (D) This Agreement, and any record or data that the Contractor may provide to the
9 County, is subject to public disclosure as a public record under the California Public
10 Records Act (California Government Code, Title 1, Division 10, beginning with section
11 7920.000) ("CPRA").

12 (E) This Agreement, and any record or data that the Contractor may provide to the
13 County, is subject to public disclosure as information concerning the conduct of the
14 people's business of the State of California under California Constitution, Article 1,
15 section 3, subdivision (b).

16 (F) Any marking of confidentiality or restricted access upon or otherwise made with
17 respect to any record or data that the Contractor may provide to the County shall be
18 disregarded and have no effect on the County's right or duty to disclose to the public or
19 governmental agency any such record or data.

20 **10.4 Public Records Act Requests.** If the County receives a written or oral request
21 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,
22 and which the County has a right, under any provision of this Agreement or applicable law, to
23 possess or control, then the County may demand, in writing, that the Contractor deliver to the
24 County, for purposes of public disclosure, the requested records that may be in the possession
25 or control of the Contractor. Within five business days after the County's demand, the
26 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's
27 possession or control, together with a written statement that the Contractor, after conducting a
28 diligent search, has produced all requested records that are in the Contractor's possession or

1 control, or (b) provide to the County a written statement that the Contractor, after conducting a
2 diligent search, does not possess or control any of the requested records. The Contractor shall
3 cooperate with the County with respect to any County demand for such records. If the
4 Contractor wishes to assert that any specific record or data is exempt from disclosure under the
5 CPRA or other applicable law, it must deliver the record or data to the County and assert the
6 exemption by citation to specific legal authority within the written statement that it provides to
7 the County under this section. The Contractor's assertion of any exemption from disclosure is
8 not binding on the County, but the County will give at least 10 days' advance written notice to
9 the Contractor before disclosing any record subject to the Contractor's assertion of exemption
10 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs
11 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,
12 failure to produce any such records, or failure to cooperate with the County with respect to any
13 County demand for any such records.

14 **Article 11**

15 **Disclosure of Self-Dealing Transactions**

16 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation,
17 or changes its status to operate as a corporation.

18 11.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a
19 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
20 "Self-Dealing Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to
21 the County before commencing the transaction or immediately after.

22 11.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is
23 a party and in which one or more of its directors, as an individual, has a material financial
24 interest.

25 **Article 12**

26 **General Terms**

27 12.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
28 Agreement may not be modified, and no waiver is effective, except by written agreement signed

1 by both parties. The Contractor acknowledges that County employees have no authority to
2 modify this Agreement except as expressly provided in this Agreement.

3 12.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
4 under this Agreement without the prior written consent of the other party.

5 12.3 **Governing Law.** The laws of the State of California govern all matters arising from
6 or related to this Agreement.

7 12.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
8 County, California. Contractor consents to California jurisdiction for actions arising from or
9 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
10 brought and maintained in Fresno County.

11 12.5 **Construction.** The final form of this Agreement is the result of the parties' combined
12 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
13 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
14 against either party.

15 12.6 **Days.** Unless otherwise specified, "days" means calendar days.

16 12.7 **Headings.** The headings and section titles in this Agreement are for convenience
17 only and are not part of this Agreement.

18 12.8 **Severability.** If anything in this Agreement is found by a court of competent
19 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
20 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
21 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
22 intent.

23 12.9 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
24 not unlawfully discriminate against any employee or applicant for employment, or recipient of
25 services, because of race, religious creed, color, national origin, ancestry, physical disability,
26 mental disability, medical condition, genetic information, marital status, sex, gender, gender
27 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
28 all applicable State of California and federal statutes and regulation.

1 12.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
2 of the Contractor under this Agreement on any one or more occasions is not a waiver of
3 performance of any continuing or other obligation of the Contractor and does not prohibit
4 enforcement by the County of any obligation on any other occasion.

5 12.11 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
6 between the Contractor and the County with respect to the subject matter of this Agreement,
7 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
8 publications, and understandings of any nature unless those things are expressly included in
9 this Agreement. If there is any inconsistency between the terms of this Agreement without its
10 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
11 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
12 exhibits.

13 12.12 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
14 create any rights or obligations for any person or entity except for the parties.

15 12.13 **Authorized Signature.** The Contractor represents and warrants to the County that:

16 (A) The Contractor is duly authorized and empowered to sign and perform its
17 obligations under this Agreement.

18 (B) The individual signing this Agreement on behalf of the Contractor is duly
19 authorized to do so and his or her signature on this Agreement legally binds the
20 Contractor to the terms of this Agreement.

21 12.14 **Electronic Signatures.** The parties agree that this Agreement may be executed by
22 electronic signature as provided in this section.

23 (A) An “electronic signature” means any symbol or process intended by an individual
24 signing this Agreement to represent their signature, including but not limited to (1) a
25 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
26 electronically scanned and transmitted (for example by PDF document) version of an
27 original handwritten signature.

1 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
2 equivalent to a valid original handwritten signature of the person signing this Agreement
3 for all purposes, including but not limited to evidentiary proof in any administrative or
4 judicial proceeding, and (2) has the same force and effect as the valid original
5 handwritten signature of that person.

6 (C) The provisions of this section satisfy the requirements of Civil Code section
7 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
8 Part 2, Title 2.5, beginning with section 1633.1).

9 (D) Each party using a digital signature represents that it has undertaken and
10 satisfied the requirements of Government Code section 16.5, subdivision (a),
11 paragraphs (1) through (5), and agrees that each other party may rely upon that
12 representation.

13 (E) This Agreement is not conditioned upon the parties conducting the transactions
14 under it by electronic means and either party may sign this Agreement with an original
15 handwritten signature.

16 12.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
17 original, and all of which together constitute this Agreement.

18 [SIGNATURE PAGE FOLLOWS]
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The parties are signing this Agreement on the date stated in the introductory clause.

DOMINION VOTING SYSTEMS, INC.

COUNTY OF FRESNO

John Poulos, President & CEO
Dominion Voting Systems Inc.
PO Box 343
Broomfield, CO 80038
e-mail: contracts@dominionvoting.com

Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

Attest:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By:
Deputy

For accounting use only:

Org No.:28500600
Account No.:7309
Fund No.:0001
Subclass No.:10000

Exhibit A

1 Scope of Services, Grant of Software Licenses, and Software and Hardware Warranty

2 Terms

3 1. Definitions.

4
5 1.1. "Hardware" means the ImageCast® system defined in the Agreement as those items under
6 warranty including ImageCast Evolution Hardware, ImageCast X Hardware, Mobile Ballot Printing
7 Hardware, and ImageCast Central Hardware.

8
9 1.2. "Party" or "Parties" Dominion Voting Systems, Inc. ("Contractor") and County of Fresno
10 ("County") may hereinafter be referred to individually as a Party and collectively as the Parties.

11
12 1.3. "Software" means the Democracy Suite® and ImageCast® software licensed by the
13 Contractor hereunder, in object code form, including related documentation provided to the
County.

14
15 1.4. "Specifications" means descriptions and data regarding the features, functions and
16 performance of the Software and Hardware, as set forth in user manuals or other applicable
17 documentation provided by the Contractor.

18
19 1.5. "Third-Party Products" means any software or hardware obtained from third-party
20 manufacturers or distributors and provided by Licensor hereunder.

21 2. Licenses.

22
23 2.1. Licenses to Software. Subject to the terms herein and subject to payment by the
24 County of the License fees as described in Exhibit B to the Agreement, titled "Compensation,"
25 the Contractor grants to the County non-exclusive, non-transferrable licenses to use the
26 Software solely for the County's own internal business purposes and solely in conjunction with
27 the Software and Hardware. These Licenses shall only be effective during the term of the
28 Agreement and for the two (2) optional 12-month extension periods as described in Article 4
of the Agreement, titled "Term of Agreement," and cannot be transferred or sublicensed.

Exhibit A

1 2.2. Third-Party Products. When applicable, the Contractor agrees to sublicense any
2 software that constitutes or is contained in Third-Party Products, in object code form only, to
3 the County for use during the term of the Agreement and for the two (2) optional 12-month
4 extension periods as described in Article 4 of the Agreement, titled "Term of Agreement." This
5 sublicense is conditioned on the County's continued compliance with the terms and conditions
6 of the end-user licenses contained on or in the media on which such software is provided.

7 2.3. No Other Licenses. Other than as expressly set forth in this Agreement, (a) the
8 Contractor grants no licenses, expressly or by implication, and (b) the Contractor's entering
9 into and performing the Agreement will not be deemed to license or assign any intellectual
10 property rights of the Contractor to the County or any third party. Without limiting the foregoing
11 sentence, the County agrees not to use the Software as a service bureau for elections outside
12 the County's jurisdiction and agrees not to reverse engineer or otherwise attempt to derive
13 the source code of any Software. The County shall have no power to transfer or grant sub-
14 licenses for the Software. Any use of the Software not expressly permitted by the terms of
15 this Agreement is strictly prohibited.
16

17 **3. Upgrades and Certification.** During the term of the Agreement and for the two (2)
18 optional 12-month extension periods as described in Article 4 of the Agreement, titled "Term of
19 Agreement," the Contractor shall provide upgrades to the County under the following conditions.
20

21 3.1. Upgrades. In the event that the Contractor, at its sole discretion, certifies a Software
22 upgrade under the applicable laws and regulations of the State of California, the Contractor shall
23 make the certified Software upgrade available to the County at no additional cost.

24 3.2. Certification Requirement. Notwithstanding any other terms herein, the Contractor shall
25 not provide, and shall not be obligated to provide any upgrade or other Software update that has
26 not been certified under the applicable provisions of the election laws and regulations of the State
27 of California.
28

Exhibit A

1 **4. Prohibited Acts.** The County shall not, without the prior written permission of the
2 Contractor:

3
4 4.1. Transfer or copy onto any other storage device or hardware or otherwise copy the
5 Software in whole or in part except for purposes of system backup;

6
7 4.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or
8 in part;

9
10 4.3. Alter or modify the Software or copyright notices in any way or prepare any derivative
11 works of the Software or any part of parts of the Software;

12
13 4.4. Provide or transfer any Software or System component to any third party unless explicitly
14 authorized in writing by the Contractor.

15 **5. Return of Software.** Upon termination or expiration of this Agreement, the County shall
16 forthwith return to the Contractor all Software in its possession or control, or destroy all such
17 Software from any electronic media, and certify in writing to the Contractor that it has been
18 destroyed.

19
20 **6. Warranties.** The following warranties shall apply.

21 6.1. Software Warranty Terms. The Contractor warrants that the Software will function
22 substantially in accordance with the Specifications during the term of the Agreement and for the
23 two (2) optional 12-month extension periods as described in Article 4 of the Agreement, titled
24 "Term of Agreement." The Contractor also warrants that the Software shall comply with the State
25 of California certification requirements and election laws (collectively the "Requirements") in effect
26 as of the date the Software is certified by the State of California. This provision applies to the
27 initially installed Software as well as any subsequent upgrades pursuant to Section 3 of this Exhibit
28 A, titled "Upgrades and Certification," herein. However, the Contractor will not be required to

Exhibit A

1 make modifications to the Software or System as a result of changes in the Requirements. The
2 foregoing warranty will be void in the event of the Software (i) having been modified by any party
3 other than the Contractor or (ii) having been used by the County for purposes other than those
4 for which the Software was designed by the Contractor. If the Contractor establishes that the
5 reported material failure is not covered by the foregoing warranty, the County shall be responsible
6 for the costs of the Contractor's investigative work at a rate of \$275.00 per hour.
7

8 6.1.1. Corrections. If the County believes that the Software is not functioning substantially
9 in accordance with the Specifications or Requirements, the County shall provide
10 the Contractor with written notice of the material failure within thirty (30) days of
11 discovering the material failure, provided that the County can reproduce the
12 material failure to the Contractor. The Contractor shall correct the deficiencies, at
13 no additional cost and incorporate such corrections into the next version certified
14 by the State of California.

15 6.1.2. Third-Party Software. The warranties herein do not apply to any Third-Party
16 Software. However, to the extent permitted by the manufacturers of Third-Party
17 Software, the Contractor shall pass through to the County all warranties from the
18 Third-Party Software manufacturers regarding the operation of such Third-Party
19 Software.
20

21 6.2. Hardware Warranty Terms. The Contractor warrants that when used with the Hardware
22 and Software configuration purchased through or approved by the Contractor, each component
23 of Hardware will be free of defects that would prevent the Hardware from operating in conformity
24 in all material respects with its Specifications.

25 6.3. Hardware Warranty Services. If any Hardware component fails to operate in conformity
26 with its Specifications during the warranty period, the Contractor shall provide a replacement for
27 the Hardware component or, at the Contractor's sole option, shall repair the Hardware component,
28 so long as the Hardware is operated with its designated Software and with third party products

Exhibit A

1 approved by the Contractor for use with the Hardware. The following conditions apply to the
2 Hardware warranty:

3
4 6.3.1. The County shall bear the shipping costs to return the malfunctioning Hardware
5 component to the Contractor, and the Contractor shall bear the costs for shipping
6 the repaired or replaced Hardware component to the County.

7 6.3.2. The following services are not covered by this Agreement, but may be available
8 at the Contractor's current time and material rates:

9 6.3.2.1. Replacement of consumable items including but not limited to
10 batteries, paper rolls, toner, ribbons, seals, smart cards, and
11 removable memory devices, scanner rollers, disks, etc.;

12 6.3.2.2. Repair or replacement of Hardware damaged by of accident, disaster,
13 theft, vandalism, neglect, abuse, or any improper use;

14 6.3.2.3. Repair or replacement of Hardware modified by any person other
15 than those authorized in writing by the Contractor;

16 6.3.2.4. Repair or replacement of Hardware from which the serial numbers
17 have been removed, defaced or changed.

18
19 6.3.3 The County is not authorized to provide or transfer any Hardware or System
20 component to a third party unless explicitly authorized in writing by the Contractor.
21 Providing or transferring Hardware will void the terms of the Warranty and shall
22 be considered a breach to the Agreement.

23
24 6.3.4 Dominion shall perform one (1) on-site preventative maintenance inspection
25 once every four years on Dominion Hardware during the agreement term at a
26 time mutually agreed to by County and Contractor. This on-site preventative
27 maintenance is expected to be scheduled at least ninety (90) days prior to the
28 requested test date. Dominion shall perform the preventative maintenance and
replace any and all parts that fail due to normal use during the warranty period.

Exhibit A

1 In the event of a warranty claim outside of the scheduled preventative
2 maintenance, additional on-site service will be available at Dominion's then
3 current time and material rates. There are no additional charges for parts
4 covered by this warranty.
5

6 6.4. No Other Warranties. THE CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES,
7 AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR
8 STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A
9 PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING,
10 COURSE OF PERFORMANCE OR USAGE OF TRADE.
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Exhibit B

The Contractor will be compensated for performance of its services and grant to the County the software licenses and software and hardware warranties under this Agreement as provided in this Exhibit B. The Contractor is not entitled to any compensation except as expressly provided in this Exhibit B.

Payments specified in this Exhibit B are exclusive of all excise, sale, use and other taxes imposed by any governmental authority, all of which taxes (other than income taxes owed by the Contractor) shall be reimbursed by the County. All pricing in U.S. Dollars.

PRICING SUMMARY AND DELIVERABLES DESCRIPTION

1. Pricing Summary - Prices of equipment, software, software and hardware warranties, and other related services for voting, vote counting, and result processing.

ANNUAL SOFTWARE LICENSE FEES AND OPTIONAL ANNUAL WARRANTY FEES

DESCRIPTION	QTY	UNIT PRICE	TOTAL
Annual Software Licenses			
Democracy Suite Light Annual License Fee	1	\$19,669.09	\$19,669.09
Adjudication Annual Software License Fee	1	\$16,390.91	\$16,390.91
Mobile Ballot Printing Annual Software License Fee	1	\$3,278.18	\$3,278.18
ImageCast X Annual Firmware License - Classic BMD 21"	240	\$163.91	\$39,338.40
ImageCast Central Annual Firmware License - G2140	8	\$2,813.77	\$22,510.16
ImageCast Evolution (ICE) Annual Firmware License 2019 Purchase	60	\$249.15	\$14,949.00
ImageCast Evolution (ICE) Annual Firmware License 2022 Purchase	25	\$228.00	\$5,700.00
		Sub-total:	\$121,835.74
Optional Annual Warranties			
ImageCast X Annual Hardware Warranty - Classic BMD 21"	240	\$169.37	\$40,648.80
ImageCast Central Annual Hardware Warranty	8	\$1,639.09	\$13,112.72
ImageCast Evolution (ICE) Annual Hardware Warranty 2019 Purchase	60	\$256.79	\$15,407.40
ImageCast Evolution (ICE) Annual Hardware Warranty 2022 Purchase	25	\$235.00	\$5,875.00
MBP #2 Annual Hardware Warranty	50	\$375.00	\$18,750.00
		Sub-total:	\$93,793.92
Annual Total (including optional warranties)			\$215,629.66

Dominion will adjust the Annual Fees within three percent (3%) of the then current fee.

2. Annual Software License Fees and Optional Annual Warranty Fees Payment Schedule

The Contractor shall invoice the County for the Annual Software License Fees and any Optional Annual Warranty Fees for the first 12-month period under this Agreement within 60

Exhibit B

1 days of the date this Agreement is executed by the County. The Annual Software License
2 Fees and any Optional Annual Warranty Fees shall be invoiced by the Contractor on July 1
3 during each subsequent year of the Agreement and for the two (2) optional 12-month
4 extension periods as described in Article 4 of the Agreement, titled "Term of Agreement." The
5 County shall pay invoices in a timely manner and no later than forty-five (45) calendar days
6 from receipt of an invoice from the Contractor.
7

8 Payment #	Payment Description	Invoice Date	Amount
9 1	Annual Software License Fee and Optional Annual Warranty Fee Payments	Within 60 days of agreement execution.	\$115,353.82 <i>Discount applied due to Nov. 2023 annual fee payment. Payment #1 covers fees for November 1, 2024 – May 13, 2025.</i>
10 2	Annual Software License Fee and Optional Annual Warranty Fee Payments	July 1, 2025	\$222,098.40 <i>May 14, 2025 – May 13, 2026.</i>
11 3	Annual Software License Fee and Optional Annual Warranty Fee Payments	July 1, 2026	\$228,759.40 <i>May 14, 2026 – May 13, 2027.</i>
12 4	Annual Software License Fee and Optional Annual Warranty Fee Payments	July 1, 2027	\$235,623.07 <i>May 14, 2027 – May 13, 2028.</i>
13 5	Annual Software License Fee and Optional Annual Warranty Fee Payments	July 1, 2028	\$242,690.35 <i>May 14, 2028 – May 13, 2029.</i>

14 3. Support Services Description

15 3.1. **Ongoing telephone support.** Telephone support shall be available for the County during
16 the term of the Agreement and for the two (2) optional 12-month extension periods as
17 described in Article 4 of the Agreement, titled "Term of Agreement," at no additional costs.

18 3.2. **Travel and Expenses included.** All costs of the Contractor's transportation, lodging and
19 meal expenses are included during the term of the Agreement and for the two (2) optional
20 12-month extension periods as described in Article 4 of the Agreement, titled "Term of
21 Agreement."

22 3.3. **Other Services, Consumables or Equipment.** Any other services, consumables or
23 equipment not specifically identified in this Agreement are available for purchase by the
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Exhibit B

County at the Contractor's then current list price.

4. **Support Services Payment Schedule** – The Contractor shall provide invoices to the County within 60 days after the month in which the Contractor performs services. The County shall pay invoices in a timely manner and no later than forty-five (45) calendar days from receipt of an invoice from the Contractor.

Election and Support Services	Qty	Unit Price	Extension(Total)
Election On-Site Support	5	\$4,950.00	\$24,750.00
Election Database Set Up	5	\$27,500.00	\$137,500.00
Sub-total			\$162,250.00

4.1. On-Site Election Day Support. The Contractor will provide five (5) days (inclusive of travel and expenses) of direct onsite election support. Additional days to be purchased at the above rate by purchase order.

4.2. Election Ballot Definition/Database Setup. The Contractor shall provide election setup services and support for the election database creation and ballot review for five (5) Elections. Ballot definition services will be provided in English and Spanish and includes the following: Democracy Suite Election project setup, provide the Mail Ballot/Absentee PDF artwork, verification and proofing for each Election, provide audio setup for audio voting using a synthesizer. Any outside recording charges would be at the County's expense. Additional ballot definition/database setup to be purchased at the above rate by purchase order.

Exhibit C

Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a contractor's board of directors ("County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be used for purposes of completing this disclosure form.

Instructions

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit C

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code § 5233 (a)			
(5) Authorized Signature			
Signature:		Date:	

Exhibit D

Insurance Requirements

1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Technology Professional Liability (Errors and Omissions).** Technology professional liability (errors and omissions) insurance with limits of not less than Five Million Dollars (\$5,000,000) per occurrence and in the aggregate. Coverage must encompass all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks.
- (F) **Cyber Liability.** Cyber liability insurance with limits of not less than Five Million Dollars (\$5,000,000) per occurrence. Coverage must include claims involving Cyber Risks. The cyber liability policy must be endorsed to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.

Definition of Cyber Risks. "Cyber Risks" include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third Party; (ii) data breach; (iii) breach of any of the Contractor's obligations under this Agreement; (iv) system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of electronic information; (xiii) cyber extortion; (xiv) extortion related to the

Exhibit D

Contractor's obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or HRRiskManagement@fresnocountyca.gov, and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.
- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
 - (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Contractor's policy.
 - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
 - (iv) The technology professional liability insurance certificate must also state that coverage encompasses all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks, as that term is defined in this Agreement.
 - (v) The cyber liability insurance certificate must also state that it is endorsed, and include an endorsement, to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and

Exhibit D

possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.

- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.
- (G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors.