



HART VOTING SYSTEM

MASTER AGREEMENT
(SIGNATURE PAGE)

This Hart Voting System Master Agreement (“**Agreement**”) is entered into by and between Hart InterCivic, Inc., a Texas corporation (“**Hart**”), and the County of Yolo (“**Client**”), a political subdivision of the State of California. This Agreement sets forth the terms under which Client will purchase from Hart the Hart Voting System (“**Voting System**”). Defined terms used in this Agreement will have the meanings specified in Section 9, Definitions, or as otherwise set forth herein.

The following Schedules and Exhibits are attached to this Agreement and made a part hereof:

Schedule A	Equipment and Pricing
Schedule B	Hart Proprietary Software
Schedule C	Non-Hart Software
Schedule D	Additional Terms and Conditions
Exhibit A	Hart Voting System Warranty, Support, and License Agreement

This Agreement is entered into as the result of negotiations between Client and Hart. Client acknowledges it has read and understands this Agreement (including all Schedules and Exhibits) and is entering into this Agreement only on the basis of the terms set forth in this Agreement. There are no oral agreements, representations, or warranties. The Effective Date of this Agreement is **April _____, 2006**.

Agreed and Accepted:

	<u>Client</u>	<u>Hart</u>
Name:	County of Yolo, California	Hart InterCivic, Inc.
Address:	Yolo County Clerk-Recorder 625 Court Street, Room _____ Woodland, California 95695	15500 Wells Port Drive Austin, Texas 78728 Attn.: Ted Simmonds Senior Vice President/COO
Primary Phone:	530-666-8264	800-223-4278
Facsimile:	530-666-8123	800-831-1485
E-mail:	cntyclrk@yoloelections.org	tsimmonds@hartic.com
Executed By:	_____	_____
Name:	Frank Sieferman	Ted Simmonds
Title:	–Chairman, Board of Supervisors	Senior Vice President/COO

This Agreement is not effective until executed by both parties.

In consideration for the agreements set forth herein, the parties agree as follows:

1. Purchase of Equipment; License of Software:

1.1 Sale. Hart agrees to sell and Client agrees to purchase the Equipment, subject to the terms and conditions set forth in this Agreement.

1.2 Licenses and Sublicenses. Simultaneously upon entering into this Agreement, Hart and Client will enter into the Hart Voting System Warranty, Support, and License Agreement (“**License Agreement**”) in the form of Exhibit A, the terms of which are incorporated herein by reference. The License Agreement sets forth additional terms applicable to Client’s ownership and use of the Hart Voting System Hardware and license of Hart Proprietary Software, including warranty, support of software and hardware, license of software, and other terms.

1.3 Delivery and Installation. Hart will cause the Equipment and Software to be delivered to Client’s premises on a date mutually agreed to by Hart and Client. A Hart representative will install the Equipment and Software at the Client’s site on a mutually agreed upon date during Hart’s normal working hours with sufficient time in advance of the Client’s June 6, 2006, election. If additional labor and rigging or Client-specified customization is required for installation due to Client’s special site requirements, such additional services will be mutually agreed to by Hart and Client and documented in accordance with Section 2.4 of this Agreement. Client will be deemed to have accepted the Hardware of Acceptance within ten (10) days after delivery.

1.4 Training. Hart will provide *user-level documentation* for the Software and operational training before the first election for which the Software will be used. Hart will provide *Client operational training* and on-site support at the first election in which the Equipment and Software are used. Charges for additional training or support services will be invoiced to Client at Hart’s then-current hourly rates, plus travel, communication, and other expenses. Any additional training or support services will be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

1.5 User Documentation; Environmental Specifications. Hart will provide to Client one (1) electronic copy of the applicable then-current user documentation and operator’s manuals for the Equipment and Software and, where applicable, environmental specifications for the Equipment. User documentation, operator’s manuals, and environmental specifications will be provided in electronic form. Client may copy such materials as needed for internal purposes. Client shall not remove any trademark, copyright, or other proprietary or restrictive notices contained on any Hart user documentation, operator’s manuals, and environmental specifications, and all copies will contain such notices as are on the original electronic media.

1.6 Support. Support will be provided as set forth in the License Agreement.

2. Charges; Payments:

2.1 Total Purchase Price. The Total Purchase Price is set forth in Schedule A and includes the purchase price for the Equipment, the Initial Annual Fee under the License Agreement, state and local taxes (if applicable), and delivery and installation charges.

2.2 Payments. Client shall pay Hart the Total Purchase Price upon delivery of the Equipment and Software to Client. All payments are to be made to Hart at its principal office in Austin, Texas, as set forth on the Signature Page or to such other location as may be designated by Hart in a notice to Client.

2.3 Late Charges. If the Total Purchase Price is not paid in full within forty-five (45) days after delivery of the Equipment and Software, Hart may charge Client interest on the unpaid balance until paid, at the lesser of (a) 1 % per month or (b) the maximum rate allowed by law.

2.4 Additional Charges. Additional charges may apply to services rendered outside contracted hours or beyond normal coverage at Client's request, (e.g., travel expenses, and premium and minimum charges). There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of *other than Hart-recommended hardware* purchased by the Client for use with the Voting System, if such services are not disputed by the Client within ten (10) days.

The Clerk-Recorder may approve additional services and charges beyond those specifically described in this Agreement in an amount not exceeding one hundred thousand dollars (\$100,000) without further approval by the County Board of Supervisors. Any other additional charges must be mutually agreed to by Hart and Client and documented in writing and made an attachment to this Agreement.

2.5 Payment Disputes. If any dispute exists between the parties concerning the amount due or due date of any payment, Client shall promptly pay the undisputed portion. Such payment will not constitute a waiver by Client or Hart of any of their respective legal rights and remedies against each other.

2.6 Taxes. If Client is tax-exempt, Client will provide Hart with proof of its tax-exempt status. If Client is not tax-exempt, (a) Client will pay any tax Hart becomes obligated to pay in connection with this Agreement, exclusive of taxes based on the net income of Hart and (b) Client will pay all personal property and similar taxes assessed after shipment. If Client challenges the applicability of any such tax, Client shall pay the tax and may thereafter seek a refund.

2.7 Suspension of Performance. If any undisputed payment due to Hart under this Agreement is past due more than thirty (30) days after written notice of delinquency from Hart to the Client, Hart may suspend performance under this Agreement until all amounts due are current.

3. Client Responsibilities:

3.1 Independent Determination. Client acknowledges it has independently determined that the Hart Voting System purchased under this Agreement meets its requirements for this Agreement based upon its own independent review together with Hart's recommendations and Hart's representations as set forth or incorporated in this Agreement and the License Agreement including specifications and other documentation that Hart has provided to Client.

3.2 Cooperation. Client agrees to cooperate with Hart and promptly perform Client's responsibilities under this Agreement and the License Agreement.

4. Title; Risk of Loss:

4.1 Equipment. Subject to Section 4.3, title to Equipment will pass to Client upon delivery of the Equipment to Client. Risk of loss of, or damage to, Equipment will pass to Client upon delivery to Client.

4.2 Confidential and Proprietary Information. Title to Hart's Confidential and Proprietary Information will remain in Hart. Title to Confidential and Proprietary Information of Hart's suppliers and licensors will remain in the relevant suppliers and licensors.

4.3 Proprietary Rights. Client acknowledges and agrees that the design of the Voting System, design of the Hart Voting System Hardware, Hart Proprietary Software, and any and all related patents, copyrights, trademarks, service marks, trade names, documents, logos, software, microcode, information, and material are the property of Hart. Client agrees that the sale of the Hart Voting System Hardware and license of Hart Proprietary Software and other accompanying items under this Agreement does not grant to or vest in Client any right, title, or interest in such proprietary property. All patents, trademarks, copyrights, trade secrets, and other intellectual property rights, whether now owned or acquired by Hart with respect to the Hart Voting System, Hart Voting System Hardware, and Hart Proprietary Software, are the sole and absolute property of Hart and no interest therein is being vested in Client by the execution of this Agreement or the sale of the Hart Voting System Hardware or license of the Hart Proprietary Software to Client. Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or decompilation of any Software or Equipment. Client will have no authority or right to copy, reproduce, modify, sell, license, or otherwise transfer any rights in any proprietary property of Hart. The provisions of this Section 4.3 will survive the termination or cancellation of this Agreement and the License Agreement.

5. Warranty Terms:

THE WARRANTY TERMS APPLICABLE TO THE HART VOTING SYSTEM ARE SET FORTH IN THE HART VOTING SYSTEM WARRANTY, SUPPORT, AND LICENSE AGREEMENT. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES IN THE LICENSE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (A) THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE UNDER THIS AGREEMENT AND THE LICENSE AGREEMENT, AND (B) HART DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE AND NONINFRINGEMENT FOR ALL EQUIPMENT, SOFTWARE, AND SERVICES. THE EXPRESS WARRANTIES EXTEND SOLELY TO CLIENT. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT.

6. Limitation of Damages:

6.1 EXCLUSIVE REMEDY. HART DOES NOT ACCEPT ANY LIABILITY FOR WARRANTIES BEYOND THE REMEDIES SET FORTH IN SECTION 1 OF THE LICENSE AGREEMENT. HART'S ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR ANY CLAIM CONCERNING THIS AGREEMENT AND THE EQUIPMENT, SOFTWARE, AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE SET FORTH IN THIS SECTION.

6.2 DISCLAIMER. CLIENT IS RESPONSIBLE FOR ASSURING AND MAINTAINING THE BACKUP OF ALL CLIENT DATA. UNDER NO CIRCUMSTANCES WILL HART BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR THE LOSS OF OR DAMAGE TO CLIENT DATA.

6.3 LIMITATION. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HART, HART'S LICENSORS, AND ANY PARTY INVOLVED IN THE CREATION, MANUFACTURE, OR DISTRIBUTION OF THE EQUIPMENT AND SOFTWARE AND THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT WILL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE EQUIPMENT, SOFTWARE, SERVICES, OR THIS AGREEMENT, EVEN IF ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. IN ADDITION, HART'S TOTAL LIABILITY TO CLIENT FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THE EQUIPMENT, SOFTWARE, SERVICES, AND THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CLIENT TO HART UNDER THIS AGREEMENT. HART IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY CLIENT'S NEGLIGENCE OR INTENTIONAL ACTS OR FOR ANY CLAIM AGAINST CLIENT OR ANYONE ELSE BY ANY THIRD PARTY.

SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO CLIENT.

6.4 Referrals. Hart may direct Client to third parties having products or services that may be of interest to Client for use in conjunction with the Equipment and Software. Notwithstanding any Hart recommendation, referral, or introduction, Client will independently investigate and test non-Hart products and services and will have sole responsibility for determining suitability for use of non-Hart products and services. Hart has no liability with respect to claims relating to or arising from use of non-Hart products and services, including, without limitation, claims arising from failure of non-Hart products to provide proper time and date functionality.

7. Dispute Resolution:

7.1 Disputes and Demands. The parties will attempt to resolve any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("**Dispute**"), on a confidential basis according to the following process, which either party may start by delivering to the other party a written notice describing the dispute and the amount involved ("**Demand**").

7.2 Negotiation and Meditation. After receipt of a Demand, authorized representatives of the parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved after this meeting, either party may start voluntary, nonbinding mediation under the commercial mediation rules of the American Arbitration Association ("**AAA**") or such other mediation process as is mutually acceptable to the parties.

7.3 Injunctive Relief. Notwithstanding the other provisions of this Section 7, if either party seeks injunctive relief, such relief may be sought in a court of competent jurisdiction without complying with the negotiation and mediation provisions of this Section 7.

7.4 Time Limit. Neither mediation under this section nor any legal action, regardless of its form, related to or arising out of this Agreement may be brought more than four (4) years after the cause of action first accrued.

8. General Provisions:

8.1 Entire Agreement. This Agreement and the attachments, schedules, and exhibits hereto are the entire agreement and supersede all prior negotiations and oral agreements. Hart has made no representations or warranties with respect to this Agreement or the Hart Voting System and its components that are not included herein or incorporated herein by reference. This Agreement may not be amended or waived except in writing signed by an officer of the party to be bound thereby.

8.2 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Agreement will govern and the conflicting terms and conditions in the preprinted form will be void and of no effect. The terms and conditions of this Agreement, including, but not limited to, this Section 8.2, cannot be amended, modified, or altered by any conflicting preprinted terms or conditions in a preprinted form.

8.3 Interpretation. This Agreement will be construed according to its fair meaning and not for or against either party. Headings are for reference purposes only and are not to be used in construing the Agreement. All words and phrases in this Agreement are to be construed to include the singular or plural number and the masculine, feminine, or neuter gender as the context requires.

8.4 GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, AND WITH VENUE RESIDING IN THE COUNTY OF YOLO.

8.5 Severability. Whenever possible, each provision of this Agreement will be interpreted to be effective and valid under applicable law; but if any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof will be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, or unenforceable provision. If it is not possible to modify the provision to render it legal, valid, and enforceable, then the provision will be severed from the rest of the Agreement and ignored. The invalidity, illegality, or unenforceability of any provision will not affect the validity, legality, or enforceability of any other provision of this Agreement, which will remain valid and binding.

8.6 Delays. Hart is not responsible for failure to fulfill its obligations when due to causes beyond its reasonable control, including the failure of third parties to timely provide Software, Equipment, materials, or labor contemplated herein. Hart will notify Client in writing of any such delay, and the time for Hart's performance will be extended for a period corresponding to the delay. Hart and Client will determine alternative procedures to minimize delays.

8.7 Force Majeure. "Force Majeure" means a delay encountered by a party in the performance of its obligations under this Agreement that is caused by an event beyond the reasonable control of the party, but does not include any delays in the payment of monies due by either party. Without limiting the generality of the foregoing, "Force Majeure" will include, but is not restricted to, the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities (other than, with respect to Client's performance, the Client, and its governing entities); fires, floods, epidemics, or serious accidents; unusually severe weather conditions; and strikes, lockouts, or other labor disputes. If any event constituting Force Majeure occurs, the affected party shall notify the other party in writing, disclosing the estimated length of the delay and the cause of the delay. If a Force Majeure occurs, the affected party will not be deemed to have violated its obligations under this Agreement, and time for performance of any obligations of that party will be extended by a period of time necessary to overcome the effects of the Force Majeure.

8.8 Compliance with Laws. Client and Hart shall comply with all federal, state, and local laws in the performance of this Agreement, including those governing use of the Equipment and Software. Equipment and Software provided under this Agreement may be subject to U.S. and other government export control regulations. Client shall not export or re-export any Equipment or Software.

8.9 Assignments. Hart may assign its interest (but not its obligations) in this Agreement or its interest in any Equipment or Software, or may assign the right to receive payments, without Client's consent. Any such assignment, however, will not change the obligations of Hart to Client that are outstanding at the time of assignment. Client will be notified in writing if Hart makes an assignment of this Agreement. Client shall not assign this Agreement without the express written consent of Hart, such consent not to be unreasonably withheld. In the event of any permitted assignment of this Agreement, the assignee shall assume the liabilities and responsibilities of the assignor, in writing.

8.10 Independent Contractors. Client and Hart are independent contractors and are not agents or partners of each other. Hart's employees, agents, and subcontractors will not be entitled to any privileges or benefits of Client employment. Client's employees, agents, and contractors will not be entitled to any privileges or benefits of Hart employment.

8.11 Notices. Any notice required or permitted to be given under this Agreement by one party to the other must be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth on the Signature Page for the party to whom the notice is given, or on the fifth (5th) business day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the party's address set forth on the Signature Page. Each party may change its address for notice by giving written notice of the change to the other party.

8.12 Trademarks. Ballot Now™, BOSS™, Disabled Access Unit™, eCM™, eScan™, eSlate®, FUSION™, InFusion™, Judge's Booth Controller™, Mobile Ballot Box™, Tally™, Rally™, SERVO™, and Verifiable Ballot Option™ (VBO™) are trademarks of Hart.

9. Definitions

"*Agreement*" has the meaning set forth on the Signature Page.

"*Anniversary Date*" means each anniversary of the Effective Date.

"*Annual Fee*" means the combined annual license, sublicense, and support fees payable by Client to Hart as described in Section 4.

"*Ballot Now™*" means the Paper Ballot Management System.

"*BOSS™*" means the Ballot Origination Software System used to define the election.

"*Client*" has the meaning set forth on the Signature Page.

"*Confidential and Proprietary Information*" means Software, firmware, diagnostics, documentation (including operating manuals, user documentation, and environmental specifications), designs and configurations of Equipment, Software and firmware, trade secrets and related documentation, and any other information confidential to Hart or its suppliers or licensors.

"*DAU™*" means the Disabled Access Unit created by Hart as an add-on component to an eSlate® that facilitates the performance of voting activities by disabled voters, for example, by providing an audio ballot presentation and/or accepting inputs from specialized switch mechanisms, such as head switches, breath switches, and panel switches that facilitate interaction with disabled voters, as needed.

“*eCM*[™]” means eSlate® Cryptographic Module, the electronic “key” required for access to secure election functions

“*Effective Date*” has the meaning set forth in the Signature Page and indicates the date this Agreement becomes effective.

“*Equipment*” means the Hart Voting System Hardware and Non-Hart Equipment.

“*eScan*[™]” means the eScan[™] device created by Hart, consisting of a precinct digital ballot imaging device single-feed scanner that transports and scans both sides of a ballot simultaneously, and a base that provides for secure ballot storage and transport.

“*eSlate*®” means the eSlate® created by Hart and consisting of hardware including an electronically configurable, network-capable voting station that permits a voter to cast votes by direct interaction, which voting station in its present configuration created by Hart comprises an electronically configurable liquid crystal display (LCD) panel for use in displaying ballot images, a rotary input device for use in ballot navigation, and various buttons that facilitate voter options for selecting ballot choices and casting a ballot.

“*FUSION*[™]” means the integration and reporting software application used to facilitate the integration of election data

“*Firmware*” means the Hart Proprietary Software embedded in eSlate® voting devices that allows execution of the software functions, but does not allow access to or modification of the software by an end user.

“*Force Majeure*” has the meaning set forth in Section 12.7.

“*Hart*” means Hart InterCivic, Inc., a Texas corporation.

“*Hart Proprietary Software*” means the run-time executable code and associated support files of the Ballot Origination Software System (BOSS[™]) Software, Tally[™] Software, Rally[™] Software, Ballot Now[™] Software, computer code, and software resident in the Hart Voting System Hardware and other support software utilities as specified on Schedule B, consisting of computer programs and computer code owned by Hart that are licensed to Client pursuant to this Agreement, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications, including any custom modifications, to such computer programs and code that are provided to Client, and all copies of the foregoing. Hart Proprietary Software also includes all documentation provided by Hart to Client with respect to these computer programs and code and all copies of the foregoing.

“*Hart Voting System*” means the Equipment and the Software.

“*Hart Voting System Hardware*” means the DAU[™], eSlate®, eScan[™], JBC[™], and VBO[™] units, and units purchased by Client pursuant to the Hart Voting System Agreement.

“*Hart Voting System Master Agreement*” means the agreement, between Client and Hart or Hart’s authorized distributor of Hart Voting System Hardware, under which Client has purchased the Hart Voting System Hardware. The Hart Voting System Master Agreement is identified on the Signature Page.

“*InFusion*™” means the software utility that manages source data for ballot definition.

“*Initial Annual Fee*” means the first Annual Fee, in the amount specified as the “Initial Annual Fee” on Schedule D, which is payable upon execution of this Agreement.

“*Installation Date*” means, with respect to Hart Voting System Hardware, the date of delivery to Client and, with respect to Hart Proprietary Software, the date Hart completes delivery and installation of the Hart Proprietary Software.

“*JBC*™” means the Judge’s Booth Controller created by Hart that is a local area network controller capable of interacting with one or more eSlate® devices or DAU devices by transmitting and receiving signals that manage or control an election, e.g., by opening and closing the polls, providing or recording an audit trail of system events during an election, storing cast ballot data, and applying data security and integrity algorithms.

“*Non-Hart Equipment*” means the equipment, if any, not consisting of Hart Voting System Hardware that was sold to Client by Hart or Hart’s distributor for use with, and in connection with the sale of, the Hart Voting System Hardware.

“*Non-Hart Software*” means the run-time executable code and associated support files of computer programs owned by third parties that are identified on Schedule C and sublicensed by Hart to Client pursuant to this Agreement or licensed directly by the third-party licensor to Client, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications to such computer programs and code that are provided to Client, and all copies of the foregoing. Non-Hart Software also includes all documentation provided to Client with respect to these computer programs, and all copies of the foregoing.

“*SERVO*™” means the election records and recount management system

“*Software*” means the Hart Proprietary Software and Firmware, and Non-Hart Software.

“*Sublicensed Software*” means Non-Hart Software that is identified on Schedule C as being sublicensed by Hart to Client pursuant to this Agreement.

“*VBO*™” means the Verifiable Ballot Option unit used in conjunction with the eSlate® for a *Voter Verifiable Paper Audit Trail*.

“*Total Purchase Price*” is defined in Section 2.1.

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SCHEDULE A
Yolo County, California
EQUIPMENT AND PRICING

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	TOTAL PRICE
Voting Hardware				
45	Additional Mobile Ballot Boxes / Audio Cards	Spare Mobile Ballot Boxes and Audio Cards.	\$ 60.00	\$ 2,700.00
12	ATA Card Reader/Writer	ATA card reader.	\$ 125.00	\$ 1,500.00
8	eCM	Electronic security key.	\$ 60.00	\$ 480.00
Total Hart Hardware				\$ 4,680.00
Voting Software				
1	Election Management Software System.	BOSS, Tally, Ballot Now, and Servo electronic voting system software.	\$ 125,100.00	\$ 125,100.00
4	Election Management Software System.	Additional Ballot Now license	\$ 60,000.00	\$ 240,000.00
1	InFusion.	EMS import software.	\$ 15,000.00	\$ 15,000.00
Hart Software Subtotal				\$ 380,100.00
Total Hart Hardware & Software				\$ 384,780.00
Other Hardware				
12	Personal Computers.	PC workstations.	\$ 3,000.00	\$ 36,000.00
5	Laser Printer.	Low-volume laser printer.	\$850.00	\$ 4,250.00
2	Laser Printer.	High-volume laser printer.	\$5,000.00	\$ 10,000.00
5	Scanner.	High-volume scanner with Kodak Scan Aid Kit	\$65,875.00	\$ 329,375.00
Total 3rd Party Hardware				\$ 379,625.00
Professional Services				
45 Days	Project Management	Number of project management days	\$1,500.00 per day.	\$ 67,500.00
15 Days	Training.	Number of training days.	\$1,500.00 per day.	\$ 22,500.00
1	Voter Education Outreach Program Management.	Packages A & B.	\$ 8,200.00	\$ 8,200.00
Total Professional Services				\$ 98,200.00
Software License and Support				
First Year	eSlate First Year License and Support.	eSlate license and support for the first year.	\$76,020.00	\$76,020.00
Total Acquisition Cost				
Total Price for Equipment:				\$ 384,305.00
Total Price for Software:				\$ 380,100.00
Total Price for Services:				\$ 98,200.00
Initial Annual Fee:				\$76,020.00
State and Local Taxes (if any):				NOT INCLUDED
Total System Price:				\$ 938,625.00
Less Special County Discount:				(\$80,000.00)
California Electronic Waste Recycling Fee (\$6 per each item with an LCD less than 15 inches (0 units); \$8 if over 15 inches (12 unit))				\$96.00
Total Purchase Price:				\$ 858,721.00

Note: There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of *other than Hart-recommended hardware* purchased by the Client for use with the Hart Voting System.

SCHEDULE B

HART PROPRIETARY SOFTWARE

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	INITIAL LICENSE FEE
One (1).	Ballot Origination Software System (BOSS™), Tally™, Ballot Now™, and SERVO™.	Election Management Software	\$125,100.00	Four (4) (One license per each software title).	\$125,100.00
Four (4).	Ballot Now™ Software.	Election Management Software (additional Ballot Now™ licenses).	\$60,000.00	Four (4).	\$240,000.00
One (1).	InFusion™ Software.	EMS import software.	\$15,000.00	One (1).	\$15,000.00

Licensed Location: **Yolo County, California**.

NOTE: Hart and Client will update this Schedule as appropriate if Hart releases new Hart Proprietary Software that is made available to Client under the Hart Voting System Warranty, Support, and License Agreement.

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SCHEDULE C

NON-HART SOFTWARE

Non-Hart Software Sublicensed to Client:

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	TOTAL PRICE
Six (6).	Sybase Embedded Runtime Program.	Database Engine.	No Charge.	Six (6).	No Charge.

NOTE: Hart and Client will update this Schedule as appropriate if Hart provides new or different Non-Hart Software to Client under the Hart Voting System Warranty, Support, and License Agreement.

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SCHEDULE D

ADDITIONAL TERMS AND CONDITIONS

1. Hart Responsibilities:

1.1 Compliance with Law, Certification Requirements. The Equipment, Software, and Voting System provided by Hart will comply with all applicable Federal, State and local laws and regulations, including but not limited to all requirements pertaining to the use and certification of voting systems, and that they comply with current federal and state certification requirements at the time of installation.

1.2 Cooperation. Hart agrees to cooperate with Client and promptly perform Hart's responsibilities under this Agreement and the License Agreement.

1.3 Records. Hart agrees that the County and the California Department of General Services, the Bureau of State Audits, and their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Hart agrees to maintain such records for possible audit for a minimum of four (4) years after final payment, unless a longer period of records retention is stipulated. Hart agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Hart agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896). At least thirty (30) calendar days prior to any destruction of these records following the four years, Hart shall notify the Director. Upon such notification, the County Director shall either agree to the destruction or authorize the records to be forwarded to the County for further retention.

1.4 Non-Discrimination. Hart certifies that any service provided pursuant to this Agreement shall be without discrimination based on color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the County Board of Supervisors or the County Administrative Officer. For the purpose of this Agreement, distinctions on the grounds of color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; and the assignment of times or places for the provision of services. Hart and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Hart shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

1.5 Indemnification. Hart shall indemnify, defend and hold harmless the Client, its officers, agents, employees and volunteers from and against any and all claims, damages, demands, losses, defense

costs, expenses (including attorney fees) and liability of any kind or nature arising out of or resulting from performance of the work, provided that any such claim, damage, demand, loss, cost, expense or liability is caused in whole or in part by any negligent or intentional act or omission of Hart, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

1.6 Insurance. During the term of this Agreement, Hart shall maintain insurance meeting the following requirements:

A. Comprehensive general liability insurance, Workers' Compensation and Employers' Liability insurance as required by the State of California, and automobile liability insurance (including coverage for hired and non-owned vehicles). The comprehensive general liability insurance shall include broad form property damage insurance.

1. The limits of such insurance shall be no less than \$1,000,000 per individual/\$2,000,000 per occurrence for the comprehensive general liability insurance, statutory limits for the Workers' Compensation/\$1,000,000 for the Employers' Liability insurance per accident for bodily injury or disease, and \$1,000,000 general and \$500,000 property per occurrence for the automobile liability insurance.

2. Said policies shall remain in force through the life of this Agreement and shall be payable on a "per occurrence" basis.

3. The Client, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation and professional liability coverages.

4. Hart shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the Client's Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.

5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the Client's Risk Manager.

6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Clerk-Recorder.

7. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by the Client's Risk Manager.

8. The policies shall cover all activities of Hart, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.

9. For any claims relating to this Agreement, the Hart's insurance coverage shall be primary, including as respects the Client, its officers, agents, employees and volunteers. Any insurance maintained by the Client shall apply in excess of, and not contribute with, insurance provided by Hart's liability insurance policy.

10. The insurer shall waive all rights of subrogation against the Client, its officers, employees, agents and volunteers.

B. Prior to commencing services pursuant to this Agreement, Hart shall furnish the Clerk-Recorder with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the Client's Risk Manager before work commences. Upon Client's request, Hart shall provide complete,

certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

C. During the term of this Agreement, Hart shall furnish the Clerk-Recorder with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon Client's request, Hart shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

1.7 Conflicts of Interest. Hart shall comply with the laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission. Hart covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Hart's obligations and responsibilities hereunder, and that, in the performance of this Agreement, no person having any such interest shall be employed. Hart agrees that if any fact comes to its attention that raises any question as to the applicability of any conflict of interest law or regulation, Hart will immediately inform the Client and provide all information needed for resolution of the question.

1.8 No Contingent Fees. Hart agrees that it has not employed or retained any company or person, other than a bona fide employee working for Hart, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this agreement. For breach or violation of this provision, the Client shall have the right to annul this Agreement without liability, or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

1.9 Source Code. Hart shall deposit all source code for all Software provided or licensed under this Agreement in an escrow facility approved by California Secretary of State pursuant to the California Elections Code and its implementing regulations. Such escrow deposits shall be made concurrent with the delivery of the Software to County. Hart's duty to deposit all source codes, and any modifications made during the course of this Agreement, shall continue throughout the term of this Agreement (including renewals).

Hart shall name County as a Preferred Beneficiary under Hart's Escrow Agreement with Iron Mountain Intellectual Property Management ("Escrow Service"), which agreement provides for release of the source codes upon the occurrence of the following: 1) termination of this Agreement due to the filing of a voluntary or involuntary petition regarding Hart under the United States bankruptcy code (which involuntary petition is not dismissed within sixty (60) days); 2) termination of this Agreement by County for Hart's default, if Hart fails to cure such default within sixty (60) days of receiving written notice from the County of Yolo, California, documenting any issue that Hart has not cured; or 3) Hart's failure to provide Software of upgrade that will meet State and Federal requirements for use at a scheduled Statewide election, and install it at least six (6) months prior to said election at any time within the term of this Agreement, as long as the County of Yolo is up-to-date with its payment to Hart for the Annual Fees required per the Hart Warranty, Support, and license Agreement.

1.10 Hart Representatives. Hart shall provide a list of any representatives of Hart whose services are billed directly to the Client, along with their qualifications to perform said services on the Client's Hart Voting System. Hart will provide Client an updated list if any personnel changes occur, requesting approval of Client for such changes, such consent not to be unreasonably denied. All representatives of Hart must provide valid government-issued identification when on site at a Client facility, and must wear Client-issued Identification Badges at all times when on Client premises.

2. General Provisions

2.1 Subcontracts. Hart shall not subcontract any portion of the services required of Contractor by this Agreement without the express written consent of the Clerk-Recorder or his/her designee. If any portion of the services required of Hart are subcontracted, the subcontractor(s) shall maintain the same insurance as required of Hart by this Agreement and Hart shall be fully responsible to the Client for all work undertaken by subcontractors.

2.2 Complete Compensation. Hart shall not be entitled to any further compensation or reimbursement for any expenses except as specifically set forth in this Agreement.

2.3 External Requirements. This Agreement is subject to any additional restrictions or conditions that may be imposed upon the Client or the Clerk-Recorder by the Federal or State government.

2.4 Default; Termination:

A. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than thirty (30) days to cure the default. Such notice shall describe the default, and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within said sixty-day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than fifteen (15) days advance written notice. In the event of such termination based upon Hart default, the Client reserves the right to purchase or obtain the supplies or services elsewhere, and Hart shall be liable for the difference between the prices set forth herein and the actual cost thereof to the County. The foregoing notwithstanding, neither party waives the right to recover damages against the other for breach of this Agreement.

B. If Hart, or any of its officers, agents, employees, or five percent (5%) owners, becomes excluded, debarred or suspended from participation in Federally or State funded programs, the Client may terminate this Agreement by giving ten (10) days advance written notice thereof to Hart.

C. This Agreement is subject to the Client, the State of California and the United States appropriating and approving sufficient funds for the activities required of the Contractor pursuant to this Agreement. If the Client's adopted budget and/or its receipts from the State of California and the United States do not contain sufficient funds for this Agreement, the Client may terminate this Agreement by giving ten (10) days advance written notice thereof to the Hart, in which event the Client shall have no obligation to pay the Hart any further funds or provide other consideration and the Hart shall have no obligation to provide any further services pursuant this Agreement. If the Client terminates the Agreement pursuant to this subparagraph, the Client will pay Hart in accordance with this Agreement for all services performed to the satisfaction of the Clerk-Recorder before such termination and for which funds have appropriated as required by

law.

2.5 Waiver. The waiver by either party or any of its officers, agents or employees, or the failure of a party or its officers, agents or employees to take action, with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

2.6 Authorized Representative. Each person executing this Agreement on behalf of a party affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of that party and to bind that party to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of a party and that party understand that the other party is relying on this representation in entering into this Agreement.

2.7 Public Records Act. Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

2.8 No Third-Party Beneficiaries. Except where specifically stated otherwise in this document, the promises in this document benefit the Client and Hart only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

EXHIBIT A

Hart Voting System Warranty, Support, and License Agreement

(See Attached Agreement)