



AGENDA ITEM
NO. **C-9**

COUNTY OF HUMBOLDT

For the meeting of: February 21, 2017

Date: January 30, 2017
To: Board of Supervisors
From: Kelly Sanders, Clerk/Recorder/Registrar of Voters
Subject: Approval of Amended LiveBallot Software Agreement with Democracy Live, Inc.

RECOMMENDATION(S):

That the Board of Supervisors:

1. Authorize the County Clerk/Recorder/Registrar of Voters or her designee to execute the attached First Amendment to the Contract with Democracy Live, Inc. to carry out the purpose of the Board's order.

SOURCE OF FUNDING:

Federal HAVA (Help America Vote Act) funds administered by the U. S. Department of Health and Human Services to assist in implementing HAVA Section 261.

DISCUSSION:

In 2016, the County of Humboldt entered into an agreement with Democracy Live Inc. by which Democracy Live would provide for the voters of the County ADA compliant, accessible sample ballots and voter information guides through the county website. Under that original contract after paying the initial Set-up Fee of \$9500 and starting on December 31, 2016, the County agreed to pay an annual subscription fee of \$1900.

Prepared by	Judith Hedgpeth	CAO Approval	<i>E. Fennell</i>
REVIEW:			
Auditor	<i>MSM</i>	County Counsel	<i>JWZ</i>
		Human Resources	
		Other	
TYPE OF ITEM:			
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Departmental			
<input type="checkbox"/> Public Hearing			
<input type="checkbox"/> Other			
PREVIOUS ACTION/REFERRAL:			
Board Order No. _____			
Meeting of: _____			
BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT			
Upon motion of Supervisor <i>Fennell</i> Seconded by Supervisor <i>Sundberg</i>			
Ayes <i>Fennell, Sundberg, Bohn, Bass</i>			
Nays			
Abstain			
Absent <i>Wilson</i>			
and carried by those members present, the Board hereby approves the recommended action contained in this Board report.			
Dated: <i>February 21, 2017</i>			
By: <i>Kathy Hayes</i>			
Kathy Hayes, Clerk of the Board			

The first scheduled election that would feature the Democracy Live products was to be the Presidential Primary Election on June 7, 2016. Democracy Live failed to deliver their product for use at the June 2016 election, and subsequently offered an extension to the initial time period.

In order to effectuate the proposed extension to the terms contained in the original contract executed on March 15, 2016, the attached amendment is required. Under Section 5 of the First Amendment to the Contract with Democracy Live, Inc., the term of the contract will be revised to January 15, 2016, through December 30, 2018. The Fee Schedule will be revised to commence the annual payment of \$1,900 on December 31, 2018, instead of December 31, 2016. The Statement of Work will be revised to add an "Acceptance and Sign-off" report for review.

FINANCIAL IMPACT:

There will be a cost savings in fiscal year 2016/2017 of \$1,900. The annual fee under the first amendment will be postponed until fiscal year 2018/2019.

OTHER AGENCY INVOLVEMENT:

None.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the amended agreement.

ATTACHMENTS:

Original Democracy Live, Inc. Software Agreement
First Amendment to the Democracy Live, Inc. Software Agreement

Software Agreement

This Software Agreement ("The Agreement") is made and entered into as of January 15, 2016 ("The Effective Date"), by and between Democracy Live, Inc., a Delaware Corporation with offices at 35050 SE Douglas Street, Suite 200 Snoqualmie, WA 98065 ("Democracy Live") and County of Humboldt ("Customer"), with offices at 3033 H Street, Room 20, Eureka, CA 95501.

Recitals

- A. WHEREAS, County of Humboldt wishes to license software for the purpose of ADA compliant, accessible, audio-enabled sample ballot through LiveBallot and electronic ballot delivery for UOCAVA voters. Democracy Live desires to license Software to Humboldt County Elections Office.
- B. Democracy Live has agreed to provide such services and support, subject to the terms of this Agreement.

NOW, THEREFORE in consideration of the forgoing recitals and the mutual representations, warranties, covenants and agreements set forth below, the parties hereby agree as follows:

1. Purpose of Contract

- 1.1 The purpose of this Agreement is for Democracy Live to supply online, ADA Compliant accessible sample ballot and voter guide access through LiveBallot and electronic ballot delivery for UOCAVA voters. The software must function in accordance with applicable state and federal laws at the time of delivery for the purpose of conducting elections.

2. Grant of License

- 2.1 License: Democracy Live, hereby grants to Customer a non-exclusive, non-transferable statewide license to LiveBallot Sample Ballot ("Software"). Software shall include executable object code of software programs and the patches, scripts, modifications, enhancements, designs, concepts or other materials that constitute the software program necessary for the proper function and operation of the system as delivered by Democracy Live and accepted by Customer.

2.2 Upgrades.

- (a) During the Software Agreement Term and any renewal thereof, Democracy Live may provide new releases, upgrades or maintenance patches to the software along with appropriate documentation ("Upgrades"), on a schedule defined by Democracy Live. Customer is responsible for obtaining any upgrades on purchases of third party hardware or software required to operate the updates designed to patch software problems. Customer is not required to obtain or install new releases or upgrades designed to enhance software performance or version upgrades. All new releases, upgrades or software patches shall be clearly identified by Democracy Live. All software patch updates shall be deemed to be the "Software", and shall be subject to all forms and conditions Democracy Live license of the Software upon delivery. Customer may install updates in accordance with Democracy Live recommended instructions or may request Democracy Live install the updates. Democracy Live may charge customer then-current rates to (a) install software performance enhancement updates or (b) provide maintenance and support to the software which is required as a result of Customer's failure to install the path update. Customer shall be responsible for any claim, damage, loss, judgment, penalty, lost amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Software Patch Update or the second most recent Software Patch Update, provided by Democracy Live. If Customer proposes changes in the Software to Democracy Live, such proposal will become property of Democracy Live. Democracy Live represents to Customer that the updates will comply with all applicable state law requirements at the time of delivery. Democracy Live shall pay for any Software Performance Enhancement Update which is required due to change in state law.
- (b) Modifications: Democracy Live reserves the right to modify Software at any time, including but not limited to adding or removing features and content.

3. Fees

- 3.1 Initial Set-Up Fee: Customer will pay Democracy Live a one-time fee of nine-thousand and five hundred dollars (\$9,500) ("Initial Set-up Fee") for Initialization and customization in accordance with the Fee Schedule presented in Attachment A ("Fee Schedule").
- 3.2 License Fee: Customer will pay Democracy Live an annual subscription fee of one-thousand and nine-hundred dollars (\$1,900) in accordance with the Fee Schedule presented in Attachment A ("Fee Schedule").

3.3 Payment Terms: Unless otherwise provided in Attachment A, payment shall be due by Customer within 30 days after the date of invoice by Democracy Live. Any late, undisputed amounts will bear a late fee in the amount of 1% per month.

4. Ownership

4.1 The original and any copies of the Licensed Programs, made by Customer, including translations, compilations, partial copies, and modifications and updates are the property of Democracy Live.

5. Term

5.1 This Agreement shall be in effect for a one year period beginning on March 1, 2016 ("Effective Date"). The Agreement shall automatically renew for an unlimited number of successive one year periods unless or until either Party gives written notice at least 30 days (30) prior to the end of the then current one year period or unless terminated as provided in section 6.

6. Termination

6.1 This Agreement may be terminated by either party within thirty days (30) written notice prior to the end of the current one year period.

6.2 Breach. If either Party defaults in the performance of, or fails to perform, any of the material obligations of this Agreement, and the default or failure is not remedied within thirty (30) days (or ten (10) days in the case of any payment obligations under Section 2) after receipt of written notice from the non-defaulting Party, then the non-defaulting Party will have the right (i) to terminate this Agreement by giving written notice to the defaulting Party and (ii) to avail itself of any and all other rights and remedies to which it may be entitled by law or equity.

6.3 Effect of Termination.

(a) In the event of Termination, Customer will immediately discontinue use of the Licensed Programs. Within one (1) month after termination of this Agreement, Customer will furnish to Democracy Live, Inc., a certificate which certifies with respect to each Licensed Programs that, through its best effort and to the best of its knowledge, the original and all

copies in whole or in part and in any form, of each of the Licensed Programs have been destroyed.

- (b) Upon termination of this Agreement for any reason other than Customer's default, in addition to any remedies available to Customer at law or in equity, Democracy Live will refund to Customer a pro rated portion of any one-time license fees paid by Customer for the Software and a pro rated portion of the then current Annual Subscription Fee (if any) pre-paid on the remainder of the then current term for which those fees were paid.

6.4 Survival. In addition to any payment obligations under this Agreement the following sections 3, 5, 8, 9, 10 will survive in accordance with their terms upon termination of this Agreement.

7. Services, Support and Maintenance

- 7.1 Statement of Work: The Services, Support and Maintenance as agreed by By Customer and Democracy Live in the Statement of Work shall be incorporated under this Agreement (Attachment B).
- 7.2 Supply: Democracy Live will provide to Customer the software package known as LiveBallot and as described in Attachment B.
- 7.3 Services: Humboldt County will be a self-administrated account. Customer as a self-administrated account will be responsible for election configurations during the contract period. Democracy Live will provide assistance with the initial Account set-up and will provide comprehensive administrative and configuration support during the first election to be administrated using the LiveBallot system as expressed in Attachment B. Customer agrees to notify Democracy Live ninety-days (90) prior to the first election under this Agreement.
- 7.4 Support: For as long as Customer has paid all applicable fees and is in compliance with all the terms of this Agreement, including as set forth in the Attachments, and as long as this Agreement is in effect, Democracy Live will

provide Support and Maintenance according to Attachment B. Notwithstanding anything to the contrary in this Agreement, Democracy Live will not provide Support and Maintenance for:

- (a) Any products other than the Software provide by Democracy Live under this Agreement.
- (b) Any modifications to Software not made by Democracy Live or a third party authorized in writing by Democracy Live to make modifications; or
- (c) Any use of Software that is not in accordance with this Agreement, the Documentation or other written instructions provided by Democracy Live.

7.5 Maintenance Releases. Democracy Live may provide Maintenance Releases to Customer from time to time at its sole discretion. Customer understands and acknowledges that the Maintenance Releases may be required for the proper functioning of Software. Maintenance Releases do not include Upgrades. Upgrades may be provided to Customer as stated in Section 2.2 at additional charge upon the Parties' mutual written agreement. All Maintenance Releases and Upgrades will be part of the Software and subject to all terms of this Agreement.

8. Representations and Warranties

8.1 Democracy Live Represents and Warrants to Customer that: it has all necessary rights and authority to execute and deliver the Software License and perform its obligations hereunder and to grant the rights granted under this Software License to Customer; the goods and services provided by contract under this Software License, including the Software and Intellectual Property provided hereunder, are original to Democracy Live, or its subcontractors, or parties; and the software as delivered as part of the system will not infringe or otherwise violate any applicable rule or regulation.

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

9. Indemnification

- 9.1 Democracy Live will defend, indemnify, and hold harmless Customer against any and all third-party claims, actions, proceedings and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including without limitation reasonable attorneys' fees and other litigation expenses) incurred by Customer, arising out of or relating to any actual infringement of any U.S. issued patent or copyright by Democracy Live or misappropriation of any trade secret of any third party by Democracy Live and the Software ("Intellectual Property Infringement").
- 9.2 Conditions of Indemnification. The indemnification obligations under this Section 9 are conditioned on Customer's compliance with the following: (a) Customer will provide to Democracy Live prompt written notice of any claim after Customer's receipt of notice of the claim or initial awareness thereof; (b) Customer will grant to Democracy Live, and Democracy Live will have, the sole and exclusive right to defend any claim and make settlements thereof at Democracy Live's own discretion; and (c) Customer will give, at Democracy Live's expense, the assistance and information that Democracy Live reasonably requires to settle or defend the claims. Customer may, however, participate in the defense or settlement of any claim at its own expense and with its own choice of counsel.
- 9.3 Customer hereby indemnifies and shall hold harmless Democracy Live, its and their subsidiaries, affiliates, officers, directors and employees and agents and subcontractors from and against all liability, damages, loss, cost or expenses (including reasonable attorney's fees) arising out of or in connection with any third party claims that Customer's use of the software in contravention of the grants of rights infringes or otherwise violates any rights of third parties.

10. Confidentiality

10.1 Definition. Each Party may make available to the other Confidential Information under this Agreement. "Confidential Information" means all confidential or proprietary information provided to the other Party in connection with this Agreement, including all information designated as confidential by the Disclosing Party and all information which by its nature or the circumstances surrounding its disclosure should reasonably be considered confidential. For the purposes of this Section 10, the Party disclosing Confidential Information will be called the "Disclosing Party" and the other the "Receiving Party." For the avoidance of doubt, The Software, Documentation, and any technical information of Democracy Live will be deemed Confidential Information of Democracy Live and the Customer technical information will be deemed Confidential Information of Customer. The following information is not Confidential Information:

- (a) Information that is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the Receiving Party;
- (b) Information that is in the Receiving Party's possession at the time of disclosure other than as a result of the Receiving Party's breach of any legal obligation;
- (c) Information that becomes known to the Receiving Party, through disclosure by a third party that has a legal right to disclose that Confidential Information; or
- (d) Information that is developed by the Receiving Party independently without breach of this Agreement.
- (e) Information which is by law or by statute public.

10.2 Restrictions. Each Receiving Party agrees that all Confidential Information made available by a Disclosing Party to a Receiving Party under this Agreement will:

- (a) Be kept strictly confidential and not disclosed to any third party by the Receiving Party without the Disclosing Party's prior written consent;
- (b) Be treated by the Receiving Party in the same way and with the same degree of care (but with no less than reasonable care) as it treats proprietary or confidential information generated by itself;
- (c) Only be shared with the Receiving Party's employees, agents, and representatives (including accountants and attorneys) on a need to know basis and under a written agreement or legal obligations requiring them to keep Confidential Information secret consistent with the terms of this Agreement; and
- (d) Remain the property of the Disclosing Party. Neither Party will furnish to the other Party any Confidential Information which it does not have the right to furnish.
- (e) However, the parties agree that the Customer may be required to release confidential information to the public pursuant to the requirements of the State of California.
- (f) Disclosure Required by Law. Notwithstanding the restrictions in Section 10, the Receiving Party may disclose information that the Receiving Party is required to disclose to comply with applicable laws or governmental regulations, provided that the Receiving Party, to the extent it is allowed under applicable law, provides prior written notice of the disclosure to Disclosing Party and takes all reasonable actions to avoid and minimize the extent of the disclosure.

11. Assignment

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

12. Miscellaneous

- 12.1 Independent Contractor. Nothing in this Agreement will be construed as creating any relationship between Democracy Live and Customer, other than that of independent contractor and customer or licensee and licensor. This Agreement is not intended to be nor will it be construed as a joint venture, association, partnership, franchise, or other form of business organization or agency relationship. Neither Party will have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, expressed or implied, on behalf of the other, except as expressly provided herein.
- 12.2 Export Controls. U.S. export control laws may apply to Software, and the documentation. Democracy Live and Customer will comply with all U.S. export control laws.
- 12.3 Law and Venues. This Agreement will in all respects be governed by and construed and enforced in accordance with the laws of the State of California, without respect to conflict-of-laws principles. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, will be settled by binding arbitration by a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association in San Francisco, California. Upon receipt of notice of any dispute to be settled by binding arbitration, the American Arbitration Association will use its best efforts to appoint a single arbitrator within thirty (30) days after receipt of such notice. The arbitrator will not have the authority to award exemplary or punitive damages to any injured party. A decision by the arbitrator will be final and binding. Judgment may be entered on the arbitrator's award in any court having jurisdiction, and such award will not be appealable.
- 12.4 Notices. Unless otherwise agreed by the Parties, all notices required under this Agreement will be in writing and deemed effective when received by (a) personal delivery, (b) internationally recognized courier, or (c) certified mail, return receipt requested, at the addresses written below. All

notices will be deemed effective when received by the contract administrator for this Agreement as expressed below.

Democracy Live Contract Administrator:

Felicia Erlich
Internal Corporate Counsel
35030 SE Douglas St #200
Snoqualmie, WA 98065

Humboldt County Contract Administrator:

Kelly Sanders
Clerk, Recorder, Registrar of Voters
County of Humboldt
3033 H Street, Room 20
Eureka, CA 95501

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

12.6 Nuclear Free Humboldt County Ordinance Compliance. Democracy Live certifies by its signature below that it is not a Nuclear Weapons Contractor, in that Democracy Live is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. Democracy Live agrees to notify Customer immediately if it becomes a Nuclear Weapons Contractor as defined above. Customer may immediately terminate this Agreement if it determines that the foregoing certification is false or if Democracy Live subsequently becomes a Nuclear Weapons Contractor.

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

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

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

DEMOCRACY LIVE, INC.
Software Agreement

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

Democracy Live, Inc:

COUNTY OF HUMBOLDT:

DEMOCRACY LIVE, INC. CORPORATION

COUNTY OF HUMBOLDT

By: 

By: 

Name: Bryan Finney

Name: Kelly E. Sanders

Title: President

Title: Clerk/Recorder/Registrar

Date: 3-15-16

Date: 3-15-16

Attachment A- Fee Schedule

This Attachment A is part of the Software License Agreement ("Agreement") between Democracy Live and Humboldt County Registrar of Voters as set forth in Section 3 Fees.

I. Fees

- (A) Software Initial Set-up Fee: Democracy Live shall provide ADA compliant, accessible sample ballot software and voter guide. The one time Initial Set-up Fee for this Customer under this Agreement will be nine-thousand and five-hundred dollars (\$9,500). The Initial Set-up fee shall be paid by Customer to Democracy live thirty days (30) days after receipt of invoice.
- (B) Annual Subscription Fee, including Support and Maintenance: For each year in which this Agreement is in effect, Humboldt County will pay an annual subscription fee of one-thousand and nine-hundred dollars (\$1,900). The Annual Subscription Fee will be due annually on December 31st of each successive one year period.

II. Payment

- (A) All Payment under this Agreement shall be sent to the address listed below:

Democracy Live
2900 NE Blakely Street
Suite B
Seattle, WA 98105

Attachment B- Statement of Work

This Attachment B is part of the Software License Agreement ("Agreement") between Democracy Live and Humboldt County of Registrar of Voters as set forth in Section 7.1.

HUMBOLDT COUNTY REGISTRAR OF VOTERS

STATEMENT OF WORK

Audio-Enabled Sample Ballot and Voter Guide

LIVEBALLOT

Project Name & ID: Registrar of Voters Accessible Sample Ballot and Voter Guide

A. CONTRACTED SYSTEMS OVERVIEW

The Humboldt County Registrar of Voters is engaging Democracy Live, to provide Humboldt County with an ADA-compliant, accessible, audio-enabled sample ballot, and voter guide available to all Humboldt County voters.

Languages/Accessibility to be supported by LiveBallot:

☒ English (required)

☒ Spanish (required)

☐ Additional Languages (please provide: _____)

☒ Audio-enabled (required)

☒ ADA compliant (required)

System Features

The work shall be performed in accordance with all sections of Statement of Work (SOW).

- System shall be Web-hosted in secure Microsoft Government Cloud
- System shall be Web-available, ADA compliant and accessible to voters with disabilities
- System shall display and make available a voter-specific, interactive sample ballot and voter guide

Features of the Accessible Sample Ballot for HAVA Section 261 funding application:

- Complies with AB 683 and all current federal accessibility standards and protocols
- Complete sample ballot and voter guide, specific to each voter
- Compatible with all accessibility tools (screen readers, sip and puffs, tactile paddles, etc.)
- Mobile app allows voters to access Sample Ballot from any device

B. CURRENT ENVIRONMENT

The Customer currently uses the following:

EMS/Voting system(s) system: Voting System Ballot PDFs/VoteCAL

VR System: VoteCAL

C. SCOPE

- Democracy Live will deliver to Humboldt County the software package known as LiveBallot, v. 3.2, to include the modules identified in Part A. Democracy Live will host the system in the Microsoft Azure Government Cloud.
- Humboldt County, as a self-administered account, will be responsible for election configurations with support and training from Democracy Live during the contract period.
- Democracy Live will provide assistance with the initial Account set-up and will provide comprehensive administrative and configuration support during the first election to be administered using the LiveBallot system.

D. SUPPORT

Democracy Live shall make available an issue-reporting process that includes call-center support and issue-tracking capabilities. Reported issues will be triaged for effective management and appropriate response based upon the severity of the reported issue.

Event	Outside defined election period	During defined election period
Toll free Help Desk with capacity to accept all incoming calls	maximum wait time of 15 minutes	maximum wait time of 10 minutes
Expert Response: (Includes assignment of severity, priority, and required resource for tickets not immediately resolved)	within 8 hours of initial call	within 4 hours of initial call

Resolution Plan: Notify user of intended action or plans to resolve issue	within 8 hours of initial call	within 4 hours of initial call
Notification of Resolution: Successful resolution of reported issue (targeted response)	7 Business Days from Contractor notification	1 Business Day from Contractor notification

E. DELIVERABLES, MILESTONES AND TIMELINES

Contractor Tasks/Deliverables

1. Agreement Terms (submitted with this Statement of Work)
2. LiveBallot Sample Ballot, customized website with accessible features
3. LiveBallot Administration access and controls
4. On-site for self-administered accounts (*written training materials included*).
5. Web training for managed accounts. Democracy Live will deliver Web-based orientation and training services to designated County personnel on the administration and use of LiveBallot.
6. Initial site configuration
 - a. Theme Development
 - b. User set-up
 - c. Customization of editable text fields
 - d. Assist with initial account settings
 - e. Integration of customer-translated text
 - i. Contractor will supply list of all text items to be translated
 - ii. Pre-existing translations may be available for certain languages for customer review and acceptance
 - f. Initial account settings
 - g. Account user set-up and initial password distribution
7. Election Configuration (Managed accounts/First -time self-administered accounts)
8. E-mail Center Support (Managed accounts)
 - a. Note: *Any email communication that constitutes a legally-mandated communication with a voter must be initiated by the Customer.*
9. Contractor Election QA testing (managed accounts)
10. Delivery of configured election and Customer QA components (Managed accounts)
11. Election Activation (Managed accounts)
12. Tiered Technical Support: 24/7 – 365 Days
13. Post-election reporting (Managed accounts)

County Tasks/Deliverables

1. Completed contract with all appropriate sign-offs
2. Theme elements
 - a. Banner

- b. Contact data for site
 - c. Translations
 - d. Page edits
 - e. Account User information
3. System elements
- a. Ballot PDFs
 - b. Precinct/split data
 - c. VR files (Initial and updates, as needed)
 - d. Ballot mapping files
 - e. Ballot return package elements

Timetable

Event Name	Event Date and Time
Invoice Date	12/31/2015
Due Date for Completed Edits/Translations/Theme Materials	30 days after agreement
Due Date for Initial Live Ballot Features (defined above)	45 days after agreement
Due Date for Supplementary Live Ballot Features (defined above)	50 days after agreement
Due Date for On-Site Administrative Training, if any	TBD – based on County availability
Due Date for Precinct/Mapping Data (managed accounts)	E-50
Due Date for Ballot PDFs (managed accounts)	E-50
Due date for completion of Customer QA (managed accounts)	E-40
Due Date for Election Activation (Sample Ballot)	E-30

Amendment #1 to Software Agreement

This Contract, entered into by and between Democracy Live, Inc., ("Democracy Live") and The Humboldt County Elections Office ("Customer"), is an amendment to the Software Agreement between Democracy Live and Customer, effective January 15, 2016.

This is Amendment #1 to the above- referenced Software Agreement. This Amendment is effective upon the date it is fully executed by all parties.

Recitals

When the Software Agreement was created Democracy Live contractually agreed to configure the elections and provide the sites QA to the counties no later than E-40, or 10 days after the data was received. Based upon the final receipt of PDFs on May 12, 2016, Democracy Live should have provided the site to Humboldt County for review on May 22, 2016. Due to technical issues Democracy Live did not finalize the site until May 27, 2016. Due to technical failure by Democracy Live the site was never approved for Go Live by Customer, which resulted in not going live for the Primary Election. Due to these technical issues and failure to comply with the original contract terms, Democracy Live would like to offer the following extensions and Amendment to the current contract.

Democracy Live and Customer hereby agree to be bound by all provisions of Software Agreement and by all provisions of such Agreement as amended below.

Section 5: Revised Term

This Agreement shall be in effect for a three year period beginning January 15, 2016 and terminating on December 30, 2018 ("Initial Term"). The Agreement shall automatically renew for an unlimited number of successive one year periods unless or until either Party gives written notice at least thirty (30) days prior to the end of the then current one year period or unless terminated as provided in section 6.

Section 12.3: Law and Venue This Agreement will in all respects be governed by and construed and enforced in accordance with the laws of the State of California, without respect to conflict-of-laws principles. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, will be settled by binding arbitration by a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association in San Francisco, California. Upon receipt of notice of any dispute to be settled by binding arbitration, the American Arbitration Association will use its best efforts to appoint a single arbitrator within thirty (30) days after receipt of such notice. The arbitrator will not have the authority to award exemplary or punitive damages to any injured party. A decision by the arbitrator will be final and binding. Judgment may be entered on the arbitrator's award in any court having jurisdiction, and such award will not be appealable.

Section 12.9: Nuclear Free Humboldt County Ordinance Compliance Democracy Live certifies by its signature below that it is not a Nuclear Weapons Contractor, in that Democracy Live is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. Democracy Live agrees to notify Customer immediately if it becomes a Nuclear Weapons Contractor as defined above. Customer may immediately terminate this Agreement if it determines that the foregoing certification is false or if Democracy Live subsequently becomes a Nuclear Weapons Contractor.

Attachment A-Fee Schedule: Revised Software Initial Setup Fee:

Software Initial Set-up Fee: Democracy Live shall provide ADA compliant, accessible sample ballot software and voter guide. The one time Initial Set-up Fee for this Customer under this Agreement will be nine-thousand and five-hundred dollars (\$9,500). The Initial Set-up fee shall be paid by Customer to Democracy live thirty days (30) days after acceptance in writing by Customer of the LiveBallot solution.

Attachment A-Fee Schedule: Revised Annual Subscription Fee, including Support and Maintenance:

Annual Subscription Fee, including Support and Maintenance: For each year in which this Agreement is in effect, Humboldt County will pay an Annual Subscription Fee of one-thousand and nine-hundred dollars (\$1,900). The Annual Subscription Fee will be due annually on December 31st of each successive one year period. The Annual Subscription Fee is waived for the years 2016 and 2017. The Annual Subscription Fees will commence December 31, 2018.

Attachment B-Statement of Work: Additional Clause F Acceptance Testing

F. Acceptance Testing

The County will approve and accept the LiveBallot Accessible Sample Ballot and Voter Guide during the implementation of the solution for the 2016 General Election. Democracy Live will provide the County with an "Acceptance and Sign-off" report for review and signature.

The parties have executed this Amendment by their authorized representatives as of the date below.

Democracy Live, Inc:

Humboldt County Registrar of Voters:

DEMOCRACY LIVE, INC. CORPORATION

HUMBOLDT COUNTY REGISTRAR OF VOTERS

By: 

By: Kelly E. Sanders

Name: Bryan Finney

Name: Kelly E. Sanders

Title: President

Title: Clerk / Recorder / Registrar

Date: 2/14/17

Date: 2-22-17