

INDEX TO GENERAL CONDITIONS OF CONTRACT

<u>Section</u>	<u>Title</u>	<u>Page</u>
1	Identity of Parties	2
2	Scope of Services	2
3	Certification Of Funds And Budget And Fiscal Provisions	3
4	Term of Agreement	3
5	Definitions	4
6	Contractor's Services	4
7	Accounting and Payment for Contractor Services	5
8	Modifications	5
9	Assignment and Subcontracting	5
10	Independent Contractor	6
11	No Guarantee of Employment	6
12	Mutual Non-Solicitation	7
13	Taxes	7
14	Regulations and Requirement	7
15	Right to Review	7
16	Termination By County For Default	7
17	Termination By Contractor For Default	8
18	Termination for Public Convenience	8
19	Withholding Payment	8
20	Defense & Indemnity Agreement	9
21	Industrial Insurance Waiver	9
22	Venue and Choice of Law	10
23	Patent/Copyright Infringement	10
24	Disputes	10
25	Ownership of Items Produced	11
26	Confidentiality	11
27	Notice	11
28	Waiver	12
29	Quiet Possession and Usage	12
30	Uniform Commercial Code	13
31	Limitation of Liability	13
32	System Warranty	14
33	Acceptance of System	14
34	Subpoena	15
35	Publicity	15
36	Severability	15
37	Survival	15
38	Exhibits	15
39	Entire Agreement	16
	Contract Signatures	16

**AGREEMENT BETWEEN SNOHOMISH COUNTY, WASHINGTON
AND SEQUOIA VOTING SYSTEMS, INC.
FOR THE PURCHASE OF
THE AVC EDGE ELECTRONIC VOTING SYSTEM**

GENERAL CONDITIONS

THIS AGREEMENT is entered this 7th Day of July, 2002 by and between Snohomish County ("COUNTY"), a charter County of the State of Washington, and Sequoia Voting Systems, Incorporated, Delaware Corporation ("CONTRACTOR"):

1. Identity of Parties

Sequoia Voting Systems, Incorporated, (CONTRACTOR) is a Corporation duly and validly existing in good standing under the laws of the State of Delaware, and is duly qualified to own its properties and carry on its business.

Snohomish County (COUNTY) is a County government duly and validly organized and existing under the laws of the State of Washington and is duly qualified to own properties, and perform municipal functions, including elections.

2. Scope of Services

Through this Agreement, the COUNTY seeks the acquisition of an electronic voting system proposed by the CONTRACTOR.

Sequoia Voting Systems, Incorporated (the CONTRACTOR) is a provider of computerized automated election systems. Sequoia Voting Systems, Incorporated has submitted a Proposal to Snohomish County for the AVC EDGE, ELECTRONIC VOTING SYSTEM comprised of hardware, software, implementation services, and on-going maintenance and support at the COUNTY'S location.

The COUNTY desires to have CONTRACTOR provide and support The System at the COUNTY'S business location. The COUNTY will obtain The System by purchasing hardware specified by the Contractor and licenses to use certain software upon payment of the annual license fee described in Exhibits A and B..

2.1 Structure of Agreement

The Scope of Services subject to this Agreement shall be provided in three phases. "Phase One" of the Scope of Services includes the initial acquisition, installation, and maintenance support for one year of The System by Sequoia Voting Systems, Inc. and its subcontractor. Once Phase One work is complete, the parties will commence with "Phase Two" of the Scope of Services, which will consist of annual maintenance support of The System and maintenance support of the OPTEC 4C voting system presently in use in the COUNTY in accordance with Exhibit B. "Phase Three" of the Scope of Services will consist of completion and testing of the automated software interface with the Ballot Printing System II (BPSII) application owned by Election Resources Corporation, Inc. that is described in Exhibit D

During Phase One, the parties shall be bound by the terms and conditions of this Agreement in its entirety.

During Phase Two, the parties shall continue to be bound by the terms and conditions of this Agreement. Licenses and maintenance support of the OPTEC 4C hardware and associated software shall be provided by

the Contractor upon execution of this contract. Subsequent annual maintenance support will be provided by the CONTRACTOR under the annually renewed Master Software License and Equipment Support Agreement as described in Exhibit B.

Until the completion of Phase Three, CONTRACTOR will provide the interim data import support provided for in Section 5.2 and as described in Exhibit D.

3. Certification Of Funds And Budget And Fiscal Provisions

3.1

This Agreement is subject to the budget and fiscal provisions of the County of Snohomish.

3.2

This Agreement will terminate without penalty at the end of any fiscal year in which funds are not appropriated for software licenses, maintenance and support for the following fiscal year. If funds are appropriated by the COUNTY for payment under this Agreement for a portion of the following fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated. Termination will be handled in the manner specified in Section 18 Termination for Public Convenience.

3.3

This Section 3. controls against any and all other provisions of the Agreement.

3.4

Payment under this Agreement shall be as provided in Sections 6. and 7.

4 Term Of Agreement

The initial term of this Agreement shall be one year from the date first above written and shall be automatically renewed annually thereafter unless a written notice of cancellation from the COUNTY Auditor Department is received by CONTRACTOR at least 90 days prior to the end of the contract term or this Agreement is otherwise terminated as provided herein. This term in no way affects the COUNTY'S ownership of hardware purchased under this Agreement.

5.1 Definition of System:

The subject matter of this Agreement is the AVC EDGE, ELECTRONIC VOTING SYSTEM ("The System") to be provided by Sequoia Voting Systems, Incorporated. The System is comprised of hardware, software, accompanying documentation, and services set forth in Exhibit A.

5.2 Definition of Standard Software:

"Standard Software" means the WinEDS, Central Tabulating System as described in Exhibits A, B, and E and the BPSII Interface that will import COUNTY profile information and election specific ballot information into WinEDS as described in Exhibit D. When data is available CONTRACTOR will provide a one week turn

around of the BPS import into WinEDS, during the period in which the County will be using the interim WinEDS 2.6 MS Access data import approach, effective after the November 2002 election.

5.3 Definition of Custom Software:

“Custom software” means application products that are modified in a material way at the source code level prior to their normal use by the COUNTY. CONTRACTOR will provide, as custom software, a utility to facilitate the merging of election results from the OPTEC system (AERO) into WinEDS, on a one-to-one precinct level as described in Exhibit C.

5.4 Definition of Services:

“Services” means the labor performed by the CONTRACTOR or its sub-contractors, and any substitute or additional services, consistent with meeting or exceeding the CONTRACTOR’S representations as stated in this Agreement. In addition “Services” will include the CONTRACTOR providing support during the 2002 Primary and General election and database setup for the elections held by the COUNTY. This will include CONTRACTOR providing accurate, complete and timely MS Access data import and creation of the WinEDS profile and election databases for the COUNTY within the one week turn around time.

As a part of the services to be provided under this Agreement CONTRACTOR will provide the following training:

Train the Trainer. This training will be provided at the COUNTY’S location prior to or in conjunction with the delivery of the equipment and shall consist of at least: basic EDGE election day operations, operator level troubleshooting and maintenance, audio ballot and disability accommodation, and poll worker training plans and strategies.

WinEDS Training. Initial WinEDS training will occur at the COUNTY’S location as part of the initial acceptance testing and the September 17, 2002 election. Subsequent formal training will consist of a five (5) day program to be conducted prior to the end of 2002 at the COUNTY’S location. Training on the BPSII interface to WinEDS will be conducted at the COUNTY’S location upon deployment of the application or by July 2003, whichever comes first.

EDGE Technician Training. Technician training consists of a four (4) day program and will occur at the Sequoia facility in Oswego, NY. The training of County personnel (number to be determined) will occur in 2003. Travel and accommodations will be at the COUNTY’S expense.

6. CONTRACTOR’S Services

In consideration of the sum of **\$5,054,649** as stated in Exhibit A, the CONTRACTOR agrees to provide to the COUNTY all services, software, and any materials described in this Agreement and in Exhibits A through E for the AVC EDGE, ELECTRONIC VOTING SYSTEM. Support services will be provided during the term of the Agreement in accordance with the provisions of Exhibit B.

Sequoia Voting Systems, Incorporated shall be the Prime Contractor under this Agreement with respect to all services, software, and hardware products and the AVC EDGE, ELECTRONIC VOTING SYSTEM and WinEDS Central Tabulation application software described in Exhibits A through E.

7. Accounting and Payment for CONTRACTOR Services

7.1

Each party's "Contract Administrator" under this Agreement shall be:

COUNTY

Scott Konopasek
Election Manager
3000 Rockefeller Ave MS 505
Everett, WA 98201

CONTRACTOR

Peter McManemy
VP/Chief Financial Officer
7677 Oakport St., Suite 800
Oakland, CA 94621

Each party may change its designated Contract Administrator by written notice signed by its current Contract Administrator delivered to the other party. Each party's Contract Administrator under this Agreement shall be the individual or official who monitors performance and payments under this Agreement or that individual's or official's designee.

7.2

Payment to the CONTRACTOR for services rendered under this Agreement shall be as set forth in Exhibit F. Where Exhibit F requires payments by Snohomish County, payment shall be based upon billings, supported, unless otherwise provided in Exhibit F, by documentation of units of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless specifically stated in Exhibit F or approved in writing in advance by the COUNTY'S Contracting Officer, the COUNTY will not reimburse the CONTRACTOR for any costs or expenses incurred by the CONTRACTOR in the performance of this contract. Where required, the COUNTY shall, upon receipt of appropriate documentation, compensate the CONTRACTOR, no more often than monthly, through the COUNTY voucher system for the CONTRACTOR'S service pursuant to the fee schedule set forth in Exhibit F. Payments to CONTRACTOR are due in full within 30 days of receipt of invoice. The COUNTY shall notify the CONTRACTOR of any invoice disputes within 15 business days of receipt of invoice. Such disputes shall be resolved in accordance with Section 24.

8. Modifications

Either party may request modifications to this Agreement. Any agreed modification which does not increase the total amount payable under the Agreement will become effective only when approved in writing by each party's designated Contract Administrator. Any modification which does increase the total amount payable must be agreed to in writing and fully executed as an amendment to this Agreement by the parties with all the formalities of the original.

9. Assignment and Subcontracting:

With the prior written consent of the COUNTY'S Contract Administrator, which consent shall not be unreasonably withheld, the CONTRACTOR may assign this Agreement including the proceeds hereof: PROVIDED that such assignment shall not operate to relieve the CONTRACTOR of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to the COUNTY that may arise from any breach of the sections of this Agreement, its supplements, or warranties made herein including, but not limited to, rights of set off.

9.1

This Agreement or any portion thereof may not be excluded from any acquisition or assignment of CONTRACTOR in whole or in part, or any assets of CONTRACTOR related to the performance of this Agreement. Should any such acquisition or assignment take place, the COUNTY still retains the right to refuse assignment of this Agreement per provisions above.

9.2

With the prior written consent of the CONTRACTOR, which consent shall not be withheld unreasonably, the COUNTY may assign this Agreement to any public agency, commission, board, or the like, within the political boundaries of the state of Washington: PROVIDED that such assignment shall not operate to relieve the CONTRACTOR of any of its duties and obligations hereunder.

10. Independent Contractor

The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant. All payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the CONTRACTOR as an independent contractor.

The CONTRACTOR acknowledges that the entire compensation for this Agreement is specified in Exhibits A and F, and the CONTRACTOR is not entitled to any COUNTY benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to Snohomish County employees. The CONTRACTOR represents that it maintains a separate place of business, serves clients other than the COUNTY, will report all income and expense accrued under this Agreement with the Internal Revenue Service on a Schedule C, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

CONTRACTOR will defend, indemnify and hold harmless the COUNTY, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, set-offs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

11. No Guarantee of Employment

The performance of all or part of this Agreement by the CONTRACTOR shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the CONTRACTOR or any employee of the CONTRACTOR or any subcontractor or any employee of any subcontractor by the COUNTY at the present time or in the future.

12. Mutual Non-Solicitation

The COUNTY agrees not to approach or solicit for employment in any way CONTRACTOR'S employees while this Agreement is in force, or for 12 months thereafter. The CONTRACTOR agrees not to hire, solicit, or accept solicitation for the services, through employment or other means, of any COUNTY employee while this Agreement is in force, or for 12 months thereafter.

13. Taxes

The CONTRACTOR understands and acknowledges that the COUNTY will not withhold Federal or State income taxes. Where required by State or Federal law, the CONTRACTOR authorizes the COUNTY to make withholding for any taxes other than income taxes (i.e., Medicare). All compensation received by the CONTRACTOR will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the CONTRACTOR to make the necessary estimated tax payments throughout the year, if any, and the CONTRACTOR is solely liable for any tax obligation arising from the CONTRACTOR'S performance of this Agreement. The CONTRACTOR hereby agrees to indemnify the COUNTY against any demand to pay taxes arising from the CONTRACTOR'S failure to pay taxes on compensation earned pursuant to this Agreement.

The COUNTY will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The CONTRACTOR must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the CONTRACTOR'S gross or net income, or personal property to which the COUNTY does not hold title. The COUNTY is exempt from Federal Excise Tax.

14. Regulations and Requirement

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. CONTRACTOR, its agents, employees or subcontractors shall conform in all respects with physical, fire or other published security regulations while on the COUNTY'S premises.

15. Right to Review

The CONTRACTOR agrees that an authorized representative of the COUNTY shall, until the expiration of three (3) years after contract termination and upon reasonable notice, have access to and the right to examine any pertinent books and records of the CONTRACTOR involving transaction(s) related to the performance of this Agreement.

16. Termination by COUNTY for Default

Any of the following occurrences shall constitute grounds for the COUNTY, at its option, to terminate the Agreement for default: if the CONTRACTOR fails to perform any material obligation of the Agreement, or becomes insolvent, or is declared bankrupt, or commits any act of bankruptcy or insolvency, or makes an assignment for the benefit of creditors. The COUNTY may, if the CONTRACTOR has not cured following after thirty (30) calendar days notice, by depositing written notice to the CONTRACTOR in the U.S. mail, postage prepaid, terminate the Agreement for default, and at the COUNTY'S option, obtain performance of the work elsewhere.

If a notice of termination for default has been issued and it is later determined for any reason that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

17. Termination by CONTRACTOR for Default

If the COUNTY violates any material term or condition of this Agreement or fails to fulfill in a timely and proper manner its obligations under this Agreement, then the CONTRACTOR shall give the COUNTY written notice of such failure or violation. The COUNTY will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected within such period, the Agreement may be terminated immediately by written notice from the CONTRACTOR to the COUNTY. The option to terminate shall be at the sole discretion of the CONTRACTOR.

18. Termination for Public Convenience

The COUNTY may terminate the Agreement in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the interests of the COUNTY. Whenever the Agreement is terminated in accordance with this paragraph, the CONTRACTOR shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the COUNTY at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the COUNTY.

19. Withholding Payment

In the event the COUNTY'S Contract Administrator determines that the CONTRACTOR has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the COUNTY may withhold from amounts otherwise due and payable to CONTRACTOR the amount determined by the COUNTY as necessary to cure the failure to perform, until the COUNTY'S Contract Administrator determines that such failure to perform has been cured. To the extent that the disputed obligation does not impede the progress or completion of other obligations, the amount that can be withheld by COUNTY is limited to the amount specified for that obligation in the Payment Schedule specified in Exhibit F. Withholding under this clause shall not be deemed a breach entitling CONTRACTOR to termination or damages, provided that the COUNTY promptly gives notice in writing to the CONTRACTOR of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the COUNTY'S Contract Administrator set forth in a notice to the CONTRACTOR of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the CONTRACTOR acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The COUNTY may act in accordance with this clause, without prejudice to any other remedy.

20. Defense & Indemnity Agreement

Subject to the provisions of Section 31 Limitation of Liability, CONTRACTOR will defend, indemnify and save harmless the COUNTY, its appointed and elective officers, employees and agents from and against all loss or expense, including but not limited to judgments, settlements, reasonable attorney's fees and costs by reason of any and all claims and demands upon the COUNTY, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, by reason of or in connection with the performance of this Agreement or any intentional, willful, or negligent act, error or omission of CONTRACTOR, CONTRACTOR'S employees, agents or subcontractors whether such injury to persons or damage to property is due to the negligence of CONTRACTOR, its subcontractors,

successor or assigns, or its or their agents, servants, or employees, except only such injury or damage as will have been occasioned by the sole negligence of the COUNTY, its appointed or elected officials or employees.

It is further provided that no liability will attach to the COUNTY by reason of entering into this Agreement, except as expressly provided herein.

21. Insurance Requirements and Industrial Insurance Immunity Waiver

CONTRACTOR shall obtain and maintain continuously, at its own expense, general occurrence form liability insurance with limits of liability of \$1,000,000.00 each occurrence, which CONTRACTOR may self-insure. Such insurance shall include "Snohomish County, its officers, elected officials, agents and employees" as an additional insured. CONTRACTOR shall provide to COUNTY for review and approval, a Certificate Of Insurance as evidence of insurance protection provided, as a condition precedent to execution of this Agreement. CONTRACTOR will endeavor to provide thirty (30) days written notice to the COUNTY of cancellation before expiration.

Such insurance, in its provision for additional insured, shall include a "Cross Liability Endorsement", "Severability of Interests", or "Separation of Insureds" provision.

With respect to the performance of this Agreement and as to claims against the COUNTY, its officers, agents and employees, the CONTRACTOR expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the CONTRACTOR. This waiver is mutually negotiated by the parties to this Agreement.

22. Venue and Choice of Law

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Snohomish. CONTRACTOR specifically consents to personal and subject matter jurisdiction of said court. This Agreement shall be governed by the laws of the State of Washington.

23. Patent/Copyright Infringement

CONTRACTOR will defend and indemnify the COUNTY from any claim, action, cause or demand brought against the COUNTY, to the extent such action is based on a claim that products furnished hereunder by the CONTRACTOR infringe any U.S. patent or copyright. The CONTRACTOR will pay those costs and damages attributable to any such claims that are finally awarded against the COUNTY in any action. Such defense and payments are conditioned upon the following:

23.1

That CONTRACTOR shall be notified promptly in writing by COUNTY of any notice of such claim.

23.2

CONTRACTOR shall have the right, in the event such claim of infringement is made, at its option and expense, to obtain for the COUNTY the right to continue using the products, or replace or modify the Products so that they become non infringing provided no reduction in performance or loss results to the COUNTY.

23.3

CONTRACTOR shall not have any liability if the alleged infringement is based upon the COUNTY'S use or sale of CONTRACTOR-furnished products, in combinations with other products or devices not furnished by the CONTRACTOR, or modifications made by the COUNTY or by the CONTRACTOR to the COUNTY'S specifications, if such combinations or modifications cause the products furnished by CONTRACTOR to become infringing.

24. Disputes

Time is of the essence in this Agreement. Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of the Contract Documents shall be brought to the attention of the CONTRACTOR and the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. CONTRACTOR and the COUNTY will make best efforts to resolve any disputes in a timely manner.

25. Ownership of Items Produced

All writings, programs, data, public records or other materials prepared by the CONTRACTOR and/or its consultants or subcontractors, in connection with performance of this Agreement shall be the sole and absolute property of the COUNTY. This paragraph does not apply to application software or any documentation related to application software offered for sale, license or lease to other customers, nor to systems software.

26. Confidentiality

The CONTRACTOR, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the COUNTY or acquired by the CONTRACTOR in performance of this Agreement, except upon the prior written consent of the COUNTY or an order entered by a court after having acquired jurisdiction over the COUNTY. CONTRACTOR shall immediately give to the COUNTY notice of any judicial proceeding seeking disclosure of such information. CONTRACTOR shall indemnify and hold harmless the COUNTY, its officials, agents or employees from all loss or expense, including, but not limited to settlements, judgments, set-offs, reasonable attorneys' fees and costs resulting from CONTRACTOR's breach of this provision.

This section does not impose any obligation on the CONTRACTOR if the information is: (1) publicly known at the time of disclosure; (2) already known to the receiving party at the time it is furnished to the CONTRACTOR; (3) furnished by the COUNTY to others without restrictions on its use or disclosure; or (4) independently developed by the receiving party without use of the proprietary information.

In the event that a demand is made upon the COUNTY pursuant to Ch. 42.17 (Public Records Act) or otherwise for disclosure of materials considered by the CONTRACTOR to be "Confidential", "Proprietary", or a "Trade Secret", the COUNTY'S sole obligation hereunder shall be to: (1) notify the CONTRACTOR as soon as the public disclosure request is made; and (2) refrain from disclosing such records for a period of 72 hours in order to provide the CONTRACTOR with an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. COUNTY shall not be required to join in any legal proceedings

arising under such circumstances, unless so required by the court. In the event that the COUNTY is required to join in any such legal proceedings, the CONTRACTOR agrees to reimburse COUNTY for its costs and reasonable attorney's fees incurred in defending the same.

27. Notice

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice will be given by CONTRACTOR to the COUNTY'S Contract Administrator, with copy to the COUNTY'S Purchasing Department at the addresses stated below. Notice to CONTRACTOR for all purposes under this Agreement will be given to CONTRACTOR'S Contract Administrator at the address stated below. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid. All notices will be deemed to have been given upon mailing of the notice by certified mail return receipt requested to the respective party addressed as specified in this section. Either party may change the address, fax number, or the person to whom the notice is to be directed by forwarding to the other party a notice which complies with this section.

COUNTY'S Contract Administrator's Address:
SNOHOMISH COUNTY AUDITOR DEPARTMENT
Scott Konopasek, Elections Manager
1st. Floor County Administration Bldg.
3000 Rockefeller Avenue, M/S #
Everett, WA 98201-4046
Phone:(425) 388-3625
FAX: (425) 259-2777

Copy To:

SNOHOMISH COUNTY PURCHASING DEPARTMENT
David Gibson, Purchasing Manager
2nd Floor Administration Annex, M/S #507
3000 Rockefeller Avenue
Everett, WA 98201-4046
Phone: (425) 388-3329
FAX: (425) 388-3931

CONTRACTOR'S Contract Administrator's address:

Peter McManemy
Sequoia Voting Systems, Inc.
7677 Oakport Street, Suite 800
Oakland, CA 94621
Phone: (510) 875-1212
FAX: (510) 875-1213

28. Waiver

Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

29. Quiet Possession and Usage

CONTRACTOR hereby grants to COUNTY a perpetual non-exclusive license to use the CONTRACTOR'S software delivered pursuant to this Agreement subject to compliance by COUNTY with all of its Agreements and contracts with CONTRACTOR, but regardless of COUNTY'S exercise of its options to continue or renew the maintenance and upgrade agreement as set out in Exhibit B. CONTRACTOR shall retain full and perpetual ownership rights to the software, with COUNTY having only those rights specifically provided in writing by this Agreement. COUNTY hereby acknowledges that the same or similar software may be sold, licensed or leased by CONTRACTOR to other users or agents.

The license of the software by CONTRACTOR to the COUNTY includes a clear license to the software with a perpetual non-exclusive right of the COUNTY to use the software in the COUNTY'S jurisdiction. The COUNTY may install CONTRACTOR'S software on one or more servers as required to meet the COUNTY'S needs.

CONTRACTOR hereby agrees to permit COUNTY to make copies of the software for backup purposes. COUNTY hereby agrees not to make copies for sale, distribution, or any purpose other than its own internal use. COUNTY may not sell, lease, transfer, assign, or license the software to a third party without prior written permission from CONTRACTOR.

COUNTY agrees not to remove statements of copyrights, trade secrets, or proprietary rights which appear in the software or documentation. COUNTY also agrees to take such reasonable steps as required or requested by CONTRACTOR from time to time in order to protect CONTRACTOR'S rights in the software.

30. Uniform Commercial Code (UCC)

All sales of goods/ products under this Agreement shall be governed by the Uniform Commercial Code (UCC) adopted into Washington State Law, Revised Code of Washington Title 62A, RCW 62A.2-101 Sales.

31. Limitation of Liability

Except as provided in other sections of this Agreement, the parties agree that neither the CONTRACTOR nor the COUNTY shall be liable to each other, regardless of the form of action, for incidental, indirect or special damages except a claim or demand based on patent or copyright infringement, in which case liability shall be as set forth elsewhere in this Agreement. This section does not modify any sections regarding retainages or any other such conditions as are elsewhere agreed to herein between the parties.

31.1

Neither the CONTRACTOR nor the COUNTY shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either the CONTRACTOR or the COUNTY. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than COUNTY acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the CONTRACTOR, the COUNTY, or their respective Subcontractors.

31.2

If delays are caused by a Subcontractor without its fault or negligence, neither the CONTRACTOR nor the COUNTY shall be liable for damages for delays, unless the Equipment, Software, or Services to be furnished by their Subcontractors were obtainable on comparable terms from other sources in sufficient time to permit the CONTRACTOR or the COUNTY to meet its required performance schedule.

31.3

Neither party shall be liable for personal injury to the other party or physical damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

31.4

Except for claims of personal injury and breaches of confidentiality obligations contained in this Agreement, CONTRACTOR and COUNTY liability for all damages shall not exceed the total value of this Agreement.

32. System Warranty

CONTRACTOR warrants for one year after delivery of the System to the COUNTY, that equipment delivered hereunder will be (i) free from defects in material and workmanship and (ii) conform to the specifications included in the contract documents and manuals. This manufacturer's warranty will expire one year from the date of delivery of the individual machines. Warranty for the software portion of the System is as provided in Exhibit B. **CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

33. Acceptance of System

Acceptance testing shall begin upon the respective delivery of the equipment, software and the BPS II interface. Testing shall include, but not be limited to, testing the equipment using the acceptance testing procedures set forth in the AVC Edge User Manual and conducting a countywide election. The functionality

of the hardware components and the software, to include the data import functions identified in this Agreement, are subject to acceptance testing.

All hardware and software must perform to the performance standards identified in the AVC Edge User Manual and those standards, as defined in statute, code and local policy, for conducting elections in Snohomish County in the state of Washington. The anticipated acceptance date for the hardware and WinEDS is September 30, 2002, pending the successful conduct of the 2002 Primary election.

The completed BPS II interface shall be tested, evaluated and accepted by the County not later than the next election or 45 days after delivery to the County by the Contractor, whichever occurs first, The standards for acceptance testing will be those identified by CONTRACTOR as well as those standards, as defined in statute, code and local policy, for conducting elections in Snohomish County in the state of Washington.

The COUNTY, at the completion of the testing, will notify CONTRACTOR of the results of the acceptance testing in writing to include those functions of pieces of equipment not performing to acceptable standards. The CONTRACTOR will have 30 calendar days from the transmittal of the notice to make any necessary corrections. All corrections are subject to retesting in a mutually acceptable timeline.

34. Subpoena

In the event that a subpoena or other legal process issued by a third party in any way concerning the Equipment or Related Services provided pursuant to this Agreement is served upon CONTRACTOR or COUNTY, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. CONTRACTOR and COUNTY further agree to cooperate with the other party in any lawful effort by the such other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

35. Publicity

The CONTRACTOR agrees to submit to the COUNTY for its review, all advertising, sales promotion and other publicity matters relating to this Agreement or any Product furnished by the CONTRACTOR wherein the COUNTY'S name is mentioned or language used from which the connection of the COUNTY'S name therewith may, in COUNTY'S judgment, be inferred or implied. The CONTRACTOR further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of the COUNTY, PROVIDED that the CONTRACTOR may use the COUNTY'S name in a listing of clients, shown or given to potential customers for reference purposes.

36. Severability

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

37. Survival

The provisions of paragraphs .5 through 39 shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

38. Exhibits

Attached hereto and made part hereof are the following:

- Exhibit A. Sequoia Voting Systems Inc. AVC EDGE and WinEDS Proposal
- Exhibit B. Master Software License and Equipment Support Agreement
- Exhibit C. AERO-WinEDS Interface
- Exhibit D. BPS-WinEDS Import Interface
- Exhibit E. System Description AVC EDGE and WinEDS Software
- Exhibit F. System Payment Schedule

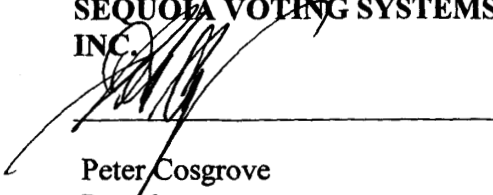
39. Entire Agreement

This written Agreement, including the documents incorporated herein, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions, or understanding between the parties. In the event of any conflict requiring interpretation, the precedence of documents shall be:

1. General Conditions
2. Exhibits of this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement this 24th day of July, 2002.

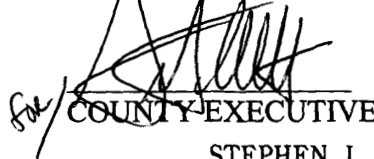
SEQUOIA VOTING SYSTEMS,
INC.



Peter Cosgrove
President
Sequoia Voting Systems
7677 Oakport St., Suite 800
Oakland, CA 94621

Business Tax ID or Social Security Number:
37-1274619

SNOHOMISH COUNTY


COUNTY EXECUTIVE

STEPHEN L. HOLT
Executive Director

Approved as to Form:


Deputy Prosecuting Attorney

Recommended:


RISK MANAGER

- EXHIBIT A -

Sequoia Voting Systems Inc. AVC EDGE and WinEDS Proposal

AVC Edge® Direct Recording Electronic Voting Equipment	Quantit y	Selling Price Per Unit	Total Sales Price
AVC Edge® Voting Unit	1,000	\$3,800	\$3,800,000
Audio Voting Hand Control and Headset	200	\$250	\$50,000
Card Activators	350	\$900	\$315,000
Activation Cards	10,000	\$3.10	\$31,000
External Battery Packs	200	\$250	\$50,000
AVC Edge® Covers / Wheels & Handles	1000		\$144,000
Vote Simulation Cartridges	20	\$125	\$2,500
Additional Results Cartridges	20	\$125	\$2,500
Spare Parts, Tools and Supplies Inventory*			\$22,145

**WinEDS
Central Tabulating System**

Election Management Software** **\$200,000**

Cartridge Readers **5** **\$1,000** **\$5,000**

**Equipment and
Software Total** **\$4,622,145**

Tax @ 8.6% **\$397,504**

Freight **\$35,000**

Total Proposal **\$5,054,649**

***Following is an example of spare parts inventory recommended for a jurisdiction of your size:**

<i>QTY'S</i>	<i>P/N</i>	<i>Title</i>	<i>Unit Price</i>	<i>Total Price</i>
15	096030001	LEG ASSY	\$ 60.00	\$ 900.00
40	096027802	CBL ASSY AC POWER 10 FOOT	\$ 4.00	\$ 160.00
40	096028511	RETAINER ACCESS PANEL W/DIMPLE	\$ 2.00	\$ 80.00
40	096006901	LATCH	\$ 10.00	\$ 400.00
40	096006902	KEEPER	\$ 1.00	\$ 40.00
40	096027401	HANDLE	\$ 3.00	\$ 120.00
40	096027501	RETAINER HANDLE	\$ 2.00	\$ 80.00
10	096050201	POWER SUPPLY ASSY	\$ 292.00	\$ 2,920.00
10	096009211-SPR	ASSY POWER PANEL SPARES	\$ 55.00	\$ 550.00
40	096006601	STABILIZER	\$ 1.00	\$ 40.00
40	096008611	FOOT RUBBER	\$ 2.00	\$ 80.00
10	096048631-SPR	TOP CASE ASSY 12.1/15.0 SPARES	\$ 183.00	\$ 1,830.00
10	096008231-SPR	ASSY BOTTOM CASE 12.1/15.0 SPARES	\$ 168.00	\$ 1,680.00
10	096025901	ASSY POLLWORKER LCD/PWB	\$ 125.00	\$ 1,250.00
10	096007301	CBL ASSY ON/OFF SWITCH	\$ 17.00	\$ 170.00
10	096024611	ASSY PWB PRINTER INTERFACE	\$ 49.00	\$ 490.00
10	096055011	ASSY PWB LVDS TX/TFT	\$ 58.00	\$ 580.00
10	096056041	ASSY PWB LVDS RX	\$ 74.00	\$ 740.00
5	096022002	ASSY PWB CPU	\$ 1,224.00	\$ 6,120.00
10	096007511	CBL ASSY CPU TO BATTERY CHARGER	\$ 25.00	\$ 250.00
10	096026911	CBL ASSY AUTO ACTIVATION INTERFACE	\$ 7.00	\$ 70.00
10	096055111	CBL ASSY CPU TO LVDS RX	\$ 25.00	\$ 250.00
10	096054411	CBL ASSY LVDS TX TO RX	\$ 7.00	\$ 70.00
5	096047801	ASSY PRINTER DPU414 MODIFIED	\$ 377.00	\$ 1,885.00
10	096059621	ASSY AUTOACTIVATION	\$ 139.00	\$ 1,390.00
				\$ 22,145.00

****An annual software license fee of forty thousand dollars (\$40,000) shall be due starting one year from delivery. This fee for the WinEDS election management software includes licensing for software that is used with the Optech 4C component of this election system.**

- EXHIBIT B -

**Snohomish County/Sequoia Voting Systems, Incorporated
The AVC EDGE, ELECTRONIC VOTING SYSTEM
Master Software License and Equipment Support Agreement**

This Master Software License and Equipment Support Agreement (“Agreement”) is entered into on the ___ day of June, 2002 (“Execution Date”), by and between Sequoia Voting Systems, Inc. (“Licensor”) and Snohomish County, Washington.

1 DEFINITIONS

1.1 Definition of AVC EDGE

“AVC EDGE” means a touch-screen voting machine upon which voters record their votes and cast their ballots at the polls or as an in-office absentee voter.

1.2 Definition of WinEDS

“WinEDS” means a software application that programs the EDGE machines, reads the votes from results cartridges, and accumulates and reports election results. WinEDS also imports data from BPS II to support EDGE programming and imports election results from the OPTEC IV-C system to produce combined regular and absentee election results.

1.3 Definition of OPTEC IV-C

“OPTEC IV-C” means an optical scan voting machine that counts votes and ballots recorded on a paper medium and which is currently in use in the COUNTY for counting and reporting absentee ballots. The OPTEC IV-C may also be used to count regular ballots voted at the polls. The software that programs the IV-Cs and reports results are AERO and EMS.

1.4 Definition of Product Update

“Product Update” means a change or new release of the Software or Software Documentation designed to correct Software Problem(s) or to maintain compliance with new or existing federal and state voting system standards and laws which include all accessibility standards or requirements.

1.5 Definition of Product Upgrade

“Product Upgrade” means a change or new release of the Software and/or Software Documentation designed to enhance the features of the Software or otherwise improve the functionality of the Software.

1.6 Definition of Enhancements

“Enhancement” means a special request by the user for a software change to accommodate the user’s operational needs.

2 LICENSES

2.1 Licenses Subject to Agreement

The use of the term license in this agreement shall refer to collectively to licenses for WinEDS, EMS and AERO unless otherwise specified.

2.2 Grant of License

Licensor grants to Licensee the non-exclusive and non-transferable right to use the software for Licensee’s business purposes subject to the terms and conditions of this Agreement and in consideration of payment of the agreed upon license fees.

2.3 Backup Copy

Licensee may make backup copies of the software and of any portions thereof that are modified or merged with other programs in accordance with this Agreement. All such backup copies shall also be subject to the terms and conditions of this Agreement. Licensee must maintain an accurate record of the location of the backup copies at all times.

3 PROPRIETARY RIGHTS AND DISCLOSURE

3.1 Ownership

All title and rights of ownership in the Software and Software Documentation remain with Licensor and/or its suppliers and are protected by copyright, patent and/or trade secret laws. Licensee agrees to take all reasonable steps necessary to protect Licensor’s and its suppliers’ proprietary rights in the Software and Software Documentation including, but not limited to, the proper display of copyright, trademark, trade secret, and other proprietary notices on any copies of the Software. Licensee must reproduce and include any copyright, trade secret, trademark, or proprietary data notices, and other legends and logos on the backup copies.

3.2 Disclosure Requests

In the event that the Licensee receives a request to disclose the Software and/or Software Documentation pursuant to Ch. 42.17 (Public Records Act), the Licensee’s sole obligation under shall be to: (1) notify the Licensor as soon as the public disclosure request is made; and (2) refrain from disclosing such records for a period of 72 hours in order to provide the Licensor with an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. Licensee shall not be required to join in any legal proceedings arising under such circumstances, unless so required by the court. In the event that the Licensee is required to join in any such legal proceedings, the Licensor agrees to reimburse Licensee for its costs and reasonable attorney’s fees incurred in defending the same.

4 TERM AND TERMINATION

4.1 Term

The licenses granted under this Agreement shall commence upon the shipment of the software. The initial term of this Agreement shall be one year from the date first above written and shall be automatically renewed annually thereafter unless a written notice of cancellation from the Licensee is received by Licensor at least 90 days prior to the end of the contract term or this Agreement is otherwise terminated as provided herein.

4.2 Termination

4.2.1 This Agreement will terminate without penalty at the end of any fiscal year in which funds are not appropriated for software licenses, maintenance and support for the following fiscal year. If funds are appropriated by the Licensee for payment under this Agreement for a portion of the following fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated. Termination will be handled in the manner specified in paragraph 4.2.4 below.

4.2.2 Any of the following occurrences shall constitute grounds for the Licensee, at its option, to terminate the Agreement for default: if the Licensor fails to perform any material obligations of the Agreement, or becomes insolvent, or is declared bankrupt, or commits any act of bankruptcy or insolvency, or makes an assignment for the benefit of creditors. The Licensee may, if the Licensor has not cured following after ninety (90) calendar days notice, by depositing written notice to the Licensor in the U.S. mail, postage prepaid, terminate the Agreement for default, and at the Licensee's option, obtain performance of the work elsewhere.

If a notice of termination for default has been issued and it is later determined for any reason that the Licensor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the paragraph 4.2.4 below.

4.2.3 If the Licensee violates any material term or condition of this Agreement or fails to fulfill in a timely and proper manner its obligations under this Agreement, then the Licensor shall give the Licensee written notice of such failure or violation. The Licensee will correct the violation or failure within ninety (90) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected within such period, the Agreement may be terminated immediately by written notice from the Licensor to the Licensee. The option to terminate shall be at the sole discretion of the Licensor.

4.2.4 The Licensee may terminate the Agreement in whole or in part whenever the Licensee determines, in its sole discretion, that such termination is in the interests of the Licensee. Whenever the Agreement is terminated in accordance with this paragraph, the Licensor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the Licensee at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the Licensee.

5 LIMITED WARRANTY

5.1 Limited Warranty

Licensor warrants that for a period of one year after the acceptance of the Software and Software modifications by Licensee, the latest unmodified version of the Software released by Licensor shall perform in accordance with the Software Documentation.

5.2 Remedies

Licensor's entire liability and Licensee's exclusive remedy shall be for Licensor, at its option, to either: (i) replace any defective media which prevents the Software from satisfying the limited warranty described above provided such defective media is returned to Licensor; or (ii) to correct any errors which Licensee finds in the Software during this warranty period and which prevent the Software from performing as described in the Software Documentation. Any replacement Software will be warranted for the remainder of the original warranty period or through completion of the next election, whichever is longer.

5.3 Right to License

Licensor warrants that it is the owner of the software subject to this Agreement and/or has the right to license the software to Licensee.

6 LIABILITY AND INDEMNITY

6.1 Defense & Indemnity

Subject to the provisions of Section 6.2 Limitation of Liability, Licensor will defend, indemnify and save harmless the Licensee, its appointed and elective officers, employees and agents from and against all loss or expense, including but not limited to judgments, settlements, reasonable attorney's fees and costs by reason of any and all claims and demands upon the Licensee, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, by reason of or in connection with the performance of this Agreement or any intentional, willful, or negligent act, error or omission of Licensor, Licensor's employees, agents or subcontractors whether such injury to persons or damage to property is due to the negligence of Licensor, its subcontractors, successor or assigns, or its or their agents, servants, or employees, except only such injury or damage as will have been occasioned by the sole negligence of the Licensee, its appointed or elected officials or employees.

It is further provided that no liability will attach to the Licensee by reason of entering into this Agreement, except as expressly provided herein.

6.2. Limitation of Liability

Except as provided in other sections of this Agreement, the parties agree that neither the Licensor nor the Licensee shall be liable to each other, regardless of the form of action, for incidental, indirect or special damages except a claim or demand based on patent or copyright infringement, in which case liability shall be as set forth elsewhere in this Agreement.

6.2.1 Neither the Licensor nor the Licensee shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either the Licensor or the Licensee. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Licensee acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Licensor, the Licensee, or their respective Subcontractors.

6.2.2 If delays are caused by a Subcontractor without its fault or negligence, neither the Licensor nor the Licensee shall be liable for damages for delays, unless the Equipment, Software, or Services to be furnished by their Subcontractors were obtainable on comparable terms from other sources in sufficient time to permit the Licensor or the Licensee to meet its required performance schedule.

6.2.3 Neither party shall be liable for personal injury to the other party or physical damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

6.2.4 Except for claims of personal injury and breaches of confidentiality obligations contained in this Agreement, Licensor and Licensee liability for all damages shall not exceed the total value of this Agreement.

6.3 Patent/Copyright Infringement

Licensor will defend and indemnify the Licensee from any claim, action, cause or demand brought against the Licensee, to the extent such action is based on a claim that products furnished hereunder by the Licensor infringe any U.S. or Canadian patent or copyright. The Licensor will pay those costs and damages attributable to any such claims that are finally awarded against the Licensee in any action. Such defense and payments are conditioned upon the following:

6.3.1 That Licensor shall be notified promptly in writing by Licensee of any notice of such claim.

6.3.2 Licensor shall have the right, in the event such claim of infringement is made, at its option and expense, to obtain for the Licensee the right to continue using the products, or replace or modify the Products so that they become non infringing provided no reduction in performance or loss results to the Licensee.

6.3.3 Licensor shall not have any liability if the alleged infringement is based upon the Licensee's use or sale of Licensor -furnished products, in combinations with other products or devices not furnished by the Licensor, or modifications made by the Licensee or by the Licensor to the Licensee's specifications, if such combinations or modifications cause the products furnished by Licensor to become infringing.

7.1 Software

The Licensor will provide full support for the versions of software in use by the Licensee provided that such versions meet existing federal and state standards. This support includes, but is not limited to: on-call assistance; after-hours election night support and prompt resolution of software and programming issues.

7.2 Preventive Maintenance

Licensor shall provide one cleaning, lubrication, calibration, and other preventative maintenance services for the OPTEC IV-C machines per contract year. Parts and supplies required for the annual service are included in the preventive maintenance service. Major component (Major Components defined as: the Drum, Motor and Computer) replacement is not part of Preventive Maintenance. The purpose of Preventive Maintenance shall be to maintain the Licensee's OPTEC IV-C machines so that each is fit for the ordinary purposes for which it is to be used, except for normal wear and tear and or malfunction. Preventive maintenance services will normally be provided in August of each contract year. Licensor shall use reasonable efforts to provide the preventive maintenance site visit on the specific date(s) in August required by the Licensee, subject to the Licensor's duty to provide similar, previously scheduled services to other customers. The Licensee shall pay the Licensor for additional unscheduled maintenance, to include time (plus travel and expenses), and all material and parts outside of the agreed upon one site visit per year.

7.3 Software Updates and Upgrades

Licensor agrees to provide Licensee with the Software Updates and Software Upgrades produced by Licensor as part of this Agreement. Provision of Enhancements are subject to negotiation.

8 GENERAL

8.1 Waiver, Amendment, or Modification

Any waiver, amendment, or modification of any of the provisions of this Agreement or of any right, power or remedy hereunder shall not be effective unless made in writing and signed by the parties. No failure or delay by either party in exercising any right, power or remedy with respect to any of its rights hereunder shall operate as a waiver thereof in the future.

8.2 Governing Law

This Agreement shall be governed by the laws of the State of Washington, and shall inure to the benefit of Licensor, its successors, administrators, heirs, and assigns. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

8.3 Choice of Forum

The parties agree that Snohomish County in the State of Washington shall be the proper forum for any action, including arbitration, brought under this Agreement.

8.4 Attorney's Fees

In the event an action, including arbitration, is brought to enforce any provision of or declare a breach of this Agreement, the prevailing party shall be entitled to recover, in addition to any other amounts awarded, reasonable legal costs including attorneys' fees incurred thereby.

8.5 Limitation on Actions

No actions, regardless of form, arising from the transactions under the Agreement, may be brought by any party hereto more than six (6) years after the facts creating the cause of action become known to such party.

8.6 Severability

If any term, provision or part of the Agreement is to any extent held invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision and part shall continue in full force and effect.

8.7 Survival

The terms, conditions, and warranties contained in the Agreement that by their sense and context are intended to survive the termination thereof by the parties hereunder shall so survive the termination of the Agreement.

8.8 Notice

All notices or other communications hereunder shall be deemed to have been duly given when made in writing and delivered to the principal place of business of the other party.

8.9 Force Majeure

Neither party shall be in default nor liable for any failure in performance or loss or damage under this Agreement due to any cause beyond its control.

8.10 Taxes

Licensee shall pay all applicable sales, use, and other taxes or similar governmental charges or duties incurred in connection with the exercise of the licenses and rights granted herein to Licensee, except such taxes or charges based on the income of Licensor. Upon request, Licensee shall promptly provide Licensor with evidence of payment of any such tax. Licensee will reimburse Licensor for all such costs and taxes paid by Licensor on the Licensee's behalf, including any related penalty or interest charges on unpaid taxes, duties, or charges, levied upon Licensee by any such taxing or governmental authority within thirty (30) days after Licensee's receipt of Licensor's invoice therefore supported by appropriate documentation.

8.11 Acknowledgment

Licensee acknowledges that Licensee has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Licensee also agrees that from the first anniversary date onward this Agreement is the complete and exclusive statement of agreement between the parties and supersedes all proposals or prior agreements, oral or written, and any other communications between the parties relating to the licensing or support of the Software, except as set forth in Sections 9, 27, 30, and 32 of the GENERAL CONDITIONS Agreement to provide the AVC EDGE ELECTRONIC VOTING SYSTEM executed by the Parties on the same date as this Agreement.

9 ANNUAL FEES

9.1 Annual Fee Payment Terms

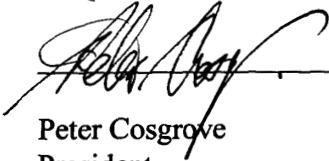
The Annual Fee under this Agreement is \$40,000. The first year's annual fees for the licenses and services provided by Licensor pursuant to this Agreement are to be paid following shipment of software. Payment will be made within thirty (30) days of receipt of invoice. Annual fees for subsequent years shall be paid upon the anniversaries of the date first above written if Licensee elects to continue to obtain licenses and services pursuant to this Agreement. The annual fees for subsequent years are subject to an annual increase not to exceed three percent per year.

9.2 County Budget Constraints

This Agreement is subject to the budget and fiscal provisions of the County of Snohomish. This Agreement will terminate without penalty at the end of any fiscal year in which funds are not appropriated for software licenses and services for the following fiscal year. If funds are appropriated by the Licensee for payment under this Agreement for a portion of the following fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated. Termination will be handled in the manner specified in paragraph 4.2.4.

IN WITNESS WHEREOF, the parties have executed this Agreement this 24th day of July, 2002.

CONTRACTOR:
SEQUOIA VOTING SYSTEMS




Peter Cosgrove
President

Sequoia Voting Systems
7677 Oakport St., Suite 800
Oakland, CA 94621

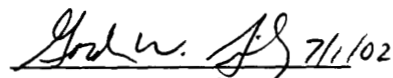
Business Tax ID or Social Security Number:
37-1274619

SNOHOMISH COUNTY:



for COUNTY EXECUTIVE
STEPHEN L. HOLT
Executive Director

Approved as to Form:



7/1/02
Deputy Prosecuting Attorney

Recommended:



RISK MANAGER

- EXHIBIT C -

AERO – WinEDS Interface

Purpose: To facilitate the merging of Election Results from AERO into WinEDS, on a one-to-one precinct level.

WinEDS can import election results from an external system using what is called “Teamwork” format files. These files can be used to link precincts, offices, and candidates from the external system to those in WinEDS. Each of these items in WinEDS has a special “alternate code” (for offices and candidates) or “assignment code” field (for precincts) for this purpose. As you might know, in EMS/AERO, precincts and offices are identified by the system by number, and candidates are identified by their relative position within the office in which they run. It is by use of these numbers in the “alternate/assignment code” fields in WinEDS that we can link AERO to WinEDS. In setting up the two systems for a given election the set of precincts, offices, and candidates (and by extension, ballot styles) should be the same.

For every precinct that is coded for an election in WinEDS the user includes in its “assignment code” field the numerical equivalent of that same precinct in EMS/AERO. For every office in WinEDS, the user includes in the its “alternate code” field the numerical ID of that office as coded in EMS/AERO. For candidates, the user puts in the “alternate code” that identifies the candidates relative position in the office. When all coding is completed in WinEDS, the user then “exports” (“WinEDS Teamwork Export”) a special file that is to be brought over to the AERO system, usually by diskette.

Once on the AERO (Version 3.5.3, provided by SVS) system, the operator can use the special AERO function, “Create ASCII Results file for WinEDS” – to create an election results file from AERO that can be merged back into WinEDS. Two files are created and are copied to diskette, and brought over to the WinEDS tally workstation. These files are in “Teamwork” format, and contain AERO’s candidate results and voter turnout by precinct. Back in WinEDS, one of the functions of reading in Tally Results is “from Teamwork files”. The user places the diskette into the WinEDS station, selects this function, and the results are then merged into WinEDS.

Note that this feature is an *election-results* transfer utility only, and only from AERO to WinEDS (not vice-versa). It does **not** facilitate the *coding* of AERO by WinEDS. The user must still use EMS for AERO coding. This utility also does not directly transfer results from ETP (Optech 400-C) to WinEDS; ETP results must be merged into WinEDS through AERO.

- EXHIBIT D -

BPS –WinEDS Import Interface

OVERVIEW

Counties currently working with the Election Resources Corporation (ERC) BPS II system have a well-established process in place for entering, importing, and managing election information, primarily for the purpose of producing paper ballots. Key information required for this process includes but is not limited to the following:

- Jurisdictional Requirements
- Voter Registration
- Districts and Precincts
- Polling Places
- Offices, Candidates and Questions
- Pre-Assigned Rotations

Resultant output for the BPS II process includes but is not limited to:

- Ballot Layouts
- Candidate Rotations
- Precinct / Ballot Style Associations
- Tabulation Interface Files

Not surprisingly, the Sequoia Election Data System (WinEDS), used to program and tally the Edge voting machine, utilizes virtually the same election information. Lead times for printing, as well as the logistics required for the preparation of the paper ballots, dictate that the election information must first be constructed in the BPS II system.

In order to assure that this election information is correctly duplicated in WinEDS and to eliminate the need to perform redundant data entry, Sequoia has developed a utility and associated process to import these data from the BPS II system into WinEDS. This approach has been used successfully for elections held in the counties of: Palm Beach, FL; Hillsborough, FL; Jefferson, CO; and for the February 2002 Special Election held in Snohomish County, WA.

APPROACH

The database system utilized by the BPS II system is Microsoft Access. The database used by WinEDS is Microsoft SQL Server. The SQL queries used to migrate data from the BPS II database to the WinEDS database are stored in and executed from an external Microsoft Access-based database utility.

It is recognized that this approach, although mostly automated, is outside the capability of the average user and should only be performed by a qualified Sequoia-trained technician. Development is currently underway on both the BPS and WinEDS products to provide a more comprehensive, user-driven data integration capability.

Procedure

NOTE: Data should be finalized in BPS II prior to executing the imports. There is no provision for running a partial update.

- Following the WinEDS database setup procedures, a new profile database is created.
- Using the WinEDS application, the general System Setup information is populated including Tally Categories, Tally Types, and Election Type information.
- The "link tables" in the MS Access import utility are reset to point to the BPS II tables and the WinEDS SQL Server tables. The links are set using the MS Access Linked Table Manager.
- Data import queries are executed individually, or may be run as a batch using one of the import macros. The following data types are imported into the new profile database:
 - o Parties
 - o Districts and District Types (Political Subdivisions)
 - o Precincts and Precinct Splits
 - o Offices
- Using the WinEDS application, a new election is created.
- Using the MS Access import utility, the following data types are imported into the election database:
 - o Candidates
 - o Candidate Rotation
 - o Proposal Titles (Proposal text is cut and pasted)
 - o Ballot Layout
- Using the WinEDS application, ballots are generated for the AVC Edge.
- Using the MS Access import utility, ballot styles and precinct / ballot style assignments are electronically compared. Reports are generated from BPS II and WinEDS to insure accuracy.
- Having verified the accuracy of the data import, cartridges are created for the Edge voting machines.

- EXHIBIT E -

AVC Edge System Description

The AVC Edge Touch Screen Voting System is composed of two key components: the voting terminals (Edge) and the Election Management Software system (WinEDS). These two components work together to provide the user with the most advanced, reliable, and secure voting system available.

The Edge and WinEDS have been certified by the FEC NASED process, and by the State of Washington. On June 1, 2002 under the provisions of RCW 29.33.041, WinEDS and the AVC Edge were certified for use in Washington State. As new releases of Edge and WinEDS software are approved by the NASED process and are identified as desirable by Snohomish County, Sequoia will apply to Washington State to update the state certification.

AVC EDGE

Touch Screen DRE Voting Machine

The Edge has been designed with an emphasis on security, reliability, accuracy, and ease of use. The Edge, its CPU, and all of the code were developed for the specific application of voting. By not relying on off-the-shelf hardware or software, the system obtains the highest levels of security, reliability, and ease of access to parts.

The *AVC Edge*® consists of components similar to a stand-alone computer system, which uses a smart card as the voter interface. It permits voters to view and cast their votes by touching target areas on an electronically generated ballot. Each unit provides a direct-entry computerized voting application that automatically records and stores appropriate ballot information and results. At the end of the voting period the system can print precinct totals to be included as part of the permanent record, and communicate with the host computer at Election Central by reading data from the results cartridges for accurate and timely jurisdiction-wide results. The Voter registers at the table in their usual way and are handed a precinct specific smart card. The card is inserted into the AVC Edge and the ballot specific to the Voter comes up on the screen. The voter then chooses the candidate of their choice by pressing the block associated to their candidate. Each selection is made in the same fashion until the voter has finished their selections. A review screen may be selected where the voter has the ability to review their selections. Once the voter has approved their selections, they press the cast ballot button and their ballot is recorded. The voter then simply returns the smart card to the pollworker.

Edge Characteristics:

- A Direct Record Electronic (DRE) voting machine
- A self-contained unit with privacy panels, and transportation case with wheels and handle.
- ADA Capabilities: Wheelchair accessible, with adjustable screen angles for disabled voters; audio voting units.
- A color 15" LCD with touch screen overlay
- A CPU based on PC/AT system architecture
- Two PCMCIA slots for Results Cartridges

- Auto Activation system
- Public and Protective Counters
- Dimensions: Height 8" x Depth 26" x Width 17"
- Operation: external voltage of 120 VAC, with 60 Hz power source, and an internal voltage of 12 VDC.
- Several hours internal battery backup and capable of being connected to an external uninterruptable power supply (UPS), if desired.
- PSOS real-time operating system
- Watchdog timer
- Hardware trap to prevent executing code from RAM

The Edge is designed to:

- Validate and load ballot definitions
- Perform pre-election testing and verifications
- Perform election day voting
- Perform post-election testing and verifications, including 1% manual tally
- Print Zero Totals and Results Reports
- Perform maintenance functions, such as Audit Trail Transfer, Set Time/Data, and print the Event Log report.

The Application Software (WinEDS): WinEDS is powerful multi-functional , proprietary software that performs all of the election functions in an integrated manner. It concurrently and automatically generates the appropriate ballot styles for each precinct, generates postscript ballot files for postal ballots that eliminates manual typesetting and simplifies proofing tasks, generates precinct-specific media for precinct tabulation, and generates vote tally files which receive totals to produce and distribute cumulative election results.

WinEDS significantly decreases the degree of difficulty of preparing for elections. This is accomplished in three major ways.

1. WinEDS employs election logic that allows the election official to enter the basic building block data for all offices to be voted on at any time in the future. Once done, the election official only needs to tell WinEDS the date of a regular or special election, and the system will select all offices due to be voted on in that time period and prepare the election accordingly. The election official is prompted to review the system's selections, and then the process completes itself. Provisions are made for special circumstances such as unplanned vacancies in an office otherwise not scheduled to run in the requested election cycle. WinEDS also allows the election official to carry forward candidates from prior elections, where applicable. This process saves time and limits mistakes made during data entry.
 2. Ballot layout is an internal and automatic process for WinEDS. Based on the various political subdivisions that divide the election jurisdiction, WinEDS creates the needed combinations, even down to precinct level splits. Placement on the ballot page is accomplished by an automatic layout wizard.
 3. Ballot preparation is accomplished in one of several ways, all made with minimal effort utilizing WinEDS. Physical ballots are laid out and created by the system under the control of the election official. As described above, the offices on the ballot are arranged in a manner acceptable to the election official.
4. WinEDS is a

client/server election management application for programming and tabulating election results. The system requires a network server running Windows NT4.0, Microsoft SQL Server 6.5 (service pack 4) using a 10 mbs or 100 mbs Ethernet hub and either TCP/IP or NetBEUI network protocol.

-EXHIBIT F-

PAYMENT SCHEDULE

Total payable in US dollars for AVC EDGE system hardware, WinEDS and related software, and services is \$5,054,649.

Event/Date:	Percentage	Payment Amount
1.) Equipment Delivery (@ Jul 2002)	60%	\$3,032,789.40
2.) Acceptance (@ Sep 30, 2002)	30%	\$1,516,394.70
3.) BPS II Interface Completed (@ Jul 2003)	10%	\$505,464.90

Payments will be made in accordance with the conditions stated in the Master System Contract, Section 33. System Acceptance, and Section 19. Withholding Payment