



VERITY
MASTER AGREEMENT

10:30
FEB 08 2017
CLERK OF COUNTY COURT
HIDALGO COUNTY, TEXAS
BY: [Signature]

This Master Agreement ("Agreement"), entered into effective as the later of June 15, 2016 or the date in which a statement of certification is issued by the office of the Texas Secretary of State ("the Effective Date") by and between Hart InterCivic, Inc., a Texas corporation ("Hart") and the Customer set forth below ("Customer"), sets forth the terms and conditions pursuant to which Customer may procure from Hart certain hardware ("Hardware"), software ("Software") licenses and support services ("Software Support Services"), warranty services ("Warranty Services"), and/or design, engineering, software development, project management, operational training, election event support, and/or other services ("Professional Services"), from time to time. Hardware and Software may be referred to as "Products" and Warranty Services, Software Support Services and/or Professional Services may be referred to as "Services." Products may be "Hart Hardware," and "Hart Proprietary Software," (i.e. "Hart Products") or "Third Party Hardware" and "Sublicensed Software" (i.e. "Third Party Products"). The foregoing may be referred to together as the "Verity system."

Hart agrees to sell or provide to Customer Products and Services according to this Agreement, which includes all Schedules, Attachments and Exhibits. Customer agrees to all terms and conditions of this Agreement. Pricing and other material terms of Customer's initial commitment are as set forth in the Schedule A or Customer Signed Quote attached hereto as Exhibit A. This Agreement and Hart's quotations issued hereunder together comprise the complete and exclusive Agreement for the sale of the Products and the provision of the Services. No other terms and conditions sent by Customer shall apply, including any terms or conditions contained in any purchase order, request for quote (RFQ), request for proposal (RFP), communication or other operational form that is in addition to or different than the terms and conditions of this Agreement. Any of Customer's terms and conditions that are different from or in addition to those contained herein are hereby objected to and shall be of no effect unless specifically agreed to in writing by an officer of Hart. Customer acknowledges it has read and understands this Agreement (including all Schedules, Attachments and Exhibits) and is entering into this Agreement only on the basis of the terms set forth in this Agreement (including all Schedules, Attachments and Exhibits).

Agreed and Accepted:

Customer

Jurisdiction: Hidalgo County, TX

Name: Yvonne Ramon

Address: 101 S 10th Ave.

Edinburg, TX 78539

Phone: (956) 318-2570

Facsimile: (956) 318-2569

E-mail: yvonne.ramon@co.hidalgo.tx.us

Hart

Hart InterCivic, Inc.

15500 Wells Port Drive

Austin, Texas 78728

Attn.: Phillip W. Braithwaite, CEO

800-223-4278

800-831-1485

pbraithwaite@hartic.com

Executed By:

[Signature of Ramon Garcia]

Name: Ramon Garcia

Title: County Judge

Phillip W. Braithwaite

CEO

This Agreement is not effective until executed by both parties. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement.

APPROVED BY
COMMISSIONERS' COURT
ON: 2/6/17 [Signature]

1. ORDERING

Customer may request quotations for Products or Services from time to time. The existence of this Agreement does not obligate Customer to request a quotation or purchase any Products or Services from Hart. Any Customer request for quotation must include the following information: (i) description of requested Product or Services; (ii) unit quantity and/or desired term; (iii) Hart's part number and/or vendor part number, if applicable; (iv) current unit price as provided by Hart, if applicable; (v) correct shipping address, if applicable; and (vi) any other order information required by Hart. Each request for quotation shall identify the address of the shipping destination, if applicable. Customer may only make a request for quotation via facsimile and other Hart approved electronic ordering methods, including email. All quotations are valid for only 30 days unless specifically stated on the front of the quotation. If the quotation is signed by Customer within thirty (30) days, Hart will provide notice of its acceptance via countersignature within fifteen (15) days of the date on which it receives Customer's signature on the Hart quotation. Failure to provide such written acceptance shall be deemed Hart's rejection of the order. Hart reserves the right to accept or reject any order initiated by Customer in Hart's discretion. Only signed quotations will obligate the parties to the terms of such quotations and this Agreement with respect to the applicable Products and/or Services. Each accepted quotation shall be subject to the terms and conditions of this Agreement.

2. PRICING

- 2.1. **Products.** Prices for Products shall be specified by Hart in the relevant quotation or proposal and are subject to change without notice, including Prices for backordered Products, however, Prices in quotations or other agreements signed by both Parties are not subject to change. All prices are exclusive of shipping and packing costs, and insurance.
- 2.2. **Annual License and Support Fee:** The "Annual Fee" is the combined fee for licensing (in the case of Hart Proprietary Software), sublicensing (in the case of Sublicensed Software, if any), and support (a "License and Support Subscription"). Pricing for the initial Annual Fee is the amount specified as the "Initial Annual Fee" on Exhibit A. Pricing for subsequently ordered License and Support Subscriptions shall be specified on the applicable quotation, and unless otherwise specified, shall be pro-rated so as to be co-terminus with the initially-ordered License and Support Subscriptions. Hart may adjust the amount of the Annual Fee for renewal License and Support Subscription terms by notifying Customer of any price changes with the invoice in which the adjustment is made. Unless adjusted by Hart, each renewal Annual Fee will be the same as the Annual Fee for the renewing License and Support Subscription.
- 2.3. **Other Services.** Pricing for other Services shall be set forth in the applicable quotation, or if not specified, at Hart's then-current hourly rates.
- 2.4. **Additional Charges.** Additional charges may apply to Services e.g., travel, communication and other expenses. 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 equipment purchased by the Customer for use with the Products. Any other additional charges must be mutually agreed to by Hart and Customer and documented in an amendment to this Agreement.
- 2.5. **Taxes.** All prices are exclusive of applicable taxes. All taxes shall be payable by Customer, unless Customer presents Hart with a proper certificate of exemption from such tax. If Customer challenges the applicability of any such tax, Customer shall pay the tax and may thereafter seek a refund. In the event Hart is required to pay any tax at time of sale or thereafter, Customer shall promptly reimburse Hart therefore.

3. PAYMENT

- 3.1. **Products.** Except as otherwise provided in Hart's quotation, amounts due for Products shall be billed upon shipment and shall be paid in full within thirty (30) days after delivery.
- 3.2. **Annual Fee.** The Annual Fee for the initial License and Support Subscription is due upon execution of this Agreement and annually thereafter before expiration thereof. Annual Fees for subsequently ordered License and Support Subscriptions, if any, shall be due upon acceptance of order and unless specified on the applicable quotation, the corresponding Annual Fees for renewals thereof shall be due annually with the renewal of the initially-ordered License and Support Subscription (i.e. shall be pro-rated and become co-terminus). If Customer fails to timely pay an Annual Fee, all Software licenses and Software Support Services will automatically terminate.
- 3.3. **Other Services.** Amounts due for other Services shall be billed upon the earlier to occur of one or more of the following: first election in which the Professional Services are used; receipt of Services acceptance; not later than sixty (60) days after the date of Customer's first election in which any portion of the Hardware and/or Software is used, and shall be due within thirty (30) days of receipt of invoice.

Hart Intercivic Verity Master Agreement

(con't signature page)

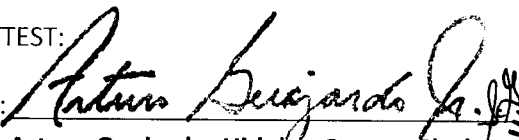
Company's Name: Hart Intercivic Verity Master Agreement

Department: Hidalgo County Elections Office

A1-58401 Approved on CC on 02/06/2016-Regular

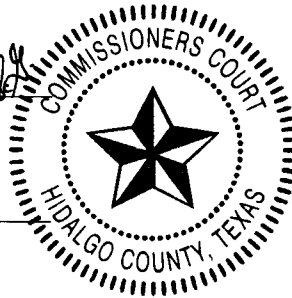
ATTEST:

By:


Arturo Guajardo, Hidalgo County Clerk

Date:

02-08-17



- 3.4. **Payment Mechanics.** Customer will pay all amounts due under this Agreement in U.S. Dollars. 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 Customer. Hart reserves the right to require C.O.D. payment, a letter of credit, or other security for payment if it determines that such terms are required to assure payment. Customer shall promptly notify Hart in writing of any change to Customer's name, address, or billing information.
- 3.5. **Late Fees.** Hart may impose interest at the lower of: (1) one and one-half percent (1½%) per month, or (2) the highest rate of interest then permitted by applicable law for all past due balances, compounded monthly and rounded to the next highest whole month. Customer also agrees to pay or reimburse all fees and expenses reasonably incurred by Hart in collecting any amounts due under this Agreement, including, but not limited to, all attorneys' fees associated therewith. Hart shall have the right, in addition to any and all other rights and remedies available at law or in equity, to delay or cancel any deliveries, to reduce or cancel any or all quantity discounts extended to Customer, and/or to suspend the provision of Services if Customer is in default of payments or any other material term of this Agreement.
- 3.6. **Billing Disputes.** If any dispute exists between the parties concerning the amount due or due date of any payment, Customer shall promptly pay the undisputed portion. Such payment will not constitute a waiver by Customer or Hart of any of their respective legal rights and remedies against each other. Customer has no right of set-off.

4. HARDWARE SPECIFIC TERMS

- 4.1. **Delivery.** Hart will provide estimated shipment dates upon acceptance of Customer's signed quotation. Shipment dates on Hart quotations are approximate only and Hart will not be subject to liability for late or delayed shipment. In the event Customer is unable to receive the Hardware Products at the time of delivery Hart, at its sole option and convenience, may deliver such products to storage at any suitable location including Hart's facilities. All costs incurred by Hart for the transportation, storage, and insurance of such Hardware Products shall be borne by Customer.
- 4.2. **Acceptance.** Customer shall examine all Hardware Products promptly upon receipt thereof. Within ten (10) business days of such receipt, Customer shall notify Hart in writing of any manner in which Customer claims that the Hardware Products fail to conform to their applicable specification, or as to any claimed shortages, or shipments errors. If no written notification is received by Hart within such period, the Hardware Products delivered hereunder shall be deemed accepted by Customer ("Hardware Acceptance"). Hardware Product will be deemed conforming if it meets Hart's published specification for such Product, and any specifications identified on the applicable quotation. Upon Customer's Acceptance, any defects in material or workmanship shall be addressed pursuant to the warranty in Section 9 below.
- 4.3. **Installation.** A Hart representative may install the Hardware Products at the Customer's site on a mutually agreed upon date during Hart's normal working hours, within ten (10) business days of delivery, or as soon as is practicable for both parties. Billing will occur on the date the Hardware is shipped to the Customer's site, per Section 3.1 If additional labor and rigging or Customer-specified customization is required for installation due to Customer's special site requirements, Customer will pay those costs including costs to meet union or local law requirements.
- 4.4. **Title and Transportation.** Hardware Products are shipped Ex Works (Incoterms 2010) from Hart's designated shipping point. Title transfer shall be deemed to occur upon Hart making such Hardware Products available to the carrier at Hart's designated shipping point. Risk of loss of, or damage to, thereto will pass to Customer upon delivery to Customer. Hart reserves the right to select the method and routing of transportation and the right to make delivery in installments unless otherwise specified at the time of quotation acceptance by Hart but in no event will the carrier be deemed the agent of Hart. Notwithstanding the foregoing, if customer chooses a financing option offered by Hart, then title to hardware will pass to Customer according to the terms of the finance agreement.
- 4.5. **Rescheduling and Cancellation.** Except in the event of unreasonable delays beyond the quoted delivery dates or an uncured default of a material term of this Agreement by Hart, Customer shall not have the right to change, cancel, or reschedule an accepted quotation in whole or in part without the prior consent of Hart. In the event Customer requests a rescheduling of any Hardware Product and such request is accepted by Hart, Customer agrees to promptly pay Hart's standard reschedule charge. Hart may not cancel a quotation after it has accepted Customer's signed submission thereof. Customer may not cancel an order after submission to Hart of a signed quotation. Any cancellations following such times will be at the non-cancelling party's sole discretion and upon terms dictated by the non-cancelling party.

5. SOFTWARE SPECIFIC TERMS

- 5.1. **License.** Subject to the terms and conditions of this Agreement and for so long as Customer has a current License and Support Subscription in effect, Hart grants to Customer (i) a personal, nonexclusive, nontransferable, and limited license to use the Hart Proprietary Software (which includes Firmware, meaning the Hart Proprietary Software embedded in any Verity system device that allows execution of the software functions) and (ii) a personal, nonexclusive, nontransferable, and limited sublicense to use the Sublicensed Software, if applicable. With this right to use, Hart will provide Customer, and Customer will be permitted to use, only the run-time executable code and associated support files of the Software for Customer's internal data processing requirements as part of the Verity system. The Software may be used only at the Licensed Location specified as the jurisdiction

on the signature page of this Agreement and only on the hardware or other computer systems authorized by Hart in writing. Customer's use of the Software will be limited to the number of licenses specified in the applicable quotation. Only Customer and its authorized employees, agents or contractors may use or access the Software. For applicable components, Voters are also authorized to interact with the Software, in a manner consistent with user instructions, for the sole purpose of producing a Cast Vote Record during the course of an election. To the extent Hart Proprietary Software contains embedded third party software, third party licenses may apply. More information concerning embedded third party software can be found in the application's "Help->About" and is available upon written request. Such embedded third party software is distinguished from "Sublicensed Software" which is stand-alone software not part of Hart Proprietary Software. See Exhibit D for a listing of Sublicensed Software, if any.

5.2. **Records and Audit.** Customer shall keep clear, complete and accurate books of account and records with respect to the usage of Software and access to the Software licensed hereunder, including without limitation with respect to access thereto. Licensee shall retain such books and records for a period of five (5) years from the date of cessation of any such usage, notwithstanding any expiration or termination of this Agreement. Customer agrees that during the term of this Agreement and such period, Hart, the licensors of any Sublicensed Software, and their representatives may periodically inspect, conduct, and/or direct an independent accounting firm to conduct an audit, at mutually agreed-upon times during normal business hours, of the computer site, computer systems, and appropriate records of Customer to verify Customer's compliance with the terms of the licenses and sublicenses granted to Customer. If any such examination discloses unauthorized usage, then Customer, in addition to paying such payment then due and without limiting Hart's remedies, shall pay the reasonable fees for the audit.

5.3. **Restrictions**

5.3.1. The Hart Hardware and Hart Proprietary Software are designed to be used only with each other and/or the agreed-upon Sublicensed Software (if any) and Third Party Hardware. To protect the integrity and security of the Verity system, Customer shall comply with the following practices and shall not deviate from them without the express written consent of Hart: (i) Customer shall use the Software and Hardware only in connection with the Verity system, and Customer may only use Hart branded or approved peripherals and consumables with the Verity system.; (ii) Customer shall not install or use other software on or with the Hardware or Software or network the Hardware or Software with any other hardware, software, equipment, or computer systems; and (iii) Customer shall not modify the Hardware or Software. If Customer does not comply with any provisions of this Section 5.3, then (i) the Limited Warranties under Section 9 and the licenses and sublicenses granted under Section 5.1 will automatically terminate; (ii) Hart may terminate its obligation to provide Software Support Services under Section 8; (iii) Hart will have no further installation obligations. Furthermore, if Customer uses the Software and Hardware in combination with other software and equipment (other software or equipment being those not provided by Hart or its designees), and the combination infringes Hart proprietary patent claims outside the scope of the software license granted to Customer under Section 5.1, Hart reserves its rights to enforce its patents with respect to those claims.

5.3.2. Customer shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or de-compilation of any Software. Customer shall not use any Software for application development, modification, or customization purposes, except through Hart.

5.3.3. Customer shall not assign, transfer, sublicense, time-share, or rent the Software or use it for facility management or as a service bureau serving others outside of the jurisdiction. This restriction does not preclude or restrict Customer from contracting for election services for other local governments located within Customer's jurisdictional boundaries. Customer shall not modify, copy, or duplicate the Software. All use of software and hardware on which the software resides shall take place and be for activities within Customer's jurisdictional boundaries, except for in cases of joint elections conducted cooperatively with neighboring jurisdictions. All copies of the Software, in whole or in part, must contain all of Hart's or the third-party licensor's titles, trademarks, copyright notices, and other restrictive and proprietary notices and legends (including government-restricted rights) as they appear on the copies of the Software provided to Customer. Customer shall notify Hart of the following: (i) the location of all Software and all copies thereof and (ii) any circumstances known to Customer regarding any unauthorized possession or use of the Software.

5.3.4. Customer shall not publish any results of benchmark tests run on any Software.

5.3.5. The Software is not developed or licensed for use in any nuclear, aviation, mass transit, or medical application or in any other inherently dangerous applications. Customer shall not use the Software in any inherently dangerous application and agrees that Hart and any third-party licensor will not be liable for any claims or damages arising from such use.

6. **DOCUMENTATION**

Hart will provide Customer with one (1) electronic copy of the standard user-level documentation and operator's manuals and where applicable, environmental specifications for the Product installed at the Customer's location before the first election for which the Product will be used, following installation.

7. PROPRIETARY RIGHTS

- 7.1. **Reservation of Rights.** Customer acknowledges and agrees that the design of the Products, and any and all related patents, copyrights, trademarks, service marks, trade names, documents, logos, software, microcode, firmware, information, ideas, concepts, know-how, data processing techniques, documentation, diagrams, schematics, equipment architecture, improvements, bug fixes, updates, trade secrets and material are the property of Hart and its licensors. Customer agrees that the sale of the Hardware and license of the Software does not, other than as expressly set forth herein, grant to or vest in Customer 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 Products, are the sole and absolute property of Hart and its licensors. Customer shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or de-compilation of any Product(s), or copy, reproduce, modify, sell, license, or otherwise transfer any rights in any proprietary property of Hart. Further Customer 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. Intellectual Properties. All ideas, concepts, know-how, data processing techniques, documentation, diagrams, schematics, firmware, equipment architecture, software, improvements, bug fixes, updates, and trade secrets developed by Hart personnel (alone or jointly with others, including Customer) in connection with Confidential Information, Verity system, and Hart Proprietary Software will be the exclusive property of Hart
- 7.2. **Customer Suggestions and Recommendations.** Customer may propose, suggest, or recommend changes to the Products at any time. Such proposals, suggestions, or recommendations will become Hart's property and are hereby assigned to Hart. Hart may include any such proposals, suggestions, or recommendations, solely at Hart's option, in subsequent periodic Product updates, without restriction or obligation. Hart is under no obligation to change, alter, or otherwise revise the Products according to Customer's proposals, suggestions, or recommendations.
- 7.3. **License Back** If Customer possesses or comes to possess a licensable or sub-licensable interest in any issued patent with claims that read upon the Verity system, its method of operation, or any component thereof, Customer hereby grants and promises to grant a perpetual, irrevocable, royalty-free, paid-up license, with right to sublicense, of such interest to Hart permitting Hart to make, have made, use, and sell materials or services within the scope of the patent claims.

8. SOFTWARE SUPPORT SERVICES

- 8.1. **Description of Software Support Services.** Subject to the terms and conditions of this Agreement and for so long as Customer has the requisite number of License and Support Subscriptions in effect, Hart will provide Customer the Software Support Services described below. Software Support Services under this Section do not cover any of the exclusions from warranty and support coverage as described under Section 9. If Hart, in its discretion, provides Software Support Services in addition to the services described under this Section, Customer will pay Hart for such services on a time-and-materials basis at Hart's then-prevailing rates, plus expenses, and for replacements at Hart's list prices, unless otherwise agreed in writing by Hart and Customer.
- 8.1.1. **General Software Support.** General Software Support will consist of assisting the Customer in the use of software for purposes of election administration, including functions related to pre-election and post-election testing and general operation of the Verity system. Assistance is available via phone, email and online support through the Hart Customer Support Center. See **Exhibit B** for Hart Customer Support contact information and hours.
- 8.1.2. **Software Support Services.** Software Support Services may consist of periodic updates and specific software "bug" corrections to Hart Proprietary Software, at Hart's discretion. A software "bug" is any malfunction that prevents the Hart Software from performing substantially as described in the then-current technical manual for such software. Because not all errors or defects can or need to be corrected, Hart does not warrant that all errors or defects will be corrected. Hart reserves the right to determine whether any reported, claimed software malfunction is in fact a "bug." Software "bugs" must be reported in writing and be accompanied with sufficient detail to enable Hart staff to reproduce the error and provide a remedy or suitable corrective action. The exclusions from warranty coverage under Section 9.5 also are exclusions from Software Support Services under this Section. There will be on-site service charges for updates and/or "bug" releases of software and there may be feature charges for update or enhancement releases of software.

9. WARRANTY AND EXTENDED WARRANTY

- 9.1. **Certification.** Where applicable, Verity system components that require certification will meet the certification requirements in place on the effective date of the Master Agreement.
- 9.2. **Hart Hardware Limited Warranty.** Hart warrants that during the warranty period, the Hart Hardware purchased by Customer will be free from defects in materials and workmanship and will substantially conform to the performance specifications stated in the Verity Operator's Manuals for the Hart Hardware applicable at the time of the installation of the Hardware. The warranty period for new Hart Hardware is one (1) year, beginning ten (10) days after the shipping date. The warranty period for used and/or refurbished hardware is ninety (90) days, beginning ten (10) days after the shipping date. Hart will, at Hart's sole discretion, replace or repair any Hart Hardware that does not comply with this warranty, at no additional charge to Customer. To

request warranty service, Customer must contact Hart in writing within the warranty period. Hart may elect to conduct any repairs at Customer's site, Hart's facility, or any other location specified by Hart. Any replacement Hart Hardware provided to Customer under this warranty may be new or reconditioned. Hart may use new and reconditioned parts in performing warranty repairs and building replacement products. If Hart repairs or replaces Hart Hardware, its warranty period is not extended and will terminate upon the end of the warranty period of the replaced or repaired Hart Hardware. Hart owns all replaced Hart Hardware and all parts removed from repaired products. Customer acknowledges and agrees that this warranty is contingent upon and subject to Customer's proper use of the Verity system and the Exclusions from Warranty and Software Support Services set forth in Section 9.5. This warranty does not cover any Hart Hardware that has had the original identification marks and/or numbers removed or altered in any manner. This warranty does not include any type of routine maintenance service or preventative maintenance service. This Hardware Limited Warranty may be extended after the initial period under separate Extended Hardware Warranty agreements, subject to the order process contemplated by Section 1. Renewal of the annual License and Support Subscription does not, in itself, extend the Hardware Limited Warranty. The remedies set forth in this Section are the full extent of Customer's remedies and Hart's obligations regarding this warranty. If the Hart Hardware is required to be reconfigured, modified, or otherwise changed after its sale to and installation at the Customer's location due to the Customer's or a local, state, or federal government certification change(s) or due to any statutory changes or new requirements, Hart will determine the feasibility and cost of the required changes and advise the Customer of the total amount due for those Hart Hardware changes. Upon written approval to move forward with the changes and receipt from the Customer of the stated fees, Hart will complete the required changes to the Customer's Hart Hardware. THIS LIMITED WARRANTY DOES NOT APPLY TO ANY THIRD PARTY HARDWARE.

- 9.3. **Hart Proprietary Software Limited Warranty.** Hart warrants that beginning ten (10) days after the shipping of the Hart Proprietary Software and for so long as Customer has the requisite number of License and Support Subscriptions in effect, the Hart Proprietary Software will perform substantially according to the then-current functional specifications described in the applicable software Operators' Manuals accompanying such Hart Proprietary Software. To request warranty service, Customer must contact Hart in writing within the warranty period. Failure to conform to the warranty must be reported in writing and be accompanied with sufficient detail to enable Hart to reproduce the error and provide a remedy or suitable corrective action (a solution that will allow the software to function appropriately as certified). Hart will make commercially reasonable efforts to remedy or provide a suitable workaround for defects, errors, or malfunctions covered by this warranty that have a significant adverse effect upon operation of the Hart Proprietary Software. Because not all errors or defects can or need to be corrected, Hart does not warrant that all errors or defects will be corrected. Customer acknowledges and agrees that this warranty is contingent upon and subject to Customer's proper use of the Verity system and the Exclusions from Warranty and Support Coverage set forth in Section 9.5. The remedies set forth in this Section 9.3 are the full extent of Customer's remedies and Hart's obligations regarding this warranty. THIS LIMITED WARRANTY DOES NOT APPLY TO ANY SUBLICENSED SOFTWARE.
- 9.4. **Professional Services Warranty.** Hart represents and warrants that any Professional Services shall be performed in a professional and workmanlike manner.
- 9.5. **Exclusions from Warranty and Software Support Services.** The warranties under this Section and Software Support under Section 8 do not cover defects, errors, or malfunctions that are caused by any external causes, including, but not limited to, any of the following: (a) Customer's failure to follow operational, support, or storage instructions as set forth in applicable documentation; (b) the use of incompatible media, supplies, parts, or components; (c) modification or alteration of the Verity system, or its components, by Customer or third parties not authorized by Hart; (d) use of equipment or software not supplied or authorized by Hart; (e) external factors (including, without limitation, power failure, surges or electrical damage, fire or water damage, air conditioning failure, humidity control failure, or corrosive atmosphere harmful to electronic circuitry); (f) failure to maintain proper site specifications and environmental conditions; (g) negligence, accidents, abuse, neglect, misuse, or tampering; (h) improper or abnormal use or use under abnormal conditions; (i) use in a manner not authorized by this Agreement or use inconsistent with Hart's specifications and instructions; (j) use of software on Equipment that is not in good operating condition; (k) acts of Customer, its agents, servants, employees, or any third party; (l) servicing or support not authorized by Hart; or (m) Force Majeure. In any case where Hart Proprietary Software interfaces with third party software, including but not limited to, the Customer's voter registration system, non-Hart election management system, early voting validation system, non-Hart election systems, absentee envelope management systems, or other like systems, Hart will not be responsible for proper operation of any Software that interfaces with the third party software should such third party software be updated, replaced, modified, or altered in any way. Hart will also not be responsible for the proper operation of any Software running on Customer's computer equipment, should Customer install a new computer operating system on said equipment without advising Hart of such changes and receiving Hart's written approval. Hart will not be responsible for the proper operation of any Software should it be configured or operated in any manner contrary than that described herein. Professional Services and associated costs may be required in those situations where the Customer requests Hart's review and approval of any system changes outside the original system specifications at the time of the original acceptance date of this Agreement. Hart reserves the right to charge for repairs on a time-and-materials basis at Hart's then-prevailing rates, plus expenses, and for replacements at Hart's list prices caused by these exclusions from warranty and support coverage.
- 9.6. **Third Party Hardware and Sublicensed Software Excluded.** HART MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THIRD PARTY HARDWARE AND SUBLICENSED SOFTWARE, IF ANY, PROVIDED BY HART TO CUSTOMER, ALL OF WHICH IS SOLD, LICENSED, OR SUBLICENSED TO CUSTOMER "AS IS," OTHER THAN AS MAY BE PROVIDED IN ANY PASS-THROUGH WARRANTY DESCRIBED BELOW. HART HAS NO RESPONSIBILITY OR LIABILITY FOR THIRD

PARTY HARDWARE AND SUBLICENSSED SOFTWARE, IF ANY, PROVIDED BY HART'S DISTRIBUTORS OR OTHER THIRD PARTIES TO CUSTOMER. If Hart sells, licenses, or sublicenses any Third Party Hardware or Sublicensed Software to Customer, Hart will pass through to Customer, on a nonexclusive basis and without recourse to Hart, any third-party manufacturer's warranties covering the equipment or software, but only to the extent, if any, permitted by the third-party manufacturer. Customer agrees to look solely to the warranties and remedies, if any, provided by the manufacturer or third-party licensor. For a list of Third Party Hardware, see Exhibit A. For a list of Sublicensed Software, see Exhibit D or the applicable order. The disclaimers in this Section 9.6 are not intended to apply to embedded third party software integrated within the Hart Proprietary Software, contemplated by Section 5.1.

- 9.7. **Limited Remedies.** HART'S SOLE RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN PRODUCTS AND SERVICES IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN, AND TO THE EXTENT SET FORTH IN, THIS WARRANTY TERMS SECTION.

10. PROFESSIONAL SERVICES

- 10.1. **Professional Services.** Subject to the terms and conditions of this Agreement, Hart will provide Customer (i) operational training and on-site support at the first election in which the Products are used, and (ii) the Professional Services described in each Hart-accepted, Customer-signed quotation. Professional Service days cannot be exchanged for Product fees, Annual Fees, or fees for other Services. If the Professional Services in an applicable quotation are not used prior to 60 days after the date of the Customer's first election in which any portion of the Product is used, Hart's Professional Services obligations shall expire and unused days will be billed to the Customer without recovery of amounts paid in advance for Professional Services.

11. REPRESENTATIONS AND WARRANTIES

- 11.1. **Due Organization.** Each party represents that it is duly organized, validly existing, and in good standing in the jurisdiction of its organization, and that it has the requisite power and authority to execute and deliver this Agreement and to carry out the transactions contemplated by this Agreement.
- 11.2. **Conflicting Agreements.** Each party represents and warrants that it has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude it from complying with the provisions hereof.

12. CUSTOMER RESPONSIBILITIES

- 12.1. **Independent Determination.** Customer acknowledges it has independently determined that the Products purchased under this Agreement meet its requirements
- 12.2. **Cooperation.** Customer agrees to cooperate with Hart and promptly perform Customer's responsibilities hereunder. Customer will (a) provide adequate working and storage space for use by Hart personnel near the applicable Hardware; (b) provide Hart full access to the Hardware and Software and sufficient computer time, subject to Customer's security rules; (c) follow Hart's procedures for placing hardware warranty or software support service requests and determining if warranty remedial service is required; (d) follow Hart's instructions for obtaining hardware and software support and warranty services; (e) provide a memory dump and additional data in machine-readable form if requested; (f) reproduce suspected errors or malfunctions in Software; (g) provide timely access to key Customer personnel and timely respond to Hart's questions; and (h) otherwise cooperate with Hart in its performance under this Agreement.
- 12.3. **Site Preparation.** Customer shall prepare and maintain the installation site in accordance with instructions provided by Hart. Customer is responsible for environmental requirements, electrical interconnections, and modifications to facilities for proper installation, in accordance with Hart's specifications. Any delays in preparation of the installation site will correspondingly extend Hart's delivery and installation deadlines.
- 12.4. **Site Maintenance; Proper Storage.** Customer shall maintain the appropriate operating environment, in accordance with Hart's specifications, for the Products and all communications equipment, telephone lines, electric lines, cabling, modems, air conditioning, and all other equipment and utilities necessary for the Products to operate properly. Customer shall properly store the Products when not in use.
- 12.5. **Use.** Customer is exclusively responsible for supervising, managing, and controlling its use of the Products, including, but not limited to, establishing operating procedures and audit controls, supervising its employees, making timely data backups, inputting data, ensuring the accuracy and security of data input and data output, monitoring the accuracy of information obtained, and managing the use of information and data obtained. Customer will ensure that its personnel are, at all times, educated and trained in the proper use and operation of the Products and that the Hardware and Software are used in accordance with applicable manuals, instructions, and specifications. Customer shall comply with all applicable laws, rules, and regulations with respect to its use of the Products.
- 12.6. **Backups.** Customer is solely responsible for timely data backups, and Customer will maintain backup data necessary to replace critical Customer data in the event of loss or damage to data from any cause. Hart is not liable for data loss.

13. TERM AND TERMINATION

13.1. Term.

- 13.1.1. *Of Agreement.* Unless earlier terminated as set forth herein, the initial term of this Agreement is five (5) years.
- 13.1.2. *Of License and Support Subscription.* Unless earlier terminated as set forth herein, the initial term of the License and Support Subscriptions is one (1) year. Unless otherwise provided in the applicable quotation subsequently ordered License and Support Subscriptions shall be pro-rated so as to be co-terminus with the initially ordered License and Support Subscriptions.
- 13.1.3. *Of Hardware Warranty.* Unless earlier terminated as set forth herein, the initial term of new Hardware Warranties is one (1) year.

13.2. Renewals.

- 13.2.1. *Of Agreement.* This Agreement shall automatically renew for successive periods of one (1) year following the initial term unless one party notifies the other of its intent not to renew not less than ninety (90) days prior to the end of the then-current term.
- 13.2.2. *Of License and Support Subscriptions.* Except as otherwise provided in this Agreement, Customer must renew License and Support Subscriptions before their expiration by paying the Annual Fee invoiced by Hart, as provided in Section 2.2, before the anniversary date immediately following the date of invoice. Each renewal License and Support Subscriptions term will be a one (1) year, commencing on the expiration of the prior term and expiring on the immediately following anniversary date.
- 13.2.3. *Hardware Warranties.* Hardware warranties may be extended through a separate Extended Hardware Warranty, ordered in accordance with Section 1. Renewal of this Master Agreement and the License and Support Subscription do not, in themselves, extend hardware warranties.

13.3. Termination.

- 13.3.1. *By Hart.* This Agreement and/or all then-current License and Support Subscriptions and Professional Services orders shall automatically terminate or expire as set forth herein and may be terminated by Hart if Customer is in breach of a term hereof and fails to cure such breach within thirty (30) days after written notice of such breach has been given.
- 13.3.2. *By Customer.* Customer may terminate this Agreement or a License and Support Subscriptions and Professional Services orders issued hereunder if Hart is in breach of a term hereof or thereof, as applicable, and fails to cure such breach within thirty (30) days after written notice of such breach has been given.
- 13.4. **Effect of Expiration and Termination.** Any termination under Section 13.3.1 shall operate to terminate this Agreement and any then current License and Support Subscriptions and Professional Services orders. Any termination under Section 13.3.2 of a License and Support Subscription or Professional Services order shall operate only upon such subscription or order, and shall have no effect on this Agreement or other subscriptions or orders then in effect. Sections 3, 5.2-5.4, 7, 9.5-9.7, 12, 13.4, and 14-18 shall survive any termination or expiration of this Agreement or the applicable License and Support Subscription and/or Professional Services order. All other rights and obligations shall be of no further force or effect.

14. CONFIDENTIALITY

- 14.1. **Definition.** "Confidential Information" means any information related to Hart's business or the Verity system, including but not limited to technical data, trade secrets, know-how, research, product plans, products, services, customers, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, or other business information. Confidential Information includes, without limitation, all Software, the Documentation and support materials, and the terms and conditions of this Agreement
- 14.2. **Non-Use and Non-Disclosure.** Customer will keep in confidence and protect Confidential Information (electronic or hard copy) from disclosure to third parties and restrict its use to uses expressly permitted under this Agreement. Customer shall take all reasonable steps to ensure that the trade secrets and proprietary data contained in the Hardware and Software and the other Confidential Information are not disclosed, copied, duplicated, misappropriated, or used in any manner not expressly permitted by the terms of this Agreement. Customer shall keep the Software and all tapes, diskettes, CDs, and other physical embodiments of them, and all copies thereof, at a secure location and limit access to those employees who must have access to enable Customer to use the Software. Customer acknowledges that unauthorized disclosure of Confidential Information may cause substantial economic loss to Hart or its suppliers and licensors.
- 14.3. **Return of Confidential Information.** Upon termination or expiration of this Agreement or, if earlier, upon termination of Customer's permitted access to or possession of Confidential Information, Customer shall return to Hart all copies of the

Confidential Information in Customer's possession (including Confidential Information incorporated in software or writings, electronic and hard copies). Upon termination of Customer's license or sublicense of Software, Customer shall immediately discontinue all use of the Software and return to Hart or destroy at Hart's option, the Software, including Firmware (and all related Documentation (electronic and hard copy)) and all archival, backup, and other copies of Software, Firmware and Documentation, and provide certification to Hart of such return or destruction. Return or destruction may include hard drives and/or component flash drive devices.

- 14.4. **Customer Employees, Agents and Contractors.** Customer will inform its employees and other agents and contractors of their obligations under this Section 14 and shall be fully responsible for any breach thereof by such personnel.

15. INDEMNIFICATION

- 15.1. **Indemnity.** Hart, at its own expense, will defend Customer against any claim that the Hart Hardware or Hart Proprietary Software infringes an issued United States patent, registered United States copyright, or misappropriates trade secrets protected under United States law, and shall indemnify Customer against and pay any costs, damages and reasonable attorneys' fees attributable to such claim that are finally awarded against Customer, provided Customer (a) gives Hart prompt written notice of such claims; (b) permits Hart to control the defense and settlement of the claims; and (c) provides all reasonable assistance to Hart in defending or settling the claims.
- 15.2. **Remedies.** As to Hart Hardware or Hart Proprietary Software that is subject to a claim of infringement or misappropriation, Hart may (a) obtain the right of continued use of the Hart Hardware or Hart Proprietary Software for Customer or (b) replace or modify the Hart Hardware or Hart Proprietary Software to avoid the claim. If neither alternative is available on commercially reasonable terms, then, at the request of Hart, any applicable Software license and its charges will end, Customer will cease using the applicable Hart Hardware and Hart Proprietary Software, Customer will return to Hart all applicable Hart Hardware and return or destroy all copies of the applicable Hart Proprietary Software, and Customer will certify in writing to Hart that such return or destruction has been completed. Upon return or Hart's receipt of certification of destruction, Hart will give Customer a credit for the price paid to Hart for the returned or destroyed Hart Hardware and Hart Proprietary Software, less a reasonable offset for use and obsolescence.
- 15.3. **Exclusions.** Hart will not defend or indemnify Customer if any claim of infringement or misappropriation (a) is asserted by an affiliate of Customer; (b) results from Customer's design or alteration of any Hardware or Software; (c) results from use of any Hart Hardware or Hart Proprietary Software in combination with any non-Hart product, except to the extent, if any, that such use in combination is restricted to the Verity system designed by Hart; (d) relates to Sublicensed Software or Third Party Hardware alone; or (e) arises from Customer-specified customization work undertaken by Hart or its designees in response to changes in Hart Proprietary Software or Sublicensed Software that are made in response to Customer specifications.
- 15.4. **EXCLUSIVE REMEDIES.** THIS SECTION 15 STATES THE ENTIRE LIABILITY OF HART AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT AND TRADE SECRET MISAPPROPRIATION.

16. DISCLAIMERS AND LIMITATIONS OF LIABILITY

- 16.1. **Disclaimer of Warranty.** EXCEPT FOR THE EXPRESS LIMITED WARRANTIES APPLICABLE TO THE PRODUCT(S) AND/OR SERVICES SET FORTH IN SECTION 9, 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 (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 HARDWARE, SOFTWARE, AND SERVICES. CUSTOMER IS SOLELY RESPONSIBLE FOR ASSURING AND MAINTAINING THE BACKUP OF ALL CUSTOMER DATA. UNDER NO CIRCUMSTANCES WILL HART BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR THE LOSS OF OR DAMAGE TO CUSTOMER DATA THE EXPRESS LIMITED WARRANTIES REFERENCED ABOVE EXTEND SOLELY TO CUSTOMER AND DO NOT INCLUDE ANY TYPE OF ROUTINE MAINTENANCE SERVICE OR PREVENTATIVE MAINTENANCE SERVICE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY.
- 16.2. **Limitations of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HART WILL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE HARDWARE, 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 CUSTOMER FOR DAMAGES ARISING OUT OF OR RELATING TO THE HARDWARE, SOFTWARE, SERVICES, AND THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER TO HART UNDER THIS AGREEMENT UNDER THE ORDER FOR THE HARDWARE, SOFTWARE OR SERVICE GIVING RISE TO THE APPLICABLE CLAIM. HART IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY CUSTOMER'S NEGLIGENCE OR INTENTIONAL ACTS OR, EXCEPT AS EXPRESSLY SET FORTH HEREIN, FOR ANY CLAIM AGAINST CUSTOMER OR ANYONE ELSE BY ANY THIRD PARTY.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF DAMAGES, SO THE ABOVE EXCLUSIONS AND/OR LIMITATIONS MAY NOT APPLY TO CUSTOMER. THE PARTIES AGREE THAT THE LIABILITY AND WARRANTY LIMITATIONS SET FORTH IN THIS AGREEMENT ARE A REASONABLE ALLOCATION OF RISK AND LIABILITY CONSIDERING THE RESPECTIVE BENEFITS OBTAINED HEREUNDER. THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

- 16.3. **Third Party Products, Services and Referrals.** In addition to Third Party Products that may be ordered hereunder, Hart may direct Customer to third parties having products or services that may be of interest to Customer for use in conjunction with the Products or Services. Notwithstanding any Hart recommendation, referral, or introduction, Customer 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.

17. DISPUTE RESOLUTION

- 17.1. **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**").
- 17.2. **Negotiation and Mediation.** 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 mandatory 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.
- 17.3. **Injunctive Relief.** Notwithstanding the other provisions of this Section 17, 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.
- 17.4. **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 two (2) years after the cause of action first accrued.

18. GENERAL PROVISIONS

- 18.1. **Entire Agreement.** This Agreement and the Schedules, Attachments, and Exhibits hereto (including Hart-provided quotations signed by Customer and accepted by Hart) are the entire agreement between the parties with respect to the subject matter contemplated herein, and supersede all prior negotiations and oral agreements with respect thereto. Hart makes no representations or warranties with respect to this Agreement or its Products or Services that are not included herein. The use of preprinted Customer 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 Customer purchase order, acknowledgment, or other Customer 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. This Agreement may not be amended or waived except in writing signed by an officer of the party to be bound thereby.
- 18.2. **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.
- 18.3. **GOVERNING LAW.** THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICT OF LAW PROVISIONS, UNLESS CUSTOMER IS A GOVERNMENTAL SUBDIVISION OF ANOTHER STATE, IN WHICH CASE THE LAWS OF THE STATE IN WHICH CUSTOMER IS A GOVERNMENTAL SUBDIVISION WILL CONTROL.
- 18.4. **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.
- 18.5. **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 Customer's performance, the Customer, and its governing entities); fires, floods, epidemics, or serious accidents; unusually severe weather conditions; failure of third parties to timely provide software, hardware, materials, or labor contemplated herein including by reason of 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 or other such event 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.

- 18.6. **Compliance with Laws.** Customer and Hart shall comply with all federal, state, and local laws in the performance of this Agreement, including those governing use of the Products. Products provided under this Agreement may be subject to U.S. and other government export control regulations. Customer shall not export or re-export any Products.
- 18.7. **Assignment.** Hart may assign this Agreement or its interests herein any including the right to receive payments, without Customer's consent. Customer will be notified in writing if Hart makes an assignment of this Agreement. Customer shall not assign this Agreement or any licenses granted hereunder without the express written consent of Hart, such consent not to be unreasonably withheld.
- 18.8. **Independent Contractors.** The parties to the Agreement are independent contractors and the Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent. Hart's employees, agents, and subcontractors will not be entitled to any privileges or benefits of Customer employment. Customer's employees, agents, and contractors will not be entitled to any privileges or benefits of Hart employment.
- 18.9. **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.
- 18.10. **Trademarks.** Verity Election Office™, Verity Voting™, Verity Scan™, Verity Touch™, Verity Controller™, Verity Access™, Verity vDrive™, Verity Touch Writer™, Verity Ballot™, Verity Layout™, Verity Build™, Verity Count™, Verity Relay™, Verity Key™, and Verity Central™, and such other Product names indicated as trademarked names of Hart are trademarks of Hart.
- 18.11. **Attorneys' Fees.** In any court action at law or equity which is brought by one of the parties to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, in addition to any other relief to which that party may be entitled.
- 18.12. **Equitable Relief.** The parties agree that a material breach of the confidentiality provisions of this Agreement or restrictions set forth herein would cause irreparable injury to Hart for which monetary damages alone would not be an adequate remedy, and therefore Hart shall be entitled to equitable relief in addition to any other remedies it may have hereunder or at law, without the requirement of posting bond or proving actual damages.
- 18.13. **Government Use.** The use, duplication, reproduction, release, modification, disclosure, or transfer of the Products, no matter how received by the United States Government, is restricted in accordance with the terms and conditions contained herein. All other use is prohibited. Further, the Products were developed at Hart's private expense and are commercial in nature. By using or receiving the Products, the Government user agrees to the terms and conditions contained in this Agreement including the terms and conditions contained in this paragraph.

Exhibit A

Schedule A or Customer Signed Quote for Initial Order

Exhibit B

Hart Customer Support Contact Information and Hours

The following contact information is to be used by Customer for submitting Support requests to Hart InterCivic, Inc.:

Customer Support Center	1-866-275-4278 (1-866-ASK-HART)
Customer Support Center Fax	1-512-252-6925 or 1-800-831-1485
E-mail Address	hartsupport@hartic.com
Web	https://hartsupport@hartic.com
Hart InterCivic, Inc. Switchboard	1-800-223-HART (4278)
Hours of Operation	7AM-6PM Central Time, M-F
After Hours	Leave Voicemail with contact information for return call

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Exhibit C

Definitions

"*Hart*" means Hart InterCivic, Inc., a Texas corporation.

"*Verity Access™*" means the audio tactile interface (ATI) controller created by Hart as an add-on component to a Verity Touch™ that facilitates the performance of voting activities by disabled voters, for example, by providing an audio ballot presentation and/or accepting inputs from adaptive switch mechanisms that facilitate interaction with disabled voters, as needed.

"*Verity Print™*" means the device created by Hart for purposes of on-demand ballot printing; this device creates a blank paper ballot from the poll worker's selection of the voter's ballot style or precinct on the Verity Print interface.

"*Verity Controller™*" is a polling place management console capable of interacting with one or more Verity Touch™ devices by transmitting and receiving signals that manage 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.

"*Verity Scan™*" means the Verity Scan™ device created by Hart, consisting of an in-person digital ballot imaging device. The single-feed scanner transports and scans both sides of a ballot simultaneously, and it is securely attached to a ballot box that provides for secure ballot storage and transport.

"*Verity Election Office*" means Hart InterCivic's software platform that can accommodate a variety of election administration applications and is designed for interoperability with Verity Voting Hardware and Software.

"*Verity Touch™*" means the Verity Touch™ electronic voting device created by Hart. Verity Touch devices consist of hardware including an electronically configurable 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 touchscreen liquid crystal display (LCD) panel for use in displaying ballot images, and options for tactile input buttons that facilitate voter options for selecting ballot choices and casting a ballot.

"*Verity Touch Writer™*" means the device created by Hart for ballot-marking functions. Touch Writer creates a paper marked ballot from the voter's selections on the electronic interface or the Verity Access ATI controller.

"*Verity Voting*" means Hart InterCivic's family of voting system components designed to conform to federal voting system standards.

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Exhibit D

HART PROPRIETARY AND SUBLICENSED SOFTWARE

Hart Proprietary Software Licensed to Customer via annual subscription:

ITEM NUMBER	DESCRIPTION	NUMBER OF LICENSES
1	Verity Build	One (1)
2	Verity Count	One (1)
3	Verity Central - Server	One (1)

Licensed Location is the jurisdiction named on the signature page of this Agreement.

Software Sublicensed to Customer via annual subscription:

None

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1. **AI-58013** Presentation of sole bid received from a responsible vendor submitting the lowest and best bid [while meeting all specifications and/or requirements] for the purpose to award & approval of contract document for project titled: "Tire Disposal Services" through RFB No.: 2016-287-12-07-SMA.

2. **AI-58379** a. Requesting exemption from competitive procurement requirements under the Texas Local Government Code, Section 262.024(a)(7)(a) proprietary software in connection with On-line Research Services for Hidalgo County;

b. Requesting approval of agreement(s) if applicable for "On-line Research Services" with Lexis Nexis including but not limited to the following Hidalgo County department(s):

1. District Clerk
2. District Judges
3. Constable Pct 1
4. Constable Pct. 3

3. **AI-58267** A. Requesting approval to declare the items listed in Exhibit "A" (attached herein), office furniture, equipment, vehicles, and boats as "Surplus" for the purpose of sale through online auction scheduled for 2-17-2017 thru 03-03-2017 in accordance with Texas Local Government Code 263.152 (a)(1); AND, in the event "NO BIDS" received on either auction date,

B. Requesting authority to publish advertisement for the auction of surplus scheduled for 2-17-2017 including but not limited to Seized, Abandoned and Unclaimed Property or additional and/or necessary auctions.

4. **AI-58401** A. Acceptance of Quote #00001409 from HART InterCivic, awarded vendor, through BuyBoard Coop. Program Contract #460-14 Voting Equipment [as approved by state of Texas Certification Process] including the Contract document [reviewed/approved as to form by HC-DA/Civil Section] with authority to purchase same through a submitted Electronic Requisition and processed Purchase Order System in the amount of \$5,491,500.00 [with details on both the Contract document and/with attached Quote herein] and approval to have County Judge to execute HART Interactive Contract Documents and subject to compliance with form 1295 and any other statutory/policy requirements, if and when applicable;

APPROVED

B. Pursuant to TxLGC 263.152(a)(2), approval to declare "Surplus" all ES&S Ivotronic Voting Equipment, Accessories, Software and authority for HC [upon the anniversary of renewals] issuing written notices of non-renewing maintenance and support agreements [as detailed on schedule attached hereto] with actual "trade-in" of the items to HART InterCivic [with corresponding credit of \$750K] with transfer of all equipment as agreed upon by both HART Interactive & Hidalgo County [through Elections Dept.] and pursuant to contract terms/conditions;

Description	Duration / End Date	Qty.	Deadline to mail Termination Letter
Ivotronic Voting Machines	2/1/2016 - 1/31/2017	267 Plus 650 Machines	12/31/2016
Ivotronic Voting Machines	5/1/2016 - 4/30/2017	70 Voting Machines	3/30/2017
Unity Software Renewal License	7/1/2016 - 6/30/2017	1 Software License	5/30/2017
Unity ERM Software Renewal License	9/1/2016 - 8/31/2017	1 Software License	7/31/2017
Ivotronic Voting Machines	8/1/2016 - 7/31/2017	464 Voting Machines	6/30/2017

B. Pct. 1

1. **AI-58254** a. Recommendation by project engineer, Sames Engineering & Surveying to award the Base Bid to the responsible vendor **M.J.A. Construction** - submitting the lowest and best bid meeting all specifications for FEMA project "Paving & Drainage Improvements-Las Nubes Dr., Marlen St., Lott Rd., & Old River Rd." in the amount as listed below:

RFB: 2016-401-12-28-YZV	
	AMOUNT
Las Nubes Drive	\$ 36,815.00
Marlen Street	\$ 78,605.10
Lott Road	\$239,826.75
Old River Road	\$201,221.65



**AGENDA
HIDALGO COUNTY
COMMISSIONERS COURT
MEETING
February 6, 2017
9:30 A.M.**

NOTICE is hereby given in accordance with Chapter 551, Texas Government Code, that a SPECIAL MEETING of the Commissioners Court will be held in the Commissioners Courtroom of the Administration Building, 100 E. Cano, 1st floor, Edinburg, Hidalgo County, Texas. Discussion and possible action relating to the following business will be transacted:

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Prayer**
4. **Approval of Consent Agenda**
5. **County Judge's Office:**
 - A. **AI-58241** Proclamation in support of the Children's Advocacy Center of Hidalgo County and its fundraiser.
 - B. **AI-58214** Appointment or Re-appointment of board members to the Hidalgo County Regional Mobility Authority Board of Directors for a two year term (current terms expiring are County Judge, Precinct 3, and Precinct 4)
6. **District Attorney's Office:**
 - A. **AI-57941** Proclamation declaring February 2017 as Teen Dating Violence Awareness month.
 - B. **AI-58265** Hidalgo County DA's Office- Border Prosecution Unit Grant (BPU) (1281):
Approval to submit a BPU Grant #2537806 budget adjustment to the Office of the Governor (OOG).
 - C. **AI-58326** DA's Office - Hidalgo County Domestic Violence Specialty Prosecutor Grant (1281):
 1. Requesting approval to apply for the FY2017 Hidalgo County Domestic Violence Specialty Prosecutor Grant
 2. Requesting approval of resolution to designate County Judge as the grantee's authorized official and to sign documents
 - D. **AI-58329** DA's Office-Victim Assistance Program Grant (1281):
 1. Requesting approval to apply for the FY2017 Hidalgo County DA's Office - Victim Assistance Program Grant
 2. Requesting approval of resolution to designate County Judge as the grantee's authorized official and to sign documents
7. **Constables:**
 - A. **AI-58258** Constable Pct.1 Office - LBSP FY18 (1284):
 1. Authorization and approval to apply for the Local Border Security Program (LBSP) FY18 grant with the Office of the Governor's Homeland Security Grants Division (HSGD), through egrants.
 2. Authorization for County Judge, as authorized official, to e-sign application under egrants as authorized official.
 3. Approval of Resolution for LBSP 18 Grant to designate Judge Ramon Garcia as grantee's authorized official and to sign required documents (grant period - September 1, 2017 - August 31, 2018).

- A. **AI-58288** 1. Approval of Certification of Revenues as certified by the County Auditor for various TXDOT projects.
2. Approval of 2016 appropriation of funds for various TXDOT projects in the total amount of \$3,722,470.30

20. Precinct #2 - Comm. Cantu:

- A. **AI-58199** Receipt, review, and approval of closing documents for Parcel 1 for Pct 2 Yuma Ave Extension Project with authority for the Co Judge and or Executive Officer to sign closing documents.
- B. **AI-58394** 1. Authority to rescind action taken by Commissioners Court on January 10, 2017 (AI-57954) due to correction of project limits.
2. Requesting approval of Interlocal Cooperation Agreement between the City of San Juan and the County of Hidalgo, Texas, concerning certain road improvements to two portions of Sgt Trevino Road from Raul Longoria Road to Cesar Chavez Road.
3. In accordance with Section 791.014 of the Texas Government Code, requesting approval of the interlocal cooperation agreement project concerning certain road improvements to two portions of Sgt Trevino Road from Raul Longoria Road to Cesar Chavez Road.

21. Precinct #4 - Comm. Palacios:

- A. **AI-58367** Resolution in honor of Jaime Guerra for his 13 years of service to Hidalgo County

22. Budget & Management:

- A. **AI-58334** Salary Schedule - DA Investigation HB65
1. Approval of the following salary schedule corrections, effective 01/01/17:

Fund	Dept./Prog.	Slot No.	2017 Adopted Position Title	2017 Proposed Position Title	Correction
1223	080-007	0089	Accounts Payable Specialist I	Accounts Payable Specialist II	Title Change

- 2. Approval to revise the salary schedule in accordance with Commissioners Court action.

B. Budget Appropriations:

- 1. **AI-58280** Supplemental Court Guardianship (1250):
Approval of 2017 appropriation of funds in the amount of \$40,000.00 to fund legal services.
- 2. **AI-58248** Courthouse Security Fund (1241):
Approval of 2017 appropriation of funds for the Courthouse Security (1241) in the amount of \$2,000.00 to fund general supplies expenditures.
- 3. **AI-58332** Pet 4 (1345/1315):
Approval of 2017 appropriation of funds into various CO2014-Pet 4 accounts in the total amount of \$418,935.33 with interfund to TXDOT Pet 4 10th St Project (1315), program 030, to fund anticipated expenditures.

23. Purchasing Department:

Notes:

A. FOR ANY CONTRACT(S) AWARDED AND APPROVED UNDER THIS AGENDA, EXECUTED COPIES OF THE CONTRACT(S) WILL BE AVAILABLE ON THE COUNTY INTRA-NET WEBSITE AND WILL BE FOWARDED VIA E-MAIL, FAX OR HAND DELIVERED TO HIDALGO COUNTY AUDITOR'S OFFICE.

B. ANY AND ALL REQUESTS FOR PAYMENT(S) APPROVED WILL BE SUBJECT TO COUNTY AUDITORS PROCESSING PROCEDURES INCLUDING AUTHORITY FOR COUNTY TREASURER TO ISSUE PAYMENT(S)/CHECK(S).

- A. **Hidalgo County**



Quote Number 00001409
 Account Name Hidalgo County, TX
 Grand Total \$5,491,500.00

Item	Unit Price	Quantity	Total Price	BuyBoard Discount Percent	BuyBoard Discount Amount	BuyBoard Price	Additional Discount	Final Discounted Price
* Verity Controller	\$4,650.00	220	\$1,023,000.00	1%	(\$10,230.00)	\$1,012,770.00	(\$97,832.76)	\$914,937.24
* AutoBallot Kit	\$419.00	220	\$92,180.00	1%	(\$921.80)	\$91,258.20	(\$8,815.47)	\$82,442.73
* Verity Touch	\$4,650.00	854	\$3,971,100.00	1%	(\$39,711.00)	\$3,931,389.00	(\$379,768.97)	\$3,551,620.03
Verity Standard Booth	\$0.00	854	\$0.00	1%	\$0.00	\$0.00	\$0.00	\$0.00
* Verity Touch w/ Access	\$5,250.00	220	\$1,155,000.00	1%	(\$11,550.00)	\$1,143,450.00	(\$110,456.34)	\$1,032,993.66
Verity Accessible Booth	\$0.00	220	\$0.00	1%	\$0.00	\$0.00	\$0.00	\$0.00
Jelly Switches	\$183.70	50	\$9,185.00	1%	(\$91.85)	\$9,093.15	(\$878.39)	\$8,214.76
vDrive	\$66.00	260	\$17,160.00	1%	(\$171.60)	\$16,988.40	(\$1,641.07)	\$15,347.33
Verity Key	\$109.00	90	\$9,810.00	1%	(\$98.10)	\$9,711.90	(\$938.16)	\$8,773.74
Verity Build	\$50,000.00	1	\$50,000.00	1%	(\$500.00)	\$49,500.00	(\$4,781.66)	\$44,718.34
Verity Build Dimensional Overlays	\$0.00	1	\$0.00	1%	\$0.00	\$0.00	\$0.00	\$0.00
Verity Count	\$15,000.00	1	\$15,000.00	1%	(\$150.00)	\$14,850.00	(\$1,434.50)	\$13,415.50
Verity Central	\$60,000.00	1	\$60,000.00	1%	(\$600.00)	\$59,400.00	(\$5,737.99)	\$53,662.01
Canon DR-G1 130 Central Scanner	\$10,000.00	1	\$10,000.00	1%	(\$100.00)	\$9,900.00	(\$956.33)	\$8,943.67
Ethernet Switch, 8 Port	\$0.00	1	\$0.00	1%	\$0.00	\$0.00	\$0.00	\$0.00
Verity Workstation	\$5,800.00	3	\$17,400.00	1%	(\$174.00)	\$17,226.00	(\$1,664.02)	\$15,561.98
23" Flat Panel Monitor	\$0.00	3	\$0.00	1%	\$0.00	\$0.00	\$0.00	\$0.00
Okidata B431D Printer	\$325.00	3	\$975.00	1%	(\$9.75)	\$965.25	(\$93.24)	\$872.01
Black Toner, Okidata B431D	\$165.00	3	\$495.00	1%	(\$4.95)	\$490.05	(\$47.34)	\$442.71
Okidata C911 Printer w/ Starter Cartridges	\$6,000.00	1	\$6,000.00	1%	(\$60.00)	\$5,940.00	(\$573.80)	\$5,366.20
Okidata ML-1120 Line Printer	\$300.00	1	\$300.00	1%	(\$3.00)	\$297.00	(\$28.69)	\$268.31
Toner Cartridge, Okidata C911, Black	\$130.00	1	\$130.00	1%	(\$1.30)	\$128.70	(\$12.43)	\$116.27
Corrugated Plastic Transfer Case for Verity Voting Device	\$70.00	1,294	\$90,580.00	1%	(\$905.80)	\$89,674.20	(\$8,662.45)	\$81,011.75
Verity Battery Charger, 6 Bay	\$540.00	35	\$18,900.00	1%	(\$189.00)	\$18,711.00	(\$1,807.47)	\$16,903.53
Verity Caddy Cover, 4' Wide	\$250.00	162	\$40,500.00	1%	(\$405.00)	\$40,095.00	(\$3,873.14)	\$36,221.86
Verity Caddy w/ Casters, 4' Wide	\$740.00	162	\$119,880.00	1%	(\$1,198.80)	\$118,681.20	(\$11,464.51)	\$107,216.69
New Implementation Services	\$40,000.00	1	\$40,000.00	1%	(\$400.00)	\$39,600.00	(\$3,825.32)	\$35,774.68
License and Support	\$197,175.00	1	\$197,175.00	0%	\$0.00	\$197,175.00	\$0.00	\$197,175.00



Quote Number 00001409
 Account Name Hidalgo County, TX
 Grand Total \$5,491,500.00

Total Discounted Price \$6,232,000.00
 Shipping and Handling (Estimated) \$9,500.00
 Solution Price \$6,241,500.00
 Competitive Product Trade-In Discount (\$750,000.00)
 Grand Total \$5,491,500.00

Bill To 101 S 10th Ave.
 Edinburg, TX 78539

Ship To 101 S 10th Ave.
 Edinburg, TX 78539

Customer Contact

Contact Name Yvonne Ramon

Email yvonne.ramon@co.hidalgo.tx.us
 Phone (956) 318-2570 or 956-292-7712

General Information

Expiration Date 6/28/2016
 Payment Terms Net 30

Instructions Please fax with signature to (512) 252-6921 or scan and email to fliston@hartic.com to place this order.

Terms and Conditions

Subsequent License and Support will be billed annually per contract terms.
 Grand Total includes estimated Shipping and Handling.
 Pricing subject to inventory availability at time of quote execution and acceptance.
 Competitive Product Trade-in Discount is fixed and does not vary with quantity of returned competitive product. Hart will pick-up the competitive product between June 16 and July 28, 2017.
 Products marked with an asterisk (*) above are currently in the Texas state certification process. As per the terms of the BuyBoard contract, once the product is certified, it is added to Hart's BuyBoard Contract #460-14. The projected pricing and discounts for these items is provided herein and will be added to Hart's BuyBoard Contract prior to delivery.
 The discount offered herein expires if the signed quote is not returned to Hart by 5:00 PM on June 28, 2016.
 Customer agrees to accept delivery of equipment upon inventory availability and no later than 12/31/16.
 Taxes will be calculated in conjunction with the Customer based on the final approved price list.

Hart Approval

Prepared By Felice Liston
 Signature *Felice Liston*

Title Director of Sales

Customer Approval

Name: Ramon Garcia
 Customer Approval: *Ramon Garcia*

Title: County Judge
 Date: 2/6/17


APPROVED BY
 COMMISSIONERS' COURT
 ON: 2/6/17 *me*

Zimbra

matilde.faz@co.hidalgo.tx.us

Fwd: Update on Hart Agreement

From : Martha Salazar <martha.salazar@co.hidalgo.tx.us>
Subject : Fwd: Update on Hart Agreement
To : Matilde Faz <matilde.faz@co.hidalgo.tx.us>
Cc : Dina Trevino <dina.trevino@co.hidalgo.tx.us>

Tue, Jan 03, 2017 02:18 PM
 1 attachment

Here you go.

From: "Josephine Ramirez" <josephine.ramirez@da.co.hidalgo.tx.us>
To: "Martha Salazar" <martha.salazar@co.hidalgo.tx.us>
Sent: Tuesday, December 27, 2016 9:08:59 AM
Subject: Fwd: Update on Hart Agreement

Marty,

I am ok with the additional language added to the quote, which will be made part of the whole agreement.

Thank you,

Josephine Ramirez Solis

Assistant Criminal District Attorney

Chief - Civil Division

Office of Criminal District Attorney

Hidalgo County, Texas

100 E. Cano

Edinburg, TX 78539

(956) 292-7609 ext. 8186

(956) 318-2079 FAX

josephine.ramirez@da.co.hidalgo.tx.us

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**IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE ADVISE THE SENDER BY
 REPLY E-MAIL TO josephine.ramirez@da.co.hidalgo.tx.us AND DELETE THE COMMUNICATION.**

----- Forwarded message -----

From: **Liston, Felice** <FListon@hartic.com>
 Date: Thu, Dec 22, 2016 at 1:45 PM
 Subject: RE: Update on Hart Agreement
 To: Yvonne Ramon <yvonne.ramon@co.hidalgo.tx.us>
 Cc: victor garza <victor.garza@da.co.hidalgo.tx.us>, jonathan almanza <jonathan.almanza@da.co.hidalgo.tx.us>, darlene betancourt <darlene.betancourt@co.hidalgo.tx.us>, Sergio Cruz <sergio.cruz@co.hidalgo.tx.us>, Valde Guerra <valde.guerra@co.hidalgo.tx.us>, "Hilda Ann. Salinas" <hilda.a.salinas@co.hidalgo.tx.us>, "Josephine Ramirez (josephine.ramirez@da.co.hidalgo.tx.us)" <josephine.ramirez@da.co.hidalgo.tx.us>, Martha Salazar <martha.salazar@co.hidalgo.tx.us>

Attached please find Hart's revised quote which includes the incremental \$1,500.00 added to the Shipping & Handling line item and the addition of the equipment pick-up dates.

Please let me know if you have any questions,

Felice

From: Yvonne Ramon [<mailto:yvonne.ramon@co.hidalgo.tx.us>]
Sent: Thursday, December 22, 2016 11:10 AM
To: Liston, Felice
Cc: victor garza; jonathan almanza; darlene betancourt; Sergio Cruz; Valde Guerra; Hilda Ann. Salinas; Josephine Ramirez (josephine.ramirez@da.co.hidalgo.tx.us); Martha Salazar
Subject: Re: Update on Hart Agreement

Good morning, Felice,

What you describe below is exactly what legal had recommended be done. So yes, please add the description to the quote as stated, and resend to all.

Respectfully,

Yvonne Ramón, CERA
 Elections Administrator
 The County of Hidalgo
 (956)318-2570

From: "Felice Liston" <FListon@hartic.com>
To: "Yvonne Ramon" <yvonne.ramon@co.hidalgo.tx.us>
Cc: "victor garza" <victor.garza@da.co.hidalgo.tx.us>, "jonathan almanza"

<jonathan.almanza@da.co.hidalgo.tx.us>, "darlene betancourt" <darlene.betancourt@co.hidalgo.tx.us>, "Sergio Cruz" <sergio.cruz@co.hidalgo.tx.us>, "Valde Guerra" <valde.querra@co.hidalgo.tx.us>, "Hilda Ann. Salinas" <hilda.a.salinas@co.hidalgo.tx.us>, "Josephine Ramirez (josephine.ramirez@da.co.hidalgo.tx.us)" <josephine.ramirez@da.co.hidalgo.tx.us>, "Martha Salazar" <martha.salazar@co.hidalgo.tx.us>
Sent: Wednesday, December 21, 2016 9:24:30 PM
Subject: RE: Update on Hart Agreement

Hello Ms. Ramon,

Since the Agreement does not specifically mention the pick-up of the ES&S equipment and the quote does, Hart prefers we add the note regarding pick-up to the quote. The pick-up is an operational item for which Hart offered the County a discount as part of the quoting process. We could add the note to the already existing note in the quote so that it would read:

Competitive Product Trade-in Discount is fixed and does not vary with quantity of returned competitive product. Hart will pick-up the competitive product between June 16 – July 28, 2016.

Once I receive word that the above is acceptable to the County, I will make the appropriate change to the quote, including adding the incremental \$1,500.00 equipment hold fee and then forward the modified quote to you.

Please let me know if you have any questions.

Warm Regards,

Felice

From: Yvonne Ramon [<mailto:yvonne.ramon@co.hidalgo.tx.us>]
Sent: Wednesday, December 21, 2016 10:26 AM
To: Josephine Ramirez; martha salazar; Liston, Felice
Cc: victor garza; jonathan almanza; darlene betancourt; Sergio Cruz; Valde Guerra; Hilda Ann. Salinas
Subject: Update on Hart Agreement

Good morning, Josie and Marty,

Just to be clear on where we are at this point, below are the items that Marty and I addressed in this morning's conversation:

We will add to the Hart Agreement:

****No sooner than June 16, 2017, and no later than, Friday, July 28, 2017, Hidalgo County will release all of the ES&S equipment to Hart. A complete list of the inventory will be included. (This gives us a window in which to get the equipment ready for release.)**

FYI: Felice Liston, representing Hart, has agreed to pick up all of the equipment no later than July 28, 2017. This will give Elections the time needed to use the ES&S equipment for the May, 2017 elections and any runoffs that may occur. This will also give Purchasing time to conduct the inventory as needed. The only equipment that will be utilized is the equipment paid through the August, 2017 maintenance agreement with ES&S. A letter will be sent to ES&S that lists the dates and the equipment that pertain to each maintenance agreement as they no longer are being renewed.

Second point: The \$1500 additional cost, due to the holding of the Verity equipment until the January 10, 2017, Commissioner's Court, will be added to the final quote.

Please let me know if there are other items that need to be addressed.

Respectfully,

Yvonne Ramón, CERA
Elections Administrator
The County of Hidalgo
(956)318-2570

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Hidalgo, TX - Verity Budget_V11.pdf

94 KB

Zimbra

matilde.faz@co.hidalgo.tx.us

Fwd: Contract Approval - Hart Verity 2.0

From : Yvonne Ramon <yvonne.ramon@co.hidalgo.tx.us>

Tue, Dec 27, 2016 09:44 AM

Subject : Fwd: Contract Approval - Hart Verity 2.0 3 attachments**To :** Martha Salazar <martha.salazar@co.hidalgo.tx.us>, Josephine Ramirez <josephine.ramirez@da.co.hidalgo.tx.us>, Valde Guerra <valde.guerra@co.hidalgo.tx.us>**Cc :** victor garza <victor.garza@da.co.hidalgo.tx.us>, jonathan almanza <jonathan.almanza@da.co.hidalgo.tx.us>, Darlene H. Betancourt <darlene.betancourt@co.hidalgo.tx.us>, Matilde Faz <matilde.faz@co.hidalgo.tx.us>, Melanie Esparza <melanie.esparza@co.hidalgo.tx.us>, Hilda Ann. Salinas <hilda.a.salinas@co.hidalgo.tx.us>, Carlos T. Nieto <carlos.nieto@co.hidalgo.tx.us>

Mrs. Salazar,

I received the final approval required before Commissioner's Court gives Judge Garcia the authority to sign the agreement with Hart. Attached please find said documents that should be included in the agenda item to the court.

Should you need any more information, please let me know.

Thank you for your help and support as we move forward with this endeavor.

Respectfully,

Yvonne Ramón, CERA
Elections Administrator
The County of Hidalgo
(956)318-2570

From: "Ashley Fischer" <AFischer@sos.texas.gov>**To:** "yvonne ramon" <yvonne.ramon@co.hidalgo.tx.us>**Cc:** "Keith Ingram" <KIngram@sos.texas.gov>, "Christina Adkins" <CAdkins@sos.texas.gov>**Sent:** Tuesday, December 27, 2016 8:42:14 AM**Subject:** Contract Approval - Hart Verity 2.0

Yvonne,

Please find attached a letter approving the contract between Hart and Hidalgo County, and the Verity 2.0 Certification Report issued by the Secretary of State.

If you have any questions, please let me know.

Thanks,

Ashley

Ashley Fischer

Legal Director – Elections Division
Office of the Texas Secretary of State
Telephone: 1.800.252.VOTE
www.sos.state.tx.us
Elections Related Questions: elections@sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

VOTETEXAS.GOV
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image001.png
19 KB

 **Hidalgo County.pdf**
37 KB

 **Verity 2.0 Certification Report.pdf**
634 KB

PCL XL error

Warning: IllegalMediaType

The State of Texas



Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Carlos H. Cascos
Secretary of State

December 27, 2016

Yvonne Ramon
Hidalgo County Elections Administrator
101 S. 10th Avenue
Edinburg, Texas 78539

Dear Ms. Ramon:

We are in receipt of a copy of the proposed contract and quote between Hidalgo County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract and quote indicate the county plans to acquire Hart's Verity 2.0 which includes the Hart Verity Touch DRE and Verity Touch with Access DRE, both of which have firmware version 2.0.3. The contract also indicates that the county plans to acquire Verity Build, Verity Central, Verity Count, and Verity Controller, all of which have software version 2.0.2. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore, officially, approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Ingram".

Keith Ingram
Director of Elections

Enclosures

KI: AF

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov



Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Carlos H. Cascos
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC'S VERITY 2.0 VOTING SYSTEM

PRELIMINARY STATEMENT

On June 29th and 30th, 2016, Hart InterCivic, Inc. (the "Vendor") presented Verity Voting 2.0 Voting System for examination and certification ("Verity 2.0"). The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Stephen Berger, an expert in electronic data communication systems;
2. Mr. Tom Watson, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Ms. Christina Worrell Adkins, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems
2. Ms. Amanda Crawford, Texas Attorney General's Employee.

On June 29, 2016, Mr. Berger, Mr. Watson, Dr. Sneeringer, and Ms. Adkins witnessed the installation of the Verity 2.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Ms. Adkins examined the accessibility components of the Verity Touch Writer and Verity Touch with Access. Also, Mr. Tim Juro, a staff attorney with the Office, reviewed the accessibility components of the Verity Touch Writer and Verity Touch with Access.

On June 30, 2016, the Vendor demonstrated the system, answered questions presented by the examiners, and test ballots were then processed on each voting device. Each examiner attended. The results were accumulated and later verified for accuracy by the Secretary of State staff.

Other members of the Office of the Texas Secretary of State's Elections Division staff and other staff from the Office of the Attorney General were present at various points during the two day examination. Examiner reports on the system are attached hereto and incorporated herein by this reference.

On August 31, 2016, a public hearing was conducted in which interested persons were given an opportunity to express views for or against certification of the system.

BRIEF DESCRIPTION OF VERITY 2.0

With the exception of Verity Data, Verity Controller, Verity Touch and Verity Touch with Access, the products listed below are upgrades to previous qualified versions of either hardware and/or software that have been certified for use in the State of Texas.

The Verity 2.0 Voting System has been evaluated at an accredited independent voting system testing laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). It has received Elections Assistance Commission (EAC) # HRTVerity2.0 on April 27, 2016. The components of Verity 2.0 include:

Component	Version	Description
Verity Build	2.0.2	Election definition software application
Verity Central	2.0.2	Central scanning software
Verity Count	2.0.2	Central count tabulation and reporting software application
Verity User Management	2.0.2	User Management Software application
Verity Election Management	2.0.2	Data Management Software application
Verity Desktop	2.0.2	Workstation management software
Verity Scan	2.0.3	Digital scanner (precinct scanner) (firmware)
Verity Touch Writer with Access	2.0.3	Ballot Marking device with audio/tactile interface
Verity Data	2.0.2	Election definition software application
Verity Controller	2.0.3	Controller unit for Verity Touch/Verity Touch with Access
Verity Touch	2.0.3	Direct recording electronic voting machine (DRE)
Verity Touch with Access	2.0.3	Controller for Verity Touch DAU unit

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, Texas voting system examiner reports, comments received at the public hearing held on August 31, 2016, and written public comments received.

The majority of the public comments received regarded the Verity Touch direct recording electronic (DRE) voting machine not producing a Voter Verified Paper Audit Trail (VVPAT). There is no federal or state law requiring VVPAT, and therefore, is not a requirement for certification. There were a number of other comments expressing concern that the Verity Touch DRE did not meet the requirements of the Texas Constitution in regards to the numbering of ballots. The Verity Touch DRE numbers ballots through the public counter, which is the method of numbering ballots prescribed by state law, and meets the requirements of the Texas Constitution. There were a number of comments regarding the requirements of the Texas Election Code in regards to the storage of ballot images and use of ballot images in a recount. The Verity Touch meets the requirements of storing

and producing ballot images, which are the electronically produced records of all votes cast by a single voter. In addition, there were a number of public comments received requesting an additional time to review the examiner reports and other materials. The Secretary of State provided more than the ten days after the date of the public hearing for written public comments required under 1 T.A.C. § 81.60, permitting comments outside the ten day public comment period, until November 30, 2016, to allow any interested persons to submit comments.

Each component of Verity 2.0, among other things:

1. Preserves the secrecy of the ballot;
2. Is suitable for the purpose for which it is intended;
3. Operates safely, efficiently, and accurately and complies with the voting system standards adopted by the Election Assistance Commission;
4. Is safe from fraudulent or unauthorized manipulation;
5. Permits voting on all offices and measures to be voted on at the election;
6. Prevents counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevents counting a vote on the same office or measure more than once;
9. Permits write-in voting;
10. Is capable of permitting straight-party voting; and
11. Is capable of providing records from which the operation of the system may be audited.

CONDITIONS

During the examination of the system, some examiners identified certain aspects of Verity 2.0 they thought might be improved, though each examiner recommended certification notwithstanding these aspects. There is only one condition on certification:

1. Precinct devices used during early voting by personal appearance, and central accumulators, pursuant to 1 T.A.C. §§ 81.52(h) and 81.62(a), are required to attach continuous feed audit log printers. Due to 1 T.A.C. §§ 81.52(h) and 81.62(a), end-users shall not use Verity Scan 2.0.3 as (1) a precinct device during early voting by personal appearance or (2) a central accumulator.

AI-58401

Purchasing Department 23. A. 4.

CC - REGULAR

Meeting Date: 02/06/2017

Submitted For: Marty Salazar, PURCHASING DEPT.

Submitted By: Glinda Pacheco, BUDGET & MANAGEMENT

Department: PURCHASING DEPT.

Information

CAPTION

A. Acceptance of Quote #00001409 from HART InterCivic, awarded vendor, through BuyBoard Coop. Program Contract #460-14 Voting Equipment [as approved by state of Texas Certification Process] including the Contract document [reviewed/approved as to form by HC-DA/Civil Section] with authority to purchase same through a submitted Electronic Requisition and processed Purchase Order System in the amount of \$5,491,500.00 [with details on both the Contract document and/with attached Quote herein] and approval to have County Judge to execute HART Interactive Contract Documents and subject to compliance with form 1295 and any other statutory/policy requirements, if and when applicable;

B. Pursuant to TxLGC 263.152(a)(2), approval to declare "Surplus" all ES&S Ivotronic Voting Equipment, Accessories, Software and authority for HC [upon the anniversary of renewals] issuing written notices of non-renewing maintenance and support agreements [as detailed on schedule attached hereto] with actual "trade-in" of the items to HART InterCivic [with corresponding credit of \$750K] with transfer of all equipment as agreed upon by both HART Interactive & Hidalgo County [through Elections Dept.] and pursuant to contract terms/conditions;

Description	Duration / End Date	Qty.	Deadline to mail Termination Letter
Ivotronic Voting Machines	2/1/2016 - 1/31/2017	267 Plus 650 Machines	12/31/2016
Ivotronic Voting Machines	5/1/2016 - 4/30/2017	70 Voting Machines	3/30/2017
Unity Software Renewal License	7/1/2016 - 6/30/2017	1 Software License	5/30/2017
Unity ERM Software Renewal License	9/1/2016 - 8/31/2017	1 Software License	7/31/2017
Ivotronic Voting Machines	8/1/2016 - 7/31/2017	464 Voting Machines	6/30/2017

BACKGROUND

Fiscal Impact

FISCAL YEAR: 2017

ACCT. #: 7-1350-414-00-130-025-0-XXX

FUNDS AVAILABLE Y/N?: Y

MATCHING FUNDS Y/N?:

BUDGETARY IMPACT:

Funds available pending year-end carryover under CO's 2016-Election Voting Machines (1350, 025), obj. 430, & 751.

FISCAL YEAR: 2017

ACCT. #: 7-1100-414-00-130-001-0-XXX

FUNDS AVAILABLE Y/N?: Y/pending **MATCHING FUNDS Y/N?:**

BUDGETARY IMPACT:

Funds available pending approval of AI #57931, CC 1-10-17 obj. 610 & 660 G/F.

FISCAL YEAR: 2017

ACCT. #: 7-1283-414-00-130-024-0-XXX

FUNDS AVAILABLE Y/N?: Y/pending **MATCHING FUNDS Y/N?:**

BUDGETARY IMPACT:

Funds available pending year-end grant carryover (HAVA), obj. 430, 610, & 660.

Attachments

Book Value

Final Voting Equipment Quote

Secretary Of State Certification

Hart Intercivic Verity Master Agreement

Legal's Approval

Hart Intercivic Web Price verification

HB 1295 Signed, Notarized & Acknowledged

SAM'S Document

Insurances

end dates

Form Review

Inbox	Reviewed By	Date
Purchasing Department	Marty Salazar	02/02/2017 05:44 PM
Final Approval	Monica Badillo	02/02/2017 06:22 PM
Form Started By: Glinda Pacheco		Started On: 02/02/2017 05:08 PM
Final Approval Date: 02/02/2017		