

Memorandum of Understanding
Between
The County of El Dorado
And
The County of Fresno

This Memorandum of Understanding (“MOU”) is made and entered into by and between the County of El Dorado (hereinafter, “El Dorado County”), and the County of Fresno, (hereinafter, “Recipient”), a DRAM Settlement Grant Consortium (hereinafter, “Consortium”) member.

WHEREAS the Counties of Placer, Inyo, Marin, Fresno, and El Dorado have formed a Consortium with the goal of providing voter information and vote-by-mail to voters with disabilities and military personnel stationed overseas. The new system will allow voters who are blind, disabled or remotely stationed and living abroad access to their ballot and balloting information; and

WHEREAS El Dorado County has, on behalf of the Consortium, applied for and was awarded the DRAM Settlement Grant (hereinafter, “Grant”) in the amount of \$198,000; and

WHEREAS the Grant funds are to be used in the support of the acquisition and implementation of a fully accessible, ADA- compliant online balloting portal, LiveBallot/OmniBallot; and

WHEREAS El Dorado County has been designated as the lead in administering the Grant to the participating Consortium members; and

WHEREAS, Democracy Live, has been selected as the sole vendor to deploy a remotely accessible online balloting portal, LiveBallot/OmniBallot, which will enable participating Consortium members to extend voter information and vote-by-mail to voters with disabilities and military personnel stationed overseas.

NOW THEREFORE, El Dorado County and Recipient hereto mutually agree to as follows:

Article I. DEFINITIONS

“Election” is defined as: E.C. 318 any election including a primary that is provided for under this code.

Article II. SCOPE OF SERVICES

The purpose of this MOU is to specify the responsibilities of El Dorado County and the Recipient with respect to the DRAM Settlement Grant.

Section 2.1 El Dorado County Responsibilities

1. El Dorado County shall compile and submit, on a timely basis, a Final Progress and Expenditure Report as required by the Grant Agreement between El Dorado County and the DRAM Settlement Fund (hereinafter, "Grant Agreement").
2. El Dorado County shall timely abide by all other requirements contained in the Grant Agreement.
3. El Dorado County shall abide by all other applicable federal, state and local laws and regulations as well as any contractual obligations to the extent they would govern this MOU.

Section 2.2 Recipient Responsibilities

1. Recipient agrees to audit requirements of the products which include, but are not limited to, on-site visits by El Dorado County of the Cy Pres Grants Administrators to examine such records and documents as they deem necessary to validate payment requests or compliance with this agreement. Notwithstanding the foregoing, Recipient shall not be required to provide El Dorado County or the Cy Pres Grants Administrators with access to confidential information, including but not limited to, confidential voter registration information.
2. Upon request of El Dorado County, Recipient shall provide any other information need by El Dorado County to satisfy the reporting requirements of the DRAM Settlement Agreement. Notwithstanding the foregoing, Recipient shall not be required to provide El Dorado County with access to confidential information, including but not limited to, confidential voter registration information.
3. Recipient agrees to use Democracy Live as a sole-source vendor for providing remotely accessible online balloting portal, which will enable participating counties to extend voter information and vote-by-mail to voters with disabilities and military personnel stationed overseas as described in the grant. If Recipient selects a different vendor to perform these services, services rendered by that vendor will not be eligible for Grant funding.
4. Recipient agrees to be bound by the agreement and all amendments with Democracy Live signed by El Dorado County on behalf of the Recipient and attached hereto as Exhibit B.
5. Recipient acknowledges that this MOU is supported by funds from the Grant. If Grant funds become unavailable as a result of action by the Cy Pres Administrators or the Office of Management and Budgeting, all obligations on the part of El Dorado County shall terminate.
6. Recipient's approval of the system deployment shall be evidenced by an email or letter from the Recipient to El Dorado County acknowledging that the Liveballot/OmniBallot system has been successfully installed, tested and accepted, and authorizing release of payment from El Dorado County.

7. Recipient County shall abide by requirements contained in the Grant. (The DRAM Settlement Agreement, Attached hereto as Exhibit C)

Article III. Fiscal Provisions

Section 3.1 Amount Available to Recipient

The maximum amount of grant funding available to Recipient is attached hereto as Exhibit A. In no event shall payments/reimbursements made by El Dorado County on behalf of Recipient exceed the amount specified in Exhibit A.

Section 3.2 Payment`

Democracy Live shall invoice El Dorado County for Recipient's fees upon receipt of the respective notice to proceed and approval of system deployment by the Recipient.

El Dorado County shall not pay or reimburse invoices for product and services disallowed by the grant. Should any expenses paid by El Dorado County be disallowed by the DRAM Settlement Grant, either upon initial submittal of the claim or upon subsequent audit, the Recipient shall immediately reimburse in full to El Dorado County for any payments made on the disallowed amount.

Article IV. Term

This MOU will become effective upon execution by both parties and will expire 24 months from the effective date of the Grant, unless terminated earlier pursuant to the provisions of Article V herein.

Article V. General Provisions

Section 5.1 Changes to MOU

This MOU may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when writing and fully executed by duly authorized officials of the parties hereto.

Section 5.2 Default, Termination and Cancellation

1. Default: Upon the occurrence of any default of the material provisions of this MOU, a party shall give written notice of said default to the party in default. If the party in default does not cure the default within (10) days of the date of notice, then such party shall be in default. The 10-day time to cure may be extended at the discretion of the party giving notice. Any extension of the time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires. Notice given under this section shall specify the alleged default and the applicable MOU provision(s) and shall demand that the party in default adhere to the provisions of this MOU within the applicable period of time. No such notice shall be deemed a termination of this MOU unless the party giving notice so indicates in the terms of its notice, or the party giving

notice so indicates in the terms of a subsequent written notice after the time to cure has expired.

2. Bankruptcy: This MOU, at the option of El Dorado County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Recipient. Termination of this MOU under such circumstances must be accomplished through written notice provided pursuant to Article VI below.
3. Ceasing Performance: El Dorado County may terminate this MOU in the event Recipient becomes unable to substantially perform any material term or condition of this MOU. Termination of this MOU under such circumstances must be accomplished through written notice provided pursuant to Article VI below.
4. Termination or Cancellation without Cause: Recipient or County El Dorado may terminate this MOU in whole or in part upon seven (7) calendar days written notice by either party without cause. If such prior termination is effected, El Dorado County will pay Recipient's invoices for eligible products and services provided to the Recipient prior to the effective dates as set forth in the Notice of Termination provided. All such payments shall be contingent on receipt of grant funds. In no event shall El Dorado County be obligated to pay more than the total amount available to the Recipient as specified Exhibit A.

Article VI. Notice to Parties

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

County of El Dorado
Registrar of Voters
2850 Fairlane Ct.
Placerville, CA 95667

| Or to such other location as El Dorado County directs.

Notices to Recipient shall be addressed as follows:

Brandi L. Orth, County Clerk/Registrar of Voters
2221 Kern Street
Fresno, CA 93721

Article VII. Indemnity

Recipient shall defend, indemnify, and hold El Dorado County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, El Dorado County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the willful misconduct or the negligent acts, errors, or omissions of the Recipient, its officers, employees, agent, and volunteers in the performance of this MOU. This duty of Recipient to indemnify and save El Dorado County harmless includes the duties to defend set forth in California Civil Code Section 2778.

El Dorado County shall defend, indemnify, and hold Recipient harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, Recipient employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the willful misconduct or the negligent acts, errors, or omissions of El Dorado County, its officers, employees, agent, and volunteers in the performance of this MOU. This duty of El Dorado County to indemnify and save Recipient harmless includes the duties to defend set forth in California Civil Code Section 2778.

Article VIII. Insurance

All parties are self-insured and shall provide a letter of self-insurance if requested to do so by either party during the term of this MOU.

Article IX. Administrator

The El Dorado County officer or employee with responsibility for administering this MOU is _____.

Articles X. Authorized Signature

The parties of this MOU represent that the undersigned individuals executing this MOU on their behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

Articles XI. Partial Invalidity

If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Article XII. Venue


Any dispute resolution action arising out of this MOU, including, but not limited to litigation, mediation, or arbitration, shall be brought in El Dorado County, California and shall be resolved in accordance with the laws of the State of California.

Article XIV Entire Agreement

This document and the documents referred to herein and exhibits hereto are the entire agreement between the parties and they incorporate or supersede all prior written or oral agreements or understandings.

IN WITNESS THEREOF, the Parties hereto have executed this MOU on the dates indicated below.

County of El Dorado

By: 
Bill O'Neill
Registrar of Voters

Date: 7/15/19

County of Fresno

By: 

Date: 10-18-19

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: Susan Bishop
Deputy

EXHIBIT A

I. Fees:

Secure Select Subscription Fee: The Subscription Fee for Customer under this Agreement will be one-hundred and ninety-eight thousand dollars (\$198,000) payable in two installments as described below.

- a. **1st Payment:** the initial payment of ninety-nine thousand dollars (\$99,000) will be invoiced upon signature of this Agreement.
- b. **2nd Payment:** The final payment of ninety-nine thousand dollars (\$99,000) will be invoiced November 1, 2019.

EXHIBIT B

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MASTER CONSORTIUM AGREEMENT

This Agreement is entered into on the date last signed below, by and between El Dorado County (hereinafter "Customer") with offices at 2850 Fairlane County, Placerville, CA 95667 and Democracy Live, Inc., (hereinafter, "Contractor") a Delaware Corporation with offices at 35050 SE Douglas Street, Suite 200 Snoqualmie, WA 98065.

It is noted and agreed that El Dorado County is the lead county of a consortium of five (5) counties, each of which are listed in Exhibit D. The lead county represents that it is authorized to act on behalf of each and all counties in the consortium. For convenience and efficiency, each consortium county has authorized the lead county to act as its agent for purposes of this agreement. All references to Customer herein shall apply to each county subject to this Agreement. Democracy Live understands that El Dorado as the Consortium lead is not responsible for the actions or failure to act of each consortium member. Each Consortium County is responsible for working directly with Democracy Live on their election setup.

Whereas, it is necessary and desirable that Democracy Live be retained for the purpose of providing Customer with an ADA-compliant Remote Accessible Vote By Mail Solution ("Secure Select"), and fully UOCAVA MOVE Act solution through OmniBallot Online, available to Customer voters.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. **Exhibits and Attachments:** The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:
 - a. Exhibit A- Payments and Fees
 - b. Exhibit B- Statement of Work
 - c. Exhibit C- Support and Maintenance
 - d. Exhibit D- Consortium Counties
2. **Services to be performed by Contractor:** In consideration of the payments set forth in this Agreement and in Exhibit A, Contractor shall perform the services for Customer in accordance with the terms, conditions, and specifications set forth in this Agreement and Exhibit B. Nothing in this Agreement shall be construed to prevent Contractor from granting any other licenses or subscriptions to the use of Secure Select and OmniBallot Online in any matter whatsoever.
3. **Term:** This Agreement shall become effective on the date last signed below and shall remain in effect for 24 months after execution of the DRAM Agreement by and between El Dorado County and DRAM Settlement Fund ("Initial Term").

4. **Payment:** Customer will pay Contractor the Subscription Fee ("Subscription Fee") in accordance with the Fee Schedule presented in Exhibit A ("Fee Schedule").
5. **Funding:** The agreement between the parties is contingent on the award and funding support provided through the DRAM Settlement.
6. **Termination:** This Agreement may be terminated by Contractor or Customer at any time without a requirement of good cause upon thirty (30) days advance written notice to the other party.

6.1 **Breach:** If either party defaults in the performance of, or fails to perform, any material obligation of this Agreement and the default or failure is not remedied within thirty (30) days (or ten (10) days in the case of any payment obligations under Exhibit A) after receipt of written notice from the non-defaulting party, then the non-defaulting party will have the right (i) to terminate this Agreement by giving written notice to the defaulting party and (ii) to avail itself to any and all other rights and remedies which it may be entitled by law or equity.

7. **Ownership:** The parties hereby agree Secure Select and OmniBallot Online are the sole property of Contractor and Customer acquires no rights to Secure Select and OmniBallot Online except for the subscription granted under this Agreement.
8. **Representations and Warranties:** Contractor Represents and Warrants to Customer that: It has all necessary rights and authority to execute and deliver the services and perform its obligations hereunder and to grant the rights granted under this Agreement to Customer.

6.1 Except as expressly stated in this Agreement, there are no warranties express or implied, including but not limited to the implied warranty of fitness for a particular purpose, of merchantability or warranty of no infringement of third party property rights.

6.2 DEMOCRACY LIVE DOES NOT REPRESENT OR WARRANT THAT SECURE SELECT AND OMNIBALLOT ONLINE WILL OPERATE ERROR-FREE OR UNINTERRUPTED AND THAT ALL PROGRAM ERRORS IN SECURE SELECT AND OMNIBALLOT ONLINE CAN BE FOUND IN ORDER TO BE CORRECTED. NOR DOES DEMOCRACY LIVE MAKE ANY WARRANTIES REGARDING THE ACCURACY, RELIABILITY, OR CURRENCY OF ANY INFORMATION CONTENT.

9. **Limitation of Liability:** EACH PARTY'S LIABILITY TO DAMAGES TO THE OTHER PARTY ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT SHALL NOT EXCEED THE MAXIMUM AMOUNT PAYABLE UNDER THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES,

DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY, SUCH AS LOSS OF ANTICIPATED BUSINESS, OR LOST PROFITS, INCOME, GOODWILL OR REVENUE IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT.

10. **Indemnification.** Contractor will defend, indemnify, and hold harmless Customer against any and all third-party claims, actions, proceedings and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including without limitation reasonable attorneys' fees and other litigation expenses) incurred by Customer, arising out of or relating to any actual infringement of any U.S. issued patent or copyright by Contractor or misappropriation of any trade secret of any third party by Contractor and the Software ("Intellectual Property Infringement").

10. 1 **Conditions of Indemnification.** The indemnification obligations under this Section 9 are conditioned on Customer's compliance with the following: (a) Customer will provide to Contractor prompt written notice of any claim after Customer's receipt of notice of the claim or initial awareness thereof; (b) Customer will grant to Contractor, and Contractor will have, the sole and exclusive right to defend any claim and make settlements thereof at Contractor's own discretion; and (c) Customer will give, at Contractor's expense, the assistance and information that Contractor reasonably requires to settle or defend the claims. Customer may, however, participate in the defense or settlement of any claim at its own expense and with its own choice of counsel.

11. **Confidentiality.** Each party agrees that the terms and conditions of this Agreement and any information concerning either party's marketing plans, existing or future products, and any other confidential business or technical information, and all information declared confidential by either party, disclosed in furtherance of this Agreement shall be held in strict confidence and shall not be disseminated or disclosed without express written consent of the other party, except as otherwise provided in this Agreement. If a party is directed to disclose any material proprietary to the other party in conjunction with a judicial proceeding, arbitration or otherwise by law, then the party so directed shall notify the other party both in writing and orally immediately. This provision will survive cancellation or termination of this Agreement for a period of three (3) years. The parties agree that Customer may be required to release confidential information to the public pursuant to the requirements of the State of California.

12. **Assignment:** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without prior written consent of the other party, which consent shall not be unreasonably withheld. This Agreement will be binding upon, inure to the benefits of and be enforceable by the parties hereto and their respective successors and assigns.

13. **Miscellaneous:**

13.1 **Independent Contractor:** Nothing in this Agreement will be construed as creating any relationship between Contractor and Customer, other than that of independent contractor and customer or licensee and licensor. This Agreement is not intended to be nor will be construed as a joint venture, association, partnership, franchise, or other form of business organization or agency relationship. Neither party will have the right, power or authority to assume, create or incur any expense, liability, or obligation, expressed or implied, on behalf of other except as expressly provided herein.

13.2 **Law and Venue:** This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of California, USA.

13.3 **Notices:** Unless otherwise agreed by the parties, all notices required under this Agreement will be in writing and deemed effective when received by (a) personal delivery, (b) internationally recognized courier or (c) certified mail, return receipt requested at the address written above.

13.3 **Severability:** In the event any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall remain in force as if such provision were not.

13.5 **Force Majeure: Force Majeure.** Neither Party will be in default or otherwise liable for any delay in or failure of its performance under this Agreement if the delay or failure arises by any reason beyond its reasonable control, including any act of god, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, or mechanical failures or delay in transportation or commercial communications; provided however, that lack of funds will not be deemed to be a reason beyond a Party's reasonable control. The Parties will promptly inform and consult with each other as to any of the above causes, which in their judgment may or could be the cause of a delay in the performance of this Agreement.

13.6 **Administrator.** The County Officer or employee with responsibility for administering this agreement is Linda Webster, Assistant Registrar of Voters, Election Department, or successor.

13.7 **Records.** Democracy Live will keep records as well as copies of all reports to the Cy Pres Grants Administrators, invoices paid and supporting documentation for at least four (4) years after the completion of the use of grant funds and will make such books, records, reports and supporting documentation available to the Cy Pres Grants Administrators or their designee for inspection upon request.

13.8 **Counterparts.** This Agreement may be executed in one or more counterparts and by facsimile, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

13.9 **Entire Agreement.** This Agreement, including the attachments to this Agreement, is the Parties' entire agreement relating to the Secure Select, OmniBallot Online, and Documentation. It supersedes all prior or contemporaneous oral or written communications, proposals, sales orders, or conditions between the parties relating to its subject matter. No modification or amendment to this Agreement will be binding unless in writing and signed by an authorized representative of each Party.

DEMOCRACY LIVE, INC.
Software License Agreement

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement and all Attachments hereto as of the Effective Date.

Democracy Live, Inc:

El Dorado County

DEMOCRACY LIVE, INC. CORPORATION

EL DORADO COUNTY

By: 

By: 

Name: Bryan Roney

Name: Sue Novak

Title: President

Title: Chair, Board of Supervisors

Date: 3/18/19

Date: 4/23/19

EXHIBIT A- Payment and Fees

I. Fees:

- A. **Secure Select Subscription Fee:** The Subscription Fee for Customer under this Agreement will be one-hundred and ninety-eight thousand dollars (\$198,000) payable in two installments as described below.
 - a. **1st Payment:** the initial payment of ninety-nine thousand dollars (\$99,000) will be invoiced upon signature of this Agreement.
 - b. **2nd Payment:** The final payment of ninety-nine thousand dollars (\$99,000) will be invoiced November 1, 2019.

II. Invoicing:

- A. Customer will make payment within thirty (30) days of the invoice being submitted from Democracy Live to Customer.
- B. All Invoices under this Agreement shall be sent to: Linda Webster, Assistant Registrar of Voters, 2850 Fairlane Court, Placerville, CA 95667.
- C. All Payment under this Agreement shall be sent to Democracy Live 2900 Ne Blakely Street Suite B, Seattle, WA 98105.

EXHIBIT B- Statement of Work

For as long as this Agreement is in effect Democracy Live agrees to provide Customer with OmniBallot Online Products and Services as described below:

I. Products and Services

◆ Secure Select

- Democracy Live will deliver to Customer a secure ballot marking system that enables the voter to access return materials and an onscreen representation of the appropriate ballot style.
- The voter marks, reviews, and prints their selections to be mailed to the County.

◆ Secure Select UOCAVA

- Democracy Live will deliver to Customer a secure ballot marking system that enables Military and Overseas voters to access return materials and an onscreen representation of the appropriate ballot style.
- The voter marks, reviews, and prints their selections to be mailed to the County.

◆ Optional Accessible Voter Guide

- The Contractor will deliver to Customer an online voter guide/pamphlet/sample ballot that enables the voter to access candidate statements, measure details, and additional information about the election.

◆ Languages

- English
- Spanish

◆ Accessibility:

- Satisfies all applicable WCAG 2.0 specifications
- Section 508 Compliant
- Compatible with (but not limited to) VoiceOver on macOS and JAWS, Narrator, and NVDA on Windows
- Accessible by keyboard and commonly-used input devices

◆ OmniBallot Online Feature Options

- Includes Voter access and authentication options
 - Utilize Voter Lookup application using VR files maintained in OmniBallot
 - Integration with existing Voter Portal
 - Directly embed OmniBallot applications into County website.
- Supports a variety of language options
- Customizable text and interface language
- Create custom voter workflows to meet specific requirements

◆ Secure Select Features

- Provides summary screen with option to change selections before printing
- Prohibits overvotes
- Provides undervote warnings

- Supports write-ins up to 32 characters
- Includes 2D barcode representation of selections

◆ **Technical Specifications**

- Does not require the installation of special software
- Compatible with (but not limited to) the most recent two versions of all major browsers (Chrome, Edge, Firefox, Internet Explorer, Safari) on the most recent two versions of Windows and macOS.
- Supports virtually unlimited number of ballot styles

II. **Democracy Live Services**

◆ **Training-** Democracy Live will deliver an online orientation and training that includes:

- Defining key points of contact for contract management and technical support for Customer and Democracy Live
- Identification and addition of Customer system administrators and roles
- Introduction to written, video and system-embedded training tools and materials
- Demonstration and training on self-management of Voter Registration (VR) file updates
- Demonstration and training on Quality Assurance (QA) testing, including ballot review and walk-through of voter experience
- Explanation of all available report modules and access to raw data logs
- Detailed description of all required data files from the Customer, including required format. Example files and data templates provided as learning tools.
- Overview of the election management workflow, including preparation of data files, time-lines, system configuration, quality assurance testing, election deployment and close-out
- Establishment of an elections calendar to cover all scheduled elections throughout the entire contract period and agreement on methodology for managing unscheduled events (special elections, etc.)
- Democracy Live will perform a refresher training orientation at the Customer's request once during every 24month period. Democracy Live will perform additional training at the request of Customer for an agreed upon service fee in a writing signed by both parties.

◆ **Configuration and Support Services (Gold Package Services)**

- **Election Data Preparation**
 - Democracy Live will provide support to Customer in the preparation and review of required data files for system configuration, including:
 - Structured data files, if used
 - Ballot PDFs
 - Ballot style mapping spreadsheet in .csv format
 - Comprehensive VR file in CSV or TXT format, as applicable
 - Ballot return materials in PDF format
 - Definition of desired overlays and placement on materials
- **System Configuration**
 - Democracy Live will configure all contracted services utilizing Customer data in accordance with established timelines.

- Democracy Live will provide QA testing links that will enable the Customer to review/approve all work before the system is activated and made available to voters.
 - QA Testing includes:
 - Quick Review- A list of each ballot style in an election, its ballot content and all associated precincts.
 - Voter QA Testing- A review of the end-to-end voter experience to review workflow and confirm delivery of correct ballot content. This testing will not affect voter usage statistic reports.
 - Democracy Live will activate contracted services upon completion of review and written approval of content by Customer.
- ◆ **Election Maintenance Through Election Day**
- Democracy Live will assign Customer a Technical Accounts Manager to serve as the primary point of contact for all service issues.
 - Democracy Live will provide ongoing issue response/customer support, as detailed in the Service Level Agreement (SLA), to respond to any identified issues, questions or requested content edits
 - Democracy Live will perform all VR updates after initial product activation, as applicable
- ◆ **Post-Election Tasks**
- Democracy Live will assist customer with post-election reports, as needed.
 - Democracy Live will archive election-related data for an agreed upon period.
 - Democracy Live will “purge” election-related data from any Democracy Live-maintained systems upon written request of Customer.

III. Customer Requirements

- ◆ **In order to guarantee an on-time Go Live Date the County agrees to:**
- Complete onboarding orientation with Democracy Live.
 - Provide complete and accurate election data in required format a minimum of ten business days prior to product launch dates. *Failure to provide data in identified format or in accordance with established timelines may result in product launch delays.*
 - Complete review and QA testing of all products before launch.
 - Send written approval of system (e-mail) to authorize activation of system features.
 - Perform all VR updates after initial product launch, as applicable
 - Notify Democracy Live of any changes to language requirements as soon as practicable.
 - Notify Democracy Live of any changes to election calendar as soon as practicable.
 - Notify Democracy Live of changes to system administrators (addition/deletion).
 - Notify Democracy Live of changes to key personnel assigned to system administration/support.

EXHIBIT C – Support and Maintenance

Service Level Agreement

Democracy Live business hours are **9:00 am to 5:00 p.m.** Pacific Time, Monday through Friday. During these hours, an assigned account manager will be available.

Democracy Live is committed to providing the highest level of support to Customer throughout the Term of this Agreement. Democracy Live will perform the following Service Levels, as applicable, in connection with this Agreement.

Democracy Live acknowledges that support requests may be submitted by either the town officials operating the system or Elections Division staff administering the system.

Election Calendar Period through Election Certification – Concurrent with the expected period configuring and testing the Solution between 60 and 45 days prior to election day, and through the final certification of the election, Democracy Live will respond to issues reported by email at support@democracylive.com or phone (855-655-VOTE), within one hour, 7 days a week, 24 hours a day. Upon notification to the company's Customer Support System the issue will be immediately routed to the appropriate operational personnel, and a case will be opened and managed through satisfactory resolution of the reported issue.

Off Peak Times – During the relatively quiet periods between the certification of the most recent election, and the configuration of the next, Democracy Live will respond to issues reported by email support@democracylive.com or phone (855-655-VOTE) within one hour, available during normal business hours eastern standard time. Upon notification to the company's Customer Support System the issue will be immediately routed to the appropriate operational personnel, and a case will be opened and managed through satisfactory resolution of the reported issue.

Support: For as long as Customer has paid all applicable fees and is in compliance with all the terms of this Agreement, including as set forth in the Attachments, and as long as this Agreement is in effect, Democracy Live will provide Support and Maintenance as described in Exhibit C. Notwithstanding anything to the contrary in this Agreement, Democracy Live will not provide Support and Maintenance for: (a) Any products other than the Software provided by Democracy Live under this Agreement; (b) Any modifications to Software not made by Democracy Live or a third party authorized in writing by Democracy Live to make modifications; or (c) Any use of Software that is not in accordance with this Agreement, the documentation or other written instructions provided by Democracy Live.

EXHIBIT D – Consortium Counties

El Dorado
Placer
Inyo
Marin
Fresno

EXHIBIT C

Grant Agreement

Grantee: El Dorado County Elections

Amount: \$198, 000.00

Duration: 24 months commencing on date of executed Grant Agreement.

Source of Funds: DRAM Settlement

1. Use of Grant Funds.

Grantee will use funds for the deployment of a fully accessible, ADA-compliant online balloting portal for a consortium of five California counties. The remotely accessible online balloting portal, LiveBallot, will enable participating counties to extend voter information and vote-by-mail to voters with disabilities and military personnel stationed overseas. The new system will allow voters who are blind, disabled or remotely stationed and living abroad access to their ballot and balloting information.

Grant funds must be used in accordance with the Workplan and Timeline, which are attached hereto as Exhibit A and incorporated as if fully set forth herein, submitted for the project and no changes in the budget, timeline or the grant period can be made without prior written approval from the Cy Pres Grants Administrators.

In no event shall indirect expenses exceed 10% of the amount awarded. Any funds not used for the purposes described above will revert to the DRAM Settlement Fund to be distributed in accordance with terms of the settlement agreement and court orders establishing the fund.

Grant funds will not be used to supplant or replace federal, state, local or other governmental funding for any program, purchase or activity and Grantee's budget will not be reduced to compensate for the award of this grant.

2. Payment of Grant Funds.

Grant funds will be paid to Grantee on the following schedule:

\$99,000.00 within 14 business days of the effective date of this agreement.

\$99,000.00 no later than 12 months after the effective date of this agreement.

3. Grantee Reports.

One (1) month after the completion of the grant period, 24 months after the execution of this Agreement, Grantee will submit a Final Progress and Expenditure Report on the use of grant funds, compliance with terms of the grant and progress made towards achieving the goals of the grant. A simple narrative (*maximum* three pages) and budget expenditure spreadsheet will satisfy the reporting requirement. NOTE: *Reports may be submitted before deadlines if project is completed.*

All reports will be sent by email to Laurie True, DRAM Grants Administration, at ltrue@cypresfunds.net

4. Inspections and Examinations.

The Grantee agrees that the Cy Pres Grants Administrators may conduct site visits to the project and examine such records and documents, as they deem necessary to validate payment requests or compliance with this agreement at any reasonable time during normal business hours.

Notwithstanding the foregoing, Grantee shall not be required to provide the Cy Pres Grants Administrators with access to confidential information, including but not limited to, confidential voter registration information.

5. Records.

Grantee will maintain its books and records in such a manner that the receipts and expenditures of grant funds received for this grant will be shown separately on such books and records in an easily checked form. Grantee will keep such records as well as copies of all reports to the Cy Pres Grants Administrators, invoices paid and supporting documentation for at least four (4) years after the completion of the use of grant funds and will make such books, records, reports and supporting documentation available to the Cy Pres Grants Administrators or their designee for inspection upon request.

The name and contact information of the person responsible for maintaining Grantee's books and records and preparing Grantee's Expenditure Reports currently is:

Linda Webster, Assistant Registrar of Voters
El Dorado County Elections
2850 Fairlane Ct.
Placerville, CA 95667
Email: linda.webster@edcgov.us
Phone: 530-621-7483

The contact information may change and if so, the Cy Pres Grants Administrators will be so notified of the new number.

Grantee's Tax Identification Number is 94-6000511

6. Acknowledgement of Support.

Materials produced with grant funds and annual reports, announcements, news releases, etc. describing the project *must* acknowledge that:

"The project was made possible by a grant from the DRAM Settlement Fund. Created as a result of antitrust litigation pursued by the Attorney General of the State of California, the purpose of the Fund is to encourage use of innovative technology to benefit California consumers."

7. Violation and Termination.

In the event of any violation by Grantee of the terms and conditions of the grant, including but not limited to failing to execute the work of the grant in compliance with Grantee's proposal or failing to submit required reports or requested information in a timely manner, the Cy Pres Grants Administrators shall provide written notice to Grantee of the violation. Grantee shall have thirty (30) days to cure the violation. Should Grantee fail to cure the violation within the specified period of time, or such longer time as may be extended by mutual agreement of the parties, the Cy Pres Grants Administrators reserve the right in their absolute discretion to suspend payments to Grantee or terminate the grant. The Cy Pres Grants Administrators' determination will be final and will be binding and conclusive on Grantee. In addition to any other remedies available to the Cy Pres Grants Administrators, upon termination of this grant, Grantee will repay to the DRAM Settlement Fund any portion of the grant funds that have not been spent for the project.

8. Future Funding.

Grantee acknowledges that the Cy Pres Grants Administrators and their representatives have made no actual or implied promise of funding except for the amounts specified by this agreement. If any of the grant funds are returned or if the grant is rescinded, Grantee acknowledges that the Cy Pres Grants Administrator will have no further obligation to Grantee in connection with this grant as a result of such return or rescission.

9. Modification.

This agreement sets forth all terms of the grant and replaces all prior understandings and agreements. Any modification or amendment will be made only in writing signed by an authorized officer of Grantee and the Cy Pres Grants Administrators.

10. Jurisdiction and Applicable Law.

The DRAM Settlement Fund and Grants Program are subject to the ongoing jurisdiction of the United States District Court of the Northern District of California. Grantee agrees to the Court's exclusive jurisdiction and that any claim or dispute arising from or relating to this Grant Agreement shall be decided solely by this Court. This Grant Agreement will be construed in accordance with the applicable federal laws and the applicable laws of the State of California.

11. Effective Date and Term of Agreement.

The effective date of this agreement will be the date when it is executed by the last of the parties to do so.

12. Contract Administrator.

The County officer or employee with responsibility for administering this Agreement is Linda Webster, Assistant Registrar of Voters, or successor.

13. Amendments.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

14. Warranty of Authority.

Each signatory of this Agreement represents and warrants that he or she has full authority to enter into this Agreement on behalf of the respective parties.

15. Counterparts.

This Agreement may be executed in duplicate or multiple counterparts, each of which shall be deemed an original.

Accepted by:

Date: _____

Signature: _____

Date: _____

Signature: _____

Harry M. Snyder, Cy Pres Administrator
DRAM Settlement Fund

DRAM Grant Proposal – EL DORADO, CA
Local Government Fund – Accessible Online Balloting Portal

Describe Your Request (incorporating the following points):

- Describe the project for which you seek funding and whether it is a new or ongoing part of your organization's work. **Recent legislation in California requires voters with disabilities to access their vote by mail and absentee ballot in an accessible format that meets the national WCAG 2.0 accessibility standards. This grant will fund the technology for the 2017-2018 election cycle. The technology is called "LiveBallot". LiveBallot is hosted in the Secure Amazon Government cloud, providing accessible, audio-enabled balloting to blind, disabled and overseas voters.**

Through LiveBallot, voters will be sent an email with a link directing them to the accessible online balloting portal. The portal will enable the voter to access their sample ballot and absentee ballot. Voters who are blind or disabled, will be able to independently access and hear their sample or absentee ballot.

El Dorado County has successfully deployed a similar technology in the past. However, the older technology was not accessible to voters with disabilities, nor did it include an audio, accessible voter information portal. Access to the ballot and ballot information is fundamental to a functioning democracy. This grant will help pave the way for both access to the ballot for all voters, including those with disabilities.

- What are the goals, objectives and activities involved in the request? Provide a task-by-task breakdown of the steps required to implement the proposed project demonstrating your understanding of the work needed to successfully complete the project. **Our goal for this project is to ensure all voters in this consortium, regardless of physical, cognitive or geographic challenges have access to their ballot and balloting information. Through this grant, the El Dorado consortium of counties aims to deploy an online balloting portal for all voters, including blind, disabled and overseas voters to ensure universal access to voting and voter information. Voting and access to information is the foundation of any successful democracy. Therefore, universal, accessible voting and voting information is a vital piece to a properly functioning democratic form of government.**

Through this grant, El Dorado and the other participating counties will acquire LiveBallot from Democracy Live. Democracy Live, selected by the U.S. Department of Defense, U.S. Health and Human Services and deployed in over 500 elections in the U.S. is the leading provider of accessible online voter information and online balloting in the U.S.

Once the grant is awarded, El Dorado County, on behalf of the other participating localities, will purchase the LiveBallot software from Democracy Live. As El Dorado County and Democracy Live have worked together for several years, the County has a trusted and positive relationship with the vendor. Upon purchase of the LiveBallot software, the vendor will train El Dorado staff and the other participating counties on the configuration and deployment of the SaaS software. Once installed, the County will invite members of our local disability community to learn how the software works on behalf of voters with disabilities.

High Level Task Breakdown:

- 1. Planning meeting with vendor and staff**
- 2. Provide Balloting and Voter Registration data to vendor**

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Local Government Fund – Accessible Online Balloting Portal

- 3. Provide County logo's, graphics and language to vendor for the purposes of theming the LiveBallot portal.**
 - 4. QA Balloting portal to ensure correct balloting information**
 - 5. Approve Accessible Balloting Portal for "Go Live"**
 - 6. Launch Balloting Portal site**
 - 7. Notify media and disability organizations of availability of the LiveBallot Accessible Balloting Portal.**
- Discuss how the requested technology and software will fill a recognized need and advance operational capability within a significant area or areas of local government. **Recent legislation in California greatly expands vote by mail to virtually all voters in the State. California counties also mail voter information pamphlets to every household in the State. Over 35 million voters in the U.S., including nearly 5 million in California, have some form of physical, cognitive or geographic limitations that prevents them from having access to ballots and ballot information. The successful award of this grant will enable El Dorado County and the participating consortium counties to deploy the LiveBallot technology to ensure all voters have access to absentee ballots and voter information.**
 - Provide a clear description of how the proposed technology and software compares to alternative or existing equipment. **LiveBallot is a fully audio-enabled, accessible Web-based ballot information portal that delivers ADA-compliant ballots and ballot information to all eligible voters, regardless of disabilities or geographic location. Democracy Live worked with the Center for Technology and Disabilities, Independent Living Centers, members of the Council for the Blind and others disability organizations to ensure LiveBallot meets the highest standards for accessibility in the U.S. (WCAG 2.0aa)**

Current technologies deliver either a paper-based absentee ballot, paper voter pamphlet, or an online PDF. Paper and PDF's are typically not accessible to blind and disabled voters. The LiveBallot technology would ensure voters who cannot see, or read the paper, or PDF's have access to ballots and ballot information.
 - Describe the extent to which adaptability to the proposed technologies and associated changing requirements will be addressed by the project. **SB 450 is a new California law requiring every eligible voter in California receive a paper ballot mailed to them directly by their county. The result of this legislation is that counties must also provide an accessible alternative to the paper ballot. LiveBallot offers a proven, turn-key solution to fully comply with SB 450 accessibility requirements.**

AB 683 is also a new CA that requires counties that provide ballot information online, such as sample ballots, must also provide an accessible online alternative. Due to AB 683, online sample ballots must meet ADA Section 508 and WCAG 2.0 accessibility standards. The proposed LiveBallot technology offers a proven, turn-key solution to SB 450 and AB 683.
 - What are the specific benefits related to technology that will result from your project? **Voters who are blind, visually impaired or have literacy and cognitive challenges will benefit from the audio, accessible balloting and voter information features built into LiveBallot. Voters that are**

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paraplegic, have cerebral palsy, or have other forms of physical challenges typically cannot navigate and mark their ballot, or hold and read their voter's pamphlet. LiveBallot users can use sip and puff, toggle switches and even an Xbox controller, or other tactile devices to navigate through the absentee ballot and voter's pamphlet.

- Describe the individuals who would be served or benefited by your project. **As noted above, the grant proposal is focused on a proven technology designed to serve blind and disabled voters, as well as voters overseas and in the military. However, *all* voters can benefit from LiveBallot's next generation method of delivering online balloting and voter information. LiveBallot content may be accessed on desktops, mobile devices, tablets and used by voters wishing to receive their balloting content, on-demand, via whichever platform works for the voter.**

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Local Government Fund – Accessible Online Balloting Portal

Project Management, Reporting and Evaluation (incorporating the following points):

- Who will be involved in carrying out the work outlined in the request? **The Consortium leader is El Dorado County Clerk and Recorder, Bill Schultz. The Election Director, Linda Webster will be responsible for grant reporting. The Elections Directors in each of the participating counties will be the primary PM's for their respective deployments.**
- Please describe how you will manage the project and track the progress of the project. **El Dorado County, as the Consortium Leader for the Department of Defense web balloting grant, has extensive experience in creating and leading a similar project. As we did with the DoD grant, we will ensure that the vendor provide a project plan to be reviewed and approved by El Dorado County, with feedback and input from the participating counties. The project plan will include, but is not limited to the following elements:**
 - 1. Orientation of LiveBallot webinars for the participating consortium counties.**
 - 2. Agreed to dates to deliver data and theming to Democracy Live**
 - 3. Confirm dates for QA and Go Live for initial elections**
 - 4. Community and media outreach and education**
 - 5. Report on LiveBallot voter activity**
- At the completion of the project, grantees will be required to submit a Grantee Final Report summarizing the project, successes and challenges, inventorying and documenting the completion of all project deliverables, and discussing the results of the project and its broader implications.
- Please describe your evaluation plan for the project. What specific information and data will you collect to measure the results? When specifically will you be collecting this information and data, analyzing this information and data and reporting the results? **The primary goal of this project is to extend balloting and balloting information to voters with disabilities and/or those eligible voters unable to vote in the county. The result of this grant is voters with disabilities and voters that are overseas and in the military will have greater access to their ballot through use of the LiveBallot technology. The data we will be collecting will measure the success and impact of delivering this technology to our voting population. The data will be collected during the 2018-2020 election cycle. The key data points for us are:**
 - 1. Number of voters accessing the LiveBallot ballot information portal**
 - 2. Number of voters downloading a ballot**
 - 3. Number of special needs voters accessing the system**
 - 4. Number of ballots returned, using the LiveBallot**
 - 5. Geographic locales of voters using the system**
 - 6. Post-election survey from voters using the system**

The data will be collected and the results will be reported to the grantor. El Dorado County has a strong record of conducting similar research and reporting for the Department of Defense electronic ballot delivery grant.

Exhibit A

DRAM Grant Proposal – EL DORADO, CA

Local Government Fund – Accessible Online Balloting Portal

- Describe a sustainability plan for the technology equipment beyond the lifetime of the award.
This grant will help pay for the initial upfront fees and 2-year license to use LiveBallot. This will give the Elections Departments in each of the participating counties enough time to place the ongoing license and support costs directly into future budget cycles for the ongoing continuation of this technology.