

SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT

THIS AGREEMENT entered into this 15 day of September, 2009, between Collin County, a body politic and corporate of the State of Texas, hereinafter called COUNTY, and VOTEC Corporation of San Diego, California, hereinafter called CONTRACTOR or VOTEC.

WITNESSETH

WHEREAS, COUNTY requires the services of a CONTRACTOR qualified to provide modifications to VEMACS software for County Elections Department; and

WHEREAS, CONTRACTOR is qualified and willing to provide such services;

NOW, THEREFORE, the parties hereto agree as follows:

DEFINITIONS

LICENSED SUB-SYSTEM. A "LICENSED SUB-SYSTEM" is a set of computer code, validation tables, and associated documentation designed to manage the input, output, and storage of a major class of election data.

The current sub-systems licensed separately by CONTRACTOR are:

Voter Registration, Street Index, Mail Ballots, Early Voting, Election Initiation, Candidate Filing, Poll Workers, Polling Locations, Petition Tracking, Campaign Finance, and Elections Imaging.

ARTICLE I - TERM

This Agreement shall commence on October 1, 2009, and shall terminate on September 30, 2010, unless sooner terminated or further extended pursuant to Articles IV and V.

ARTICLE II - SCOPE

Services provided pursuant to this Agreement call for the maintenance and support of LICENSED SUB-SYSTEMS written by CONTRACTOR and the Oracle software sub-licensed through CONTRACTOR.

The COUNTY's LICENSED SUB-SYSTEMS are: Voter Registration, Street Index, Mail Ballots, Early Voting, Election Initiation, Candidate Filing, Poll Workers, Polling Locations, Petition Tracking, Campaign Finance, and Elections Imaging.

CONTRACTOR'S deliverables under this Agreement are as follows:

1) Provide upgrades of the Oracle database products that are mutually agreed as beneficial to the COUNTY's licensed VOTEC system performance. Upgrades may involve cost increases from Oracle which will be passed through to COUNTY.

2) Provide warranty support as follows:

- a) Correct any existing function that does not perform correctly.
- b) Improve any existing or added function that performs uncharacteristically slowly and delays delivery of Board of Elections services.
- c) Provide updates to the instructions for functions whose operation changes due to corrections or performance improvements.
- d) Provide telephone, and when requested, written answers to questions from designated Elections and Information Services staff regarding the operation of the LICENSED SUB-SYSTEMS.
- e) Provide support during COUNTY's scheduled work hours which include extended voting hours during elections.
- f) Provide accelerated response time during elections. Return phone calls within one hour with prompt resolution of critical issues.
- h) Provide beta testing prior to new releases.
- i) Provide written responses to written requests submitted on VOTEC Action Request forms.

3) Provide upgrades to the LICENSED SUB-SYSTEMS to keep the COUNTY's LICENSED SUB-SYSTEMS in compliance with State and Federal software mandates. All State and Federal software mandates to be addressed with a plan for Collin County within 14 days of notification by COUNTY of intent to comply.

- a) Provide new or enhanced forms, batch processes, and/or reports required to keep the LICENSED SUB-SYSTEMS in compliance with State and Federal Elections Codes.
- b) Provide documentation for the changes and additions installed.

4) Provide upgrades to the LICENSED SUB-SYSTEMS produced without a direct request of COUNTY. These are upgrades produced as a result of a request of another customer or as a result of the desire by CONTRACTOR to improve the product.

- a) Provide improvements made to the LICENSED SUB-SYSTEMS for other customers as they are mutually agreed to be beneficial to the performance of COUNTY's system performance.
- b) Provide improvements made to the LICENSED SUB-SYSTEMS by CONTRACTOR as part of the standard LICENSED SUB-SYSTEMS as they are mutually agreed to be beneficial to the performance of COUNTY's system performance.
- c) Provide documentation for the changes and additions installed.

6) Provide upgrades to the LICENSED SUB-SYSTEMS resulting from a direct request of COUNTY. CONTRACTOR's hours to provide these upgrades shall be billed separately as mutually agreed.

a) Provide new or enhanced forms, batch processes, and/or reports as requested by COUNTY and agreed by CONTRACTOR.

b) Provide documentation for the changes and additions installed.

COUNTY shall be notified in advance of any CONTRACTOR technical services which CONTRACTOR considers to be outside the scope of Sections 1-5 of this Article. Work which is to be billed separately shall only be undertaken only upon written authorization by the COUNTY.

COUNTY's responsibilities under this Agreement (exclusive of payment)

1) Written Authorization (Purchase Order) for work bearing extra charges shall be provided by the Elections Administrator or Designated Deputy.

2) The Voter Registration Coordinator and one Information Services staff member are to serve as liaison under this Agreement for the exchange of technical information.

Management to management liaison shall be created for the exchange of administrative information.

3) Server hardware shall be upgraded in the year before a Presidential election to then current standards for departmental servers for database and for Web services. Upgrade to be completed at least three months before the Presidential Primary election

4) COUNTY shall maintain computer hardware and software for connection to the servers running VOTEC applications directly and to at least one PC workstation in the Elections Administrator office.

5) All requests for technical service including requests for documented answers must be submitted on VOTEC Action Request forms (VAR) available on the Web.

6) Provide problem diagnosis using Elections and Information Services staff to discriminate CONTRACTOR issues from COUNTY hardware and system software issues prior to forwarding problems to CONTRACTOR. CONTRACTOR staff time to diagnosis problems originating solely from COUNTY purchased hardware and system software shall be billed at the then current rate.

ARTICLE III - PAYMENT

1) In consideration of services specified in this Agreement, the COUNTY agrees to pay CONTRACTOR a total of \$50,607.00 for all services covered under this Agreement for the contract year from October 1, 2009 through September 30, 2010.

\$3,600.00 of the above fee is for Oracle support.

\$47,007.00 is for Warranty, Maintenance, and Support.

The Warranty, Maintenance, and Support portion of the fee is based on the fee structure provided to the COUNTY in "VOTEC System Warranty, Maintenance and Support Fees – 2009-2010" using a voter count of 327,275 in the November 2007 election. The fee schedule is subject to change. County will be notified at least 90 calendar days in advance of a fee schedule change.

2) The hourly rate for additional programmer services for the first year of this contract shall be \$180.00 per hour.

3) The fee stated in the first paragraph of this Article includes CONTRACTOR travel expenses for any trip required for CONTRACTOR to provide timely and comprehensive response to Warranty or Mandated update needs.

Shipping charges from CONTRACTOR and phone charges for calls originated by CONTRACTOR shall be borne by CONTRACTOR.

4) The costs for hardware and non-CONTRACTOR software arising from CONTRACTOR fulfillment of State or Federal software mandates shall be borne by the COUNTY.

The costs for hardware and non-CONTRACTOR software required to support agreed upon update and updates to meet State and Federal mandates shall be borne by the COUNTY.

5) Payment is due in accordance with V.T.C.A, Government Code, Title 10, Subtitle F, Chapter 2251.

ARTICLE IV - TERMINATION

1) This Agreement may be terminated by the COUNTY for the COUNTY's convenience by giving written notice of termination to CONTRACTOR via certified mail or delivery service.

2) This Agreement may be terminated by CONTRACTOR if payment is not made when payment is due by giving written notice of termination via certified mail or delivery service.

3) This Agreement may be terminated by CONTRACTOR if COUNTY does not fulfill its obligations as listed under the heading above of "COUNTY's responsibilities under this Agreement (exclusive of payment)". VOTEC shall provide written notice of deficiency. County shall have 30 days to remedy deficiency before termination will be initiated.

ARTICLE V - CONTRACT EXTENSION

- 1) The COUNTY shall have the option to extend this Agreement. Any modification, or extension shall be by formal written amendment and executed by the parties hereto.
- 2) Fees for periods covered by contract extensions shall be governed by the document "VOTEC System Warranty, Maintenance and Support Fees – 2009-2010" or revisions thereto.
- 3) COUNTY may extend this Agreement for more or fewer CONTRACTOR services as needed.

ARTICLE VI - GENERAL

Performance hereunder shall be construed and regulated in accordance with the laws of the State of Texas.

COUNTY notices required by this Agreement shall be in writing and shall be delivered via registered or certified mail or delivery service addressed as follows:

COUNTY:	Elections Administrator	Purchasing Agent
	Collin County Elections Department	Collin County Purchasing
	2010 Redbud Blvd - Suite 102	2300 Bloomdale, Suite 3160
	McKinney, TX 75069	McKinney, TX 75071

VOTEC:	President
	VOTEC Corporation
	16980 Via Tazon, Suite 110
	San Diego, California 92127

This document constitutes the entire Agreement between the parties and shall not be modified, amended, altered or changed except through a written amendment and signed by the parties.

These terms and conditions are severable and should any be deemed invalid, then only that provision shall fail and the remainder of the terms and conditions shall be of full force and effect. All rights and remedies of the parties hereto, whether evidence hereby or by any other agreement, instrument, or paper, shall be cumulative and may be exercised singularly or concurrently.

In the event either party shall on any occasion fail to perform any term of this Agreement and the other party shall not enforce that term, failure to enforce on that occasion shall not prevent enforcement on any other occasion.

IN WITNESS THEREOF, the parties have affixed their signatures to this Agreement.

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COLLIN COUNTY:

Franklin Garbo Purchasing Agent
Name and Title

9/15/09
Date

CO 2009-671-09-14

CONTRACTOR - VOTEC Corporation:

John Medea CEO
Name and Title

7/22/9
Date