



REQUEST FOR PROPOSALS

Request Title: Electronic Poll Book

Date Invitation Issued: Monday, September 16, 2013

Proposal Opening: Thursday, October 10, 2013 at 10:00 A.M. CDT

Performance Bond: Successful Vendor must furnish a performance bond equal in amount to the total Purchase Price in Section 5.01 of the Agreement

Respond to: Chicago Board of Election Commissioners
Purchasing Agent/Dept. of Finance
69 West Washington Street, Room 800
Chicago, IL 60602

Commissioners

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner/Secretary

Marisel A. Hernandez, Commissioner

Executive Director

Lance Gough, Executive Director

Table of Contents

	Page
1. Introduction.....	1
1.1 Board background.....	1
1.2 Invitation for Proposals; Background.....	1
2. Statement of Work; Specifications.....	2
2.1 Purpose.....	2
2.2 Functional Requirements; Deliverables.....	2
2.3 Hardware and Network Requirements.....	4
2.4 Software and Database Requirements.....	4
2.5 System Security.....	5
2.6 Operational Steps.....	6
2.7 Reporting.....	6
2.8 Implementation, Training & Support.....	7
2.9 Maintenance & Upgrades.....	7
2.10 Configurability.....	7
2.11 Key Personnel.....	7
2.12 Minority and Women-Owned Business Enterprise.....	8
2.13 Performance History.....	8
2.14 Pricing & Financing.....	8
2.15 Quantity.....	8
3. Schedule.....	8
4. Instructions to Vendors; General Specifications.....	9
4.1 How to complete, submit proposal.....	9
4.2 Pre-Proposal Conference.....	12
4.3 Clarifications.....	12
4.4 Addenda.....	12
4.5 Interpretation of documents.....	12
4.6 Proposal prices.....	13
4.7 Irrevocable offer.....	13
4.8 Taxes.....	13
4.9 Non-Collusion.....	13
4.10 Economic disclosures.....	13
4.11 Confidentiality.....	14
4.12 No liability for costs.....	14
4.13 Proposal opening.....	14
5. Evaluation of proposals.....	15
5.1 Proposal Review.....	15
5.2 Discussions with vendors and revisions of proposals.....	15
5.3 Criteria.....	15
5.4 Selection; negotiation.....	16
5.5 Termination of RFP.....	16
6. Awards.....	17
7. Contractual requirements.....	17
7.1 Contract.....	17

7.2	Performance bond.	17
7.3	Insurance.	17

Appendices & Exhibits

Appendix 1 Affidavit of Proposal Submission

Appendix 2 Economic Disclosure Statement and Affidavit

Appendix 3 Information Security and Identity Protection Policy

Appendix 4 Proposed Contract

1. Introduction

1.1 Board background.

The Board of Election Commissioners for the City of Chicago (the “Board”) is an independent governmental entity created under Article 6 of the Illinois Election Code and is charged with conducting all elections in the City of Chicago. The Board is composed of three members, each of whom is designated as an Election Commissioner. The Commissioners are appointed by the Circuit Court of Cook County, Illinois. The three Commissioners of the Board are presently Langdon D. Neal, who serves as Chairman, Richard A. Cowen, who serves as secretary and Marisel A. Hernandez. The Board’s Executive Director is Lance Gough, who is in charge of the Board’s offices.

For the November 2012 general election, there were over 1.36 million registered voters in the city of Chicago. There were 2,034 precincts in the city of Chicago, with each precinct averaging roughly 600 registered voters.

1.2 Invitation for Proposals; Background.

Proposals are invited by the Board for modern, electronic solutions to replace the Board’s existing paper poll books. The Board’s goal is to have a new electronic poll book system in place and ready for use for the March 18, 2014 General Primary Election.

Currently, poll books consist of paper applications for ballot. When a voter appears in a precinct polling place on Election Day and wishes to vote, the voter must complete and sign an application for ballot. Each application is pre-printed on a single sheet of paper and contains, among other items of information, the name, street name and number and date of birth of the registered voter, as well as the ballot style number designating the type of ballot the voter is entitled to receive and cast, depending upon his or her address. There is also space for the voter to sign his or her name, as well as a space for a judge of election to initial the application

Attached to the application for ballot by a perforation is a single sheet of paper containing much the same information, except that the perforated attachment also contains a digitized image of the registered voter’s signature.

There is a pre-printed application for ballot for each registered voter residing in the precinct. On average, there are 400-600 registered voters in each precinct. The ballot applications are arranged alphabetically and are bound in book form (the “poll book”).

After a registered voter signs his or her application for ballot, judges of election (or “poll workers”) who are assigned to conduct and supervise voting in each precinct must compare the signature on the application for ballot with the voter’s digitized signature (from the Board’s voter registration database) that appears on the perforated portion of the application and determine whether the signatures match. If, in the judgment of the election judges, the signatures match, the voter is presumably eligible to receive and cast a ballot (although there may be circumstances under which the voter’s eligibility to vote may be challenged) and the judges then give the voter a ballot corresponding to the ballot style designated for the voter’s residence address.

The ballot may be a paper optical scan ballot that is inserted by the voter into an optical scanner, or it may be a touchscreen ballot that is marked and recorded on a direct

Request for Proposal

recording electronic device. The Board uses voting equipment provided by Dominion Voting Systems, Inc. The optical scanner is an Optech Insight model and the direct recording electronic (or touchscreen) device is an Edge2Plus Touch Screen model. The Board also uses a device known as the HAAT provided by Dominion to, among other things, activate a card that in turn activates the Edge2Plus Touch Screen with the proper ballot style corresponding to the voter's residence address.

Once a voter is given a ballot, the judges of election must sequentially number the signed application for ballot and place it on a spindle. The number of completed ballot applications should equal the number of ballots cast in the precinct. It is the job of election judges to reconcile these numbers after the polls close.

Thus, the poll book serves both as a means for determining a person's eligibility to vote and as a record that the person has, indeed, cast a ballot.

A similar process is used for voting during "grace period" voting (which runs from the 27th through the 3rd day before election day) and during "early voting" (which runs from the 15th day through the 3rd day before election day) although a form of electronic poll books is currently used for those types of voting (it is anticipated that any new electronic poll book solution would replace the existing system). Grace period voting is conducted only in the Board's office. Early voting occurs at the Board's office, as well as at 50 remote sites throughout the city of Chicago.

A voter whose eligibility to cast a ballot is questionable may still be able to cast a "provisional" ballot. However, a provisional ballot will not be counted on election day; rather, it will be transmitted to the Board's central office and preserved until the Board can determine whether the voter is, in fact, eligible to vote. On election day, provisional ballots are cast on optical scan ballots. During early voting and grace period voting, provisional ballots are cast on touch screen voting devices.

To provide more detail regarding the Board's election day equipment and procedures, a copy of the Board's "Judge of Election / Mobile Precinct Assistant Handbook" can be accessed through the Board's web site at <http://www.chicagoelections.com/page.php?id=16> under "Training & Materials."

More detailed physical specifications for goods and services ("deliverables") sought are found in section 2 ("Statement of Work") of this Request for Proposal ("RFP").

2. Statement of Work; Specifications

2.1 Purpose.

The purpose of this RFP is solicit proposals from qualified vendors to provide the Board, at a minimum, with a modern, electronic poll book solution that is an efficient, accurate and cost-effective replacement for the existing paper-based poll books. Additional solutions or components that serve to provide optional features such as the ability to track poll worker time and attendance, reconcile ballots and ballot applications after the close of polls, and "help desk" assistance in the polling place should also be addressed in a proposal.

2.2 Functional Requirements; Deliverables.

At a minimum, a selected vendor will be required to furnish a solution that provides the following:

Request for Proposal

(a) A method to electronically list, search, identify and authenticate eligible voters, including the ability to compare voter signatures, on election day or at early voting and grace period polling places, thereby eliminating the need to print paper poll books.

(b) A method to verify precinct assignment for any voter in the city or any address in the city and redirect voters to correct polling place location, if necessary.

(c) A method to ensure that updated voter registration information can be communicated to poll workers on any day or days on which voting is being conducted in as near to real-time as feasible, including, but not limited to, whether an individual had already voted, where that individual voter, and by what method that individual voted.

(d) A method to ensure that a voter is properly identified by the correct ballot style according to his or her residence address so that the voter is given the correct ballot containing all offices, candidates and public questions pertaining to the political subdivision, district, ward or precinct in which the voter is eligible to vote.

(e) A method to communicate a voter's correct ballot style information to a card activator (HAAT) so that the voter will be able to vote using a touchscreen voting device if the voter elects to use such a device.

(f) A method to electronically record within minutes the fact that a voter has cast a ballot in an election, whether on election day, during early voting or during grace period voting, and update voter history.

(g) A method to electronically identify, list and communicate within minutes to poll workers and to the central office all voters who may have previously cast a ballot in the same election, whether on election day or by absentee ballot, by early voting ballot or by grace period ballot so as to prevent such voter from casting another ballot in the same election.

(h) A method to capture and store data related to provisional voting, including but not limited to name and address information.

(i) A method to allow the Board's central management staff and poll workers to share, in real time, voter registration information and voting history.

(j) A solution that will track the location of all key components used in the system and disable any key component containing sensitive or confidential voter information if removed from an authorized location, accessed by unauthorized persons or used for an unauthorized purpose.

(k) A system that is secure and will prevent any unauthorized access to or dissemination of sensitive or confidential voter information.

(l) A system that is highly configurable and customizable.

(m) A system that will be compatible and work seamlessly with the Board's voter registration system.

(n) A system that will be compatible with an assortment of commercial off-the-shelf ("COTS") equipment and software operating system variables.

Request for Proposal

(o) A system that is well documented and will enable the Board to assume in-house set-up, operations and maintenance, subject to applicable license agreements.

In addition, it is highly desirable that any system or solutions provide:

(p) A method of providing poll workers with general information regarding voting and election day procedures so that they may appropriately address and resolve, without outside intervention, common problems and questions occurring in the polling place (a “help desk” or FAQ solution that can operate online or offline).

(q) A method of providing poll workers with the ability to account for all ballots delivered, all ballots cast, all spoiled ballots and all ballot applications and to create an end-of-the-day reconciliation statement.

(r) A method of providing poll workers with ability to track time and attendance and generate payroll statements.

(s) A method of tracing searches and edits to the system, including who performed the operation.

2.3 Hardware and Network Requirements

Provide a detailed description of hardware and network product(s), including:

(a) All relevant information, including physical descriptions, model numbers, and part numbers, concerning components such as, but not limited to, laptops, tablet computers, printers, cables, connectors, servers, internet connectivity, etc.

(b) Whether a component is proprietary to the Vendor or whether the component is a commercial off-the-shelf (COTS) product.

(c) A description of any additional equipment that Vendor recommends, but which is not required as part of the system, including, but not limited to signature pads, bar code scanners, additional printers, etc.

(d) Whether components are available for purchase, for lease, or with an option for lease-purchase.

(e) Information regarding financing and/or leasing.

2.4 Software and Database Requirements.

Vendor must describe:

(a) Whether the voter registration database will reside on the electronic poll book, be accessed remotely or be available through a combination of sources.

(b) Whether the voter registration data will be limited to those voters residing in the precinct or whether poll workers will be able to access voter registration information for voters in the entire city of Chicago, including what information fields will be available to poll workers.

(c) If the voter registration database is to be loaded and reside on the electronic poll book,

(i) how the data will initially be loaded;

Request for Proposal

- (ii) when will the data be loaded; and
- (iii) how long will it take to load.

(d) How updated voter registration information will be made accessible to poll workers on days when voting will be conducted, including

- (i) whether such access will be done remotely through the internet or locally using a USB or storage device;
- (ii) how long it will take to update the data; and
- (iii) how often the data will be updated.

(e) How the electronic poll book will synchronize data with the Board's voter registration management system.

(f) How the electronic poll book system will prevent duplicate voting if the voter has already voted by absentee ballot, by early voting, by grace period voting or by voting on election day.

(g) How the network architecture will be configured, where the system would be hosted, whether Board staff would maintain the network and equipment, and any other relevant facts concerning the hosting environment.

(h) Whether the proposed system complies with the emerging standard for Election Markup Language (EML - IEEE standard P1622) and how such standards fit into vendor's overall product development. If not, explain why compliance with the standard is not important.

2.5 System Security.

Vendor must describe:

(a) Encryption and other security measures in place to protect data if the proposed system involves Internet or cloud based transmission of data to and from local electronic poll book components.

(b) Access control methods, password protection and login access levels.

(c) Internet intrusion detection and control protocols if any part of the system uses any network connections. If third party testing is done, include name and contact information for such third party and at least one sample test results report from that third party.

(d) How any portable components in proposed system (laptops, tablets, printers, etc.) can be tracked, recovered or disabled if stolen or removed.

(e) If any component in the proposed system will accept USB or SD card input, how will system identify and prevent foreign self-executing code and how components can be limited to accepting only pre-approved USB or SD card devices.

(f) How the proposed system will detect and prevent any suspicious software behavior in any part of the system.

2.6 Operational Steps.

Vendor must describe:

(a) Detailed processes (including system steps, configuration settings, login and verification steps) for setting up and activating proposed system on morning of election day, both in polling places and at central office location.

(b) Procedures to follow when voter name is not found in the system, including alternate search methods and trouble shooting steps.

(c) Procedures for identifying where a voter should be voting if in the incorrect precinct, including solutions for directing the voter to the correct polling place location.

(d) How the system captures a voter's signature in the Board's voter registration database, how such signatures are made accessible to poll workers, what access limitations exist, how signature comparisons are conducted, and options for how the system can capture a voter's signature electronically in the polling place using tablets or signature pads. Include procedures if no signature is found in voter registration database.

(e) How the system treats voters whose registration status is listed as "inactive."

(f) How the system identifies and tracks voters who cast a provisional ballot.

(g) How the system will support other management functions in the polling place, including

(i) Time sheets for recording poll workers' time and attendance;

(ii) Operational checklist for poll workers to assist them in following all proper steps for opening, operating and closing the polls on election day;

(iii) Reconciliation of ballots and ballot applications after the closing of the polls.

(h) How the system will guide the user through simple technical problems.

(i) How the system would guide a voter who is not in the system to the correct precinct if that voter was registered.

2.7 Reporting.

Vendor must describe:

(a) All standard reports that the system can generate (provide sample copies of such reports).

(b) How custom reports can be designed.

(c) How the system can be audited, both locally and at the central office location, and what audit reports can be generated.

(d) Any post-election tools and reports that can assist the Board in conducting post-election discovery recount and/or election contest proceedings.

Request for Proposal

(e) Whether reports are searchable and amenable to queries.

(f) Web pages or 'internet reports' that are available, as well as an explanation of the process of getting these reports to the net and how long it takes to get the data to the internet.

2.8 Implementation, Training & Support.

Vendor must describe:

(a) Detailed plan to implement the system, specifying the tasks to be completed, the individual or entity responsible for implementing the system, the estimated time needed to implement the system and a schedule, including milestone dates for completion of specific tasks and of the entire system.

(b) Detailed specifications for acceptance testing of the system under full election day conditions and for different types of election (e.g., primaries, general, runoff elections).

(c) Required level of support that the Board must provide, both during the initial implementation of the system and for ongoing maintenance and support.

(d) End-user training provided by Vendor, including content, number of hours offered, number of people trained, and training documentation.

(e) Level of technical support to be provided by Vendor for each election. Describe to what extent the Board should be able to support the system without Vendor's assistance.

2.9 Maintenance & Upgrades.

Vendor must describe:

(a) Vendor's standard maintenance and upgrade schedule for new system releases and patches, including any additional costs associated with maintenance and upgrades.

(b) Vendor's level of support if the Board elected not to sign an extended support agreement.

2.10 Configurability.

Vendor must describe:

(a) The ability of the system to be re-configured and customized to fit the Board's evolving needs over time, including changes in the law (e.g., election day registration).

(b) The ability of the Board to re-configure and customize the system without Vendor's assistance.

2.11 Key Personnel.

Vendor must identify all key personnel (including subcontractors) that will be committed to implementing the system, keeping in mind that the Board expects to receive priority of such personnel until the system is successfully delivered and implemented. The Board reserves the right to reject any key personnel if it is determined by the Board to be in

Request for Proposal

its best interest and key personnel cannot be replaced during the engagement without the Board's approval.

2.12 Minority and Women-Owned Business Enterprise.

It is the goal of the Board that vendors take affirmative steps to ensure that minority and women owned businesses have the maximum opportunity to compete for and obtain contracts and/or subcontracts for the supply of goods and services to the Board. Vendor is strongly encouraged to abide by the spirit of the City of Chicago's Minority Business Enterprise and Women Business Enterprise Procurement Program Ordinance, and attempts to fulfill the spirit of that ordinance should be identified in any proposals or proposal submitted to the Board. Provide a description of the Vendor's commitment to address and comply with the City of Chicago's Minority Business Enterprise and Women Business Enterprise procurement programs and ordinances.

2.13 Performance History.

Vendor must disclose to the Board any material defects or failures of the electronic poll book solution being proposed by Vendor occurring in the last three (3) years. Identify the election jurisdiction in which the defect or failure was discovered, describe in detail the nature of the defect or failure and steps taken to remedy the defect or failure, and provide the name and contact information for the election official who was in charge at the time such defect or failure was discovered.

2.14 Pricing & Financing.

(a) Identify the total price for the system. The fully burdened price/cost for implementation of the system should include all hardware, software, training, shipping and transportation, installation, licensing and whatever costs of any kind.

(b) Pricing for each individual component of the system shall be provided in the proposal.

(c) Identify solutions for financing the purchase and/or lease of the system or of any system component(s).

2.15 Quantity.

Any quantities shown in this RFP are estimates only provided for proposal solicitation purposes. The Board reserves the right to increase or decrease quantities ordered for purposes of this project and the Board shall be obligated to pay for only such quantities as are ordered by the Board.

3. Schedule

The Board anticipates the following schedule:

RFP issued	September 16, 2013
Pre-Proposal Conference	September 23, 2013 at 10:00 AM CDT
Proposer Inquiry Deadline	September 25, 2013

Request for Proposal

Response to Inquiries	September 27 2013
Proposal Submission Deadline and Proposal Opening	October 10, 2013 at 10:00 AM CDT
Contract Award	November 2013
Completion of System	Late December 2013 / early January 2014

4. Instructions to Vendors; General Specifications.

4.1 How to complete, submit proposal.

(a) Vendors may, at no charge, pick up a copy of the RFP from the Board's Purchasing Agent at the Board's office, 69 West Washington Street, Room 800, Chicago, Illinois 60602 between 9:00 a.m. and 5:00 p.m. Monday through Friday, except holidays, or vendors may request that a copy be sent by mail or electronic mail (email). A copy of the RFP will also be posted on the Board's web site at <http://www.chicagoelections.com>. When obtaining the RFP, you will be asked to sign a bid/proposal take-out sheet indicating that Vendor has obtained from the Purchasing Agent a copy of the RFP. The Board requests that all Vendors that choose to download and print the RFP from the Board's web site contact the Board's Purchasing Agent to register the Vendor as a prospective vendor. A record of all prospective vendors will be maintained to allow the Purchasing Agent to inform all prospective vendors if any addenda to the RFP are issued.

(b) Vendors interested in submitting a proposal on this project should read the entire document. Vendor must address all sections of this RFP. All proposals must be properly signed in order to be valid. Vendor's signature indicates his/her/its acceptance of all terms and conditions herein. Vendor shall be responsible for the contents of its proposal and for satisfying the requirements set forth in this RFP. Vendor will not be allowed to benefit from errors, omissions or ambiguities in the document that could have been reasonably discovered by the Vendor in the process of completing the proposal.

(c) The following provides an outline of the information to be included to demonstrate, verify and confirm the Vendor's competence and ability to provide services similar in size and scope to the services requested in this RFP. This outline is not all-inclusive and Vendor can add information as deemed appropriate. In its proposal, Vendor must provide the following:

(i) A proposal must provide a response to each section of this RFP and each specification therein and indicate for each whether it can satisfy such specification.

(ii) A proposal must furnish all prices and information being requested. Either a unit price or a lump sum price, as the case may be, must be stated for each and every item. All proposal prices and information must be typed or legibly written in ink. Any corrections, erasures, or other forms of alteration to prices or information must be initialed by Vendor.

Request for Proposal

(iii) A detailed profile of the Vendor's capability, capacity, approach and relevant experience to demonstrate that Vendor can successfully perform any contract under this RFP should it be awarded, including a list of references.

(iv) A description of which portion(s) of the work will be subcontracted out, if any, and the names and addresses of potential subcontractors and the expected amount or percentage of amount each subcontractor will receive under an award or contract. The Board reserves the right to accept or reject any subcontractor if in the Board's sole opinion it is in the best interests of the Board.

(v) A staffing plan that identifies Vendor's project manager and all personnel required to perform the services, their responsibilities and their education, professional background and experience that qualify to perform such services.

(vi) A description of the Vendor's commitment to address and comply with the City of Chicago's Minority Business Enterprise and Women Business Enterprise procurement programs and ordinances. Vendor is encouraged to abide by the spirit of the City of Chicago's Minority Business Enterprise and Women Business Enterprise Procurement Program Ordinance, and attempts to fulfill the spirit of that ordinance should be identified in any proposals or proposal submitted to the Board.

(vii) Financial statements, such as balance sheets, profit and loss statements or annual reports for the last three years, demonstrating that Vendor has the financial viability and ability to perform the services.

(viii) A written disclosure advising of any pending or imminent litigation against Vendor that may have a material effect upon Vendor's ability to provide the services.

(ix) Copies all business and professional licenses that are required by law or standard for the services.

(x) Evidence of membership in professional organizations and/or regulatory organizations that are standard for the services.

(xi) An Executive Summary that provides an overview of the proposal and Vendor's experience and qualifications.

(xii) If Vendor disagrees with any contract provision set forth in the proposed contract provided herewith as Appendix 3, Vendor shall submit in writing with its proposal any exceptions to the contract and include the reasons for such exceptions.

(d) Any deviations from these specifications must be noted on the proposal page or pages, with the exact nature of the deviation or the change noted in sufficient detail. The reasons for such deviation should also follow if not self-explanatory. Failure to note a deviation or change to any specification herein shall be deemed as an agreement by vendor to

Request for Proposal

meet or exceed such specification at no additional cost or expense to the Board unless expressly stated in the proposal.

(e) All proposals and submissions are subject to the Illinois Freedom of Information Act. Vendor may designate those portions of the proposal that contain trade secrets or other proprietary data that must remain confidential. If vendor includes data that is not to be disclosed to the public for any purpose or used by the Board except for evaluation purposes, the vendor must:

(i) Mark the title page or cover of the proposal as follows:

“This RFP proposal includes trade secrets or other proprietary data that may or may not be disclosed outside of the Board and may not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate this proposal. For purposes of this provision, the Board will include any consultants assisting the Board in the evaluation of proposals. If, however, a contract is awarded to vendor as a result of or in connection with the submission of this data, the Board has the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Board’s right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets (insert page numbers of other identification).”

(ii) Mark each sheet or data to be restricted with the following legend: “Use or disclosure of data contained on this sheet is subject to restriction on the title page or cover of this proposal.”

(f) A proposal must be signed. A submittal will be considered incomplete if it does not bear the signature of an agent of the Vendor who is in a position to contractually bind the Vendor. If Vendor is a corporation, the President and Secretary must execute the proposal and the corporate seal must be affixed. Should someone other than the President execute the proposal, attach a certified copy of that section of the corporate by-laws or other authorization by the corporation that permits the person to execute the offer for the corporation. If Vendor is a partnership, all partners must execute the proposal, unless one partner has been authorized to sign for the partnership, in which case, evidence of such authority satisfactory to the Board must be submitted. If Vendor is a sole proprietorship, the sole proprietorship must execute the proposal.

(g) Vendors must submit one (1) original and five (5) copies of the proposal, with the original marked as such, as well as one (1) electronic copy of the proposal. All proposals, proposal packages and addenda must be submitted in an envelope or package and clearly marked on the outside with the proposal title, Vendor’s name and address, and the proposal opening date and time. Delivery to the Board’s Purchasing Agent must be made on or before proposal opening time. **Faxed or e-mailed proposals will not be accepted.** Use United States mail, special delivery or hand delivery. Proposals must be received at the address specified in this RFP prior to proposal opening time in order to be considered. When proposals are sent by mail or special delivery, Vendor is responsible for their delivery to the Purchasing Agent prior to proposal opening time. If the mail or delivery is delayed beyond

Request for Proposal

the date and hour set for the proposal opening, proposals thus delayed will not be accepted. Entire proposal packages must be returned and no supplements, amendments, additions, or clarifications addenda will be received or accepted after proposal opening. **NO LATE PROPOSALS WILL BE ACCEPTED.** Proposals can be withdrawn at any time, if requested in writing, until the deadline date at which time it will be considered final.

4.2 Pre-Proposal Conference.

The Board will conduct a Pre-Proposal Conference on the date, time and location indicated below. Representatives of the Board will be present to answer any questions regarding the RFP or the goods or services requested. Prospective vendors must respond to the Purchasing Agent at least one day prior to the Pre-Proposal Conference to confirm attendance.

Date: September 23, 2013

Time: 10:00 AM CDT

Location: 8th Floor Conference Room, 69 W. Washington Street,
Chicago, Illinois 60602

4.3 Clarifications.

Questions regarding this RFP not addressed at the Pre-Proposal Conference must be addressed in writing or by e-mail to the Purchasing Agent (purchase@chicagoelections.net) no later than September 27, 2013.

4.4 Addenda.

If it becomes necessary to revise or expand upon any part of this RFP, an addendum will be sent to all of the prospective vendors listed on the Board's bid/proposal take-out sheet prior to the proposal due date. Each addendum is incorporated and part of the RFP documents. Addenda may include, but will not be limited to, responses to questions and requests for clarification or terms and conditions the Board anticipates will be included in a final signed contract.

4.5 Interpretation of documents.

The interpretation of the wording of this document shall be the responsibility of the Board and that interpretation shall be final. If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the specifications or other contract documents, a written request for an interpretation or clarification thereof may be submitted to the Purchasing Agent. Any interpretation or clarification of the documents will be made only by a written addendum duly issued by the Purchasing Agent. A copy of such addendum will be faxed, electronically mailed, or mailed or delivered to each person receiving a set of the RFP and to such other prospective vendors as shall have requested that they be furnished with a copy of each addendum. Failure on the part of the prospective Vendor to receive a written interpretation prior to the time of the opening of the proposals will not be grounds for withdrawal of the proposal. Oral explanations will not be binding.

4.6 Proposal prices.

Unless otherwise specified in this RFP, proposal prices must be complete and, if accepted, prices must be firm for the contractual period.

4.7 Irrevocable offer.

The submission of the proposal shall constitute an irrevocable offer that shall remain in full force and effect until the proposals received by the Board are either accepted or rejected or modified pursuant to negotiation and mutual agreement. Proposals may be withdrawn at any time prior to the proposal opening.

4.8 Taxes.

The Board is exempt from all state and local sales and use taxes. Therefore, Vendor should not include any of these taxes when submitting a proposal or invoicing.

4.9 Non-Collusion.

By submission of a proposal, Vendor and each person signing on behalf of Vendor certifies, under penalty of perjury, that to the best of his/her/its knowledge and belief:

(a) The prices in the proposal had been arrived at independently without any collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such prices, with any other vendor or any competitor; and

(b) Unless otherwise required by law, the prices which had been quoted in the proposal have not been knowingly disclosed by Vendor prior to the opening, directly or indirectly, to any other vendor, to any other competitor, or to any Commissioner, officer, employee or agent of the Board; and

(c) No attempt has been made or will be made by Vendor to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

Vendor further certifies that his/her/its proposal is made without any connection with any other person making a proposal for the same purpose, and is in all respects fair and without collusion or fraud, and that no elected official or other officer or employee or person whose salary is payable in whole or in part from the treasury of the City of Chicago or the County of Cook is directly or indirectly interested in therein, or in supplies, materials and equipment to which it relates, or in any portion of the profits thereof. Vendor must execute an "Affidavit of Proposal Submission," a copy of which is attached as Appendix 1 hereto.

4.10 Economic disclosures.

Vendor or each joint venture partner, if applicable, must complete the appropriate sections of the "Economic Disclosure Statement and Affidavit," or "Affidavit," a copy of which is attached as Appendix 2 hereto, certifying that Contractor or each joint venture partner, its agents, employees, officers, or any subcontractors (i) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the Board, the City of Chicago, the County of Cook, the State of Illinois, or any agency of the federal

Request for Proposal

government or any State or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities; (ii) do not owe any debts to the Board, the City of Chicago, the County of Cook or to the State of Illinois, in accordance with 65 ILCS 5/11-42.1-1 and (iii) are not presently debarred or suspended from submitting bids under any laws, ordinances or rules of any jurisdiction in the State Illinois. For purposes of this section, where an official, agent or employee of a business entity has committed any offense under this section on behalf of such an entity and pursuant to the direction or authorization of any responsible official thereof, the business entity shall be chargeable with the conduct.

4.11 Confidentiality.

Except as expressly and unambiguously permitted hereunder, Vendor and the Board shall hold in confidence and not use or disclose any materials or information disclosed by the other party that are confidential or proprietary, or which may be reasonably regarded as the confidential information of the other party (“Confidential Information”). Each party shall treat the other party’s Confidential Information with at least the same degree of care it uses to prevent unauthorized disclosure or use of its own Confidential Information, but in no event less than reasonable care. Confidential Information will not include any materials or information that the recipient can prove (i) is now, or later becomes, through no act or failure to act on the part of the receiving party, generally known or available to the public; (ii) is known by the receiving party at the time of disclosure as evidenced by its records; (iii) is furnished to the receiving party by a third party, as a matter of right and without restriction on disclosure; (iv) is independently developed by the receiving party; (v) is the subject of a written permission to disclose provided by the disclosing party; or (vi) is disclosed in response to a valid order of a court or other governmental body. To ensure that the Boards’ Confidential Information, information assets and technology are secure from unauthorized access, misuse, disclosure, degradation or destruction, and to prevent unauthorized or unlawful disclosure of personal and private information, the Board has adopted an “Information Security and Identity Protection Policy”, a copy of which is attached hereto as Appendix 3. Vendor and each of Vendor’s employees, temporary workers, sub-contractors, or agents having access to the Board’s information assets must sign a Confidentiality and Acceptable Use Agreement, which is included in Appendix 3, and must abide by the Board’s Information Security and Identity Protection Policy.

4.12 No liability for costs.

The Board is not responsible for costs or damages incurred by vendors, subcontractors or other interested parties in connection with the RFP process, including but not limited to costs associated with preparing the proposal and of participating in any conferences, oral presentations or negotiations.

4.13 Proposal opening.

The Purchasing Agent and the Executive Director will jointly open all sealed proposals submitted timely in response to this RFP in the Board’s Conference Room located at 69 W. Washington Street, Room 800, Chicago, Illinois, 60602, on **Thursday, October 10, 2013 at 10:00 a.m., Central Daylight Time**. All proposals will be publicly opened, but proposals will be opened in a manner to avoid disclosure of contents to competing vendors during the process of negotiation. A record of proposals shall be prepared and will be open for public inspection after contract award.

5. Evaluation of proposals

5.1 Proposal Review.

After the opening of proposals, an Evaluation Committee comprised of the Purchasing Agent, the Executive Director and/or representatives from other departments of the Board will review the information provided in each proposal received and evaluate each proposal in accordance with the evaluation criteria detailed below. As part of the evaluation process, the Evaluation Committee may also review any other information that is available to it, including but not limited to information gained by checking references and by investigating the vendor's financial condition and business history.

5.2 Discussions with vendors and revisions of proposals.

The Purchasing Agent or any other authorized member of the Evaluation Committee may enter into discussions with the responsible vendors who submit proposals determined to be reasonably susceptible of being selected for award (a short list of proposals) for the purpose of clarifying and assuring full understanding of and responsiveness to the RFP. The Evaluation Committee may, at its option, request that all or a short list of vendors make a presentation, offer customer testimonials or additional references, submit clarifications, schedule a site visit of vendor's premises, submit a best and final offer or consider alternative approaches. The Evaluation Committee reserves the right to seek clarification of any information that is submitted by any vendor in any portion of its proposal or to request additional information during the evaluation process. Any material misrepresentation made by a vendor may void the proposal and eliminate vendor from further consideration. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing vendors. If information is disclosed to any vendor, it shall be provided to all competing vendors.

5.3 Criteria.

The Evaluation Committee will review the proposals received by the Board using the following criteria (not necessarily listed in order of importance):

- (a) Ability to meet the requirements of the RFP;
- (b) Technical competence as evidenced by:
 - (i) Vendor's professional reputation, qualifications and specialized experience, which is necessary for the delivery of quality products and satisfactory performance of services, including availability of adequate personnel and resources;
 - (ii) Vendor's past performance on similar type contracts in terms of quality of product and services and compliance with specifications. The Board may solicit from previous clients and customers of vendor, or any available sources, relevant information concerning vendor's record of past performance.
- (c) Quality of product and service and strength of warranties offered to cure defects in design, materials or workmanship;

Request for Proposal

- (d) Compliance with insurance requirements;
- (e) Cost, including unit pricing, transportation and delivery, and total costs of all kind. While cost is important, it may not be the primary factor in the selection process;
- (f) Responsiveness in terms of the completeness and accuracy of Vendor's proposal;
- (g) Financial stability;
- (h) Compliance with laws, ordinances and statutes;
- (i) Vendor's commitment to abide by the spirit of the City of Chicago's Minority Business Enterprise and Women Business Enterprise procurement programs and ordinances. Vendor is encouraged to abide by the spirit of the City of Chicago's Minority Business Enterprise and Women Business Enterprise Procurement Program Ordinance, and attempts to fulfill the spirit of that ordinance should be identified in any proposals or proposal submitted to the Board. Such efforts will be taken into account by the Board in awarding contracts pursuant to this RFP.
- (j) Conflict of interest. The Board will consider any information regarding a vendor, including information in a proposal, that may indicated any conflicts (or potential conflicts) of interest that might compromise the vendor's ability to successfully perform the proposed services or undermine the integrity of the competitive procurement process. If any vendor had provided any services for the Board in researching, consulting, advising, drafting or reviewing this RFP or any services related to this RFP, such vendor may be disqualified from further consideration.
- (k) Legal actions, if any, against vendor or any division, subsidiary or parent company of vendor.

5.4 Selection; negotiation.

After the Evaluation Committee completes its review of the proposals, it may submit to the Purchasing Agent a recommendation of award to a vendor or a short list of recommended vendors. The Purchasing Agent, the Executive Director, or the General Counsel, or their designees or a combination of them, may enter into negotiations with the recommended vendor or vendors on terms and conditions for a contract, including price. The Board reserves the right to request a best and final offer from vendors if it deems such an approach necessary or helpful. If the Board requests best and final offers, proposals will be reevaluated by incorporating information provided in the best and final offer, including costs and answer to specific questions. If it is determined that the Board will be unable to reach an acceptable contract with the recommended vendor or vendors, negotiations with other qualified vendors may be commenced. Negotiations may continue until a contract meeting the needs of the Board is reached or until it is determined that further negotiations will not result in an acceptable contract.

5.5 Termination of RFP.

The Board reserves the right to reject any and all proposals or portion or portions thereof or to terminate this RFP solicitation at any stage and without notice after receipt of proposals when, in the Board's opinion, the best interests of the Board will be served by such action, or when any proposal or proposals are, in the Board's sole discretion, vague,

Request for Proposal

incomplete or indefinite. The Board reserves the right to refuse to award a contract to any person, firm or corporation that is in arrears or is in default to the Board, the City of Chicago, or the County of Cook upon any debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the Board, the City or the County, or has failed to perform any previous contract with the Board, the City of Chicago or the County of Cook.

6. Awards.

Awards will be made, if at all, to the responsible vendor or vendors whose proposal or proposals are determined in writing to be the most advantageous to the Board, taking into consideration price and the evaluation criteria set forth in this RFP. The contract file shall contain the basis on which the award is made. Vendor, if requested, must present within a reasonable time, as determined by the Purchasing Agent or the Board, evidence satisfactory to the Purchasing Agent or the Board, as the case may be, of performance ability and possession of necessary facilities, pecuniary resources and adequate insurance to comply with the terms of these specifications and contract documents. Upon acceptance of a proposal and award of a contract, this RFP and the specifications, terms and conditions contained herein shall constitute contract documents that become part of a binding contract between Vendor/Contractor and the Board. A proposed contract is provided herewith as Appendix 4. If Vendor disagrees with any contract provision, Vendor shall submit in writing with its proposal any exceptions to the contract and include the reasons for such exceptions. Upon award of a contract, a contract will be presented for signature and execution by the parties.

7. Contractual requirements.

7.1 Contract.

Upon acceptance of a proposal and award of a contract, this RFP and the specifications, terms and conditions contained herein shall constitute contract documents that become part of a binding contract between Vendor/Contractor and the Board. A proposed contract is provided herewith as Appendix 4. If Vendor disagrees with any contract provision, Vendor shall submit in writing with its proposal any exceptions to the contract and include the reasons for such exceptions. Upon award of a contract, a contract will be presented for signature and execution by the parties.

7.2 Performance bond.

When required by the Purchasing Agent (see cover page of Request for Proposals), the successful vendor or vendors must, within seven (7) calendar days of receipt of notice from the Board, furnish a performance bond in such amount as determined by the Board in such form acceptable to the Board. Receipt of a written notice from the Board to furnish a bond constitutes tentative notice of pending award and proposal acceptance. Release of the contract will be withheld pending receipt and approval of a satisfactory bond.

In the event that the vendor fails to furnish a performance bond within said period of seven (7) calendar days, then the deposit of the vendor, if any, will be retained by the Board as liquidated damages and not as a penalty.

7.3 Insurance.

The selected Vendor must agree to procure and maintain at its own expense and in effect at all time during the term of any contract sufficient insurance satisfactory to the Board

Request for Proposal

against all losses and damages arising out of the fault or negligence of Contractor, its agents and subcontractors. Such insurance shall include, at a minimum:

<u>Insurance Type</u>	<u>Limit</u>
Commercial General Liability	
General Aggregate	\$2,000,000.00
Each Occurrence	\$1,000,000.00
Workers' Compensation and Employer's Liability*	
Worker's Compensation	Statutory
Employer's Liability	
Each accident	\$500,000.00
Disease per employee	\$500,000.00
Disease annual aggregate	\$500,000.00
*Workers' Compensation / Employer's Liability policies shall be endorsed to waive the insurer's right of subrogation against the Board	
Automobile Liability** (Per Occurrence)	
Bodily Injury and Property Damage Combined	\$1,000,000.00
Uninsured Motorist	\$1,000,000.00
** Policy must provide coverage for all owned, non-owned and hired autos used in performing the services	
Umbrella Coverage***	\$1,000,000.00
*** Must be in excess of Commercial General Liability, Auto Liability and Employer's Liability and no more Restrictive than the primary coverage listed	
Professional Liability (Errors and Omissions)	\$1,000,000.00

All insurance companies must be rated A-X or better by the A.M. Best Company.

-- End of document --

APPENDIX 1

Affidavit of Proposal Submission

The undersigned hereby acknowledges having received and reviewed the RFP and the general conditions, special conditions and specifications herein, and affirms that Proposer shall be bound by all of the terms and conditions contained in said documents, regardless of whether a complete set thereof is attached with this proposal, except only to the extent that Proposer has taken express written exception thereto in the sections of this specification designated for that purpose.

Further, the undersigned, being duly sworn, deposes and says on oath that no disclosures of ownership interest have been withheld and that the information provided herein to the best of its knowledge is current, the prices in the proposal have been arrived at independently without any collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such prices, with any other proposer or any competitor; and unless otherwise required by law, the prices which had been quoted in the proposal have not been knowingly disclosed by the Proposer prior to the opening, directly or indirectly, to any other proposer, to any other competitor, or to any Commissioner, officer, employee or agent of the Board.

Further, the undersigned states on oath that no attempt has been made or will be made by Proposer to induce any other person, partnership or corporation to submit or not to submit a proposal.

This proposal, together with all certifications and disclosures, is submitted this _____ day of _____, 20____.

FULL BUSINESS NAME OF PROPOSER: _____

BUSINESS ADDRESS: _____

SIGNATURE OF PROPOSER OR AUTHORIZED PERSON(S)* TITLE

- Note: If this proposal is submitted on behalf of a corporation, then this instrument must be signed by the President of the corporation or such other person authorized by the corporate by-laws or resolutions of the board of directors to bind the corporation (attach a certified copy of appropriate section of by-laws or resolution). This signed instrument must be attested to by the corporation's secretary.**
- If this proposal is submitted on behalf of a partnership, all partners must sign this instrument, unless one partner has been authorized to sign for the partnership, in which case, evidence of such authority must be submitted.

Subscribed and sworn to before me by each of the foregoing individuals this _____ day of _____, 20____.

Notary Public Signature

{Seal}

COMPLETE IF SUBMITTED AND SIGNED BY CORPORATION:

**ATTEST: _____
Corporate Secretary Signature

{affix Corporate Seal}

The attached instrument was acknowledged before me on this _____ day of _____, 20____, by _____ as President (or other authorized officer) and by _____ as Secretary of _____ (Corporation Name)

Notary Public Signature {Seal}

APPENDIX 2

**ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
CHICAGO BOARD OF ELECTION COMMISSIONERS**

SECTION I -- GENERAL INFORMATION

A. Legal name of Disclosing Party submitting this Statement. Include d/b/a/ if applicable:

Check ONE of the following three boxes:

Indicate whether Disclosing Party submitting this Statement is:

1. the Applicant OR
2. a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which Disclosing Party holds an interest OR
3. a specified legal entity with a right of control (see Section II.B.2.) State the legal name of the entity in which Disclosing Party holds a right of control.

B. Business address of Disclosing Party: _____

C. Telephone: _____ Fax: _____ Email: _____

D. Name of contact person: _____

E. Federal Employer Identification No. (if you have one): _____

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this Statement pertains:

SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- | | |
|---|--|
| <input type="checkbox"/> Person | <input type="checkbox"/> Limited liability company* |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership* |
| <input type="checkbox"/> Privately held business corporation | <input type="checkbox"/> Joint venture* |
| <input type="checkbox"/> Sole proprietorship | <input type="checkbox"/> Not-for-profit corporation |
| <input type="checkbox"/> General partnership* | (Is the not-for-profit corporation also a 501(c)(3))? |
| <input type="checkbox"/> Limited partnership* | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Trust | <input type="checkbox"/> Other (please specify) |

* Note B.2. below.

APPENDIX 2

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable: _____

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

Yes

No

N/A

B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity. For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

Name

Title

2. If you checked "General partnership," "Limited partnership," "Limited liability company," "Limited liability partnership" or "Joint venture" in response to Item A.1. above (Nature of Disclosing Party), list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. NOTE: Each legal entity listed below must submit an Statement on its own behalf.

Name

Title

3. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture, interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None."

Name

Business Address

Percentage Interest in
the Disclosing Party

APPENDIX 2

SECTION III -- BUSINESS RELATIONSHIPS WITH BOARD OFFICIALS

Has the Disclosing Party had a "business relationship" with any Board official in the 12 months before the date this Statement is signed? "Business relationship" shall refer to any contractual or other private business dealing between the Disclosing Party and a Board official, or his or her spouse or domestic partner, or of any entity in which a Board official or his or her spouse or domestic partner has a financial interest, which entitles the Board official to compensation or payment in the amount of \$250.00 or more in a calendar year. "Board official" means any Commissioner of the Board of Election Commissioners for the City of Chicago, the Board's Executive Director, the Board's Purchasing Agent or any employee or contractor to the Board making recommendations to the Board regarding this Matter.

Yes

No

If yes, please identify below the name(s) of such official(s) and describe such relationship(s):

SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the Board of Election Commissioners whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney lobbyist, etc.)	Fees (indicate whether paid or estimated)
---	------------------	--	--

(Add sheets if necessary)

Check here if the Disclosing party has not retained, nor expects to retain, any such persons or entities.

APPENDIX 2

SECTION V – CERTIFICATIONS

A. CERTIFICATIONS

The Disclosing Party certifies that:

1. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B. of this Statement:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;

(b) have not, within a five-year period preceding the date of this Statement, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;

(c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in clause A.1.(b) of this Section V;

(d) have not, within a five-year period preceding the date of this Statement, had one or more public transactions (federal, state or local) terminated for cause or default; and

(e) have not, within a five-year period preceding the date of this Statement, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the State of Illinois or by the federal government, any state, or any other unit of local government.

2. The certifications in subparts 2, 3 and 4 concern:

- the Disclosing Party;
- any "Applicable Party" (meaning any party participating in the performance of the Matter, including but not limited to any persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" or "Affiliate" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the Board, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Applicable Parties, the term Affiliated Entity or Affiliate means a person or entity that directly or indirectly controls the Applicable Party, is controlled by it, or, with the Applicable Party, is under common control of another person or entity;

APPENDIX 2

- any responsible official of the Disclosing Party, any Applicable Party or any Affiliated Entity, Affiliate or any other official, agent or employee of the Disclosing Party, any Applicable Party or any Affiliated Entity or Affiliate, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Applicable Party or any Affiliated Entity or Affiliate (collectively "Agents").

Neither the Disclosing Party, nor any Applicable Party, nor any Affiliated Entity or Affiliate of either the Disclosing Party or any Applicable Party nor any Agents have, during the five years before the date this Statement is signed, or, with respect to an Applicable Party, an Affiliated Entity, or an Affiliated Entity of an Applicable Party during the five years before the date of such Applicable Party's or Affiliated Entity's contract or engagement in connection with the Matter:

- (a) bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the Board, the City of Chicago, the County of Cook, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- (b) agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- (c) made an admission of such conduct described in (a) or (b) above that is a matter of record, but have not been prosecuted for such conduct.

3. Neither the Disclosing Party, Affiliated Entity or Applicable Party, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

4. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

5. If the Disclosing Party is unable to certify to any of the above statements in this Section, the Disclosing Party must explain below:

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

APPENDIX 2

SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. By completing and filing this Statement, the Disclosing Party acknowledges and agrees, on behalf of itself and the persons or entities named in this Statement, that the Board may investigate the creditworthiness of some or all of the persons or entities named in this Statement.

B. The certifications, disclosures, and acknowledgments contained in this Statement will become part of any contract or other agreement between the Applicant and the Board in connection with the Matter, whether procurement, Board assistance, or other Board action, and are material inducements to the Board's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this Statement is based.

C. If the Board determines that any information provided in this Statement is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the Board may pursue any remedies under the contract or agreement (if not rescinded, void or voidable), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the Board.

D. It is the Board's policy to make this document available to the public upon request. Some or all of the information provided on this Statement and any attachments to this Statement may be made available to the public in response to a Freedom of Information Act request, or otherwise. By completing and signing this Statement, the Disclosing Party waives and releases any possible rights or claims which it may have against the Board in connection with the public release of information contained in this Statement and also authorizes the Board to verify the accuracy of any information submitted in this Statement.

E. The information provided in this Statement must be kept current. In the event of changes, the Disclosing Party must supplement this Statement up to the time the Board takes action on the Matter. If the Matter is a contract, the Disclosing Party must update this Statement as the contract requires.

The Disclosing Party represents and warrants that:

F. The Disclosing Party has not withheld or reserved any disclosures as to economic interests in the Disclosing Party.

G. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its affiliates delinquent in paying any fine, fee, tax or other charge owed to the State of Illinois, the County of Cook or the City of Chicago. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

APPENDIX 2

CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this Statement on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this Statement are true, accurate and complete as of the date furnished to the Board.

Date: _____

(Print or type name of Disclosing Party)

By: _____
(Sign here)

(Print or type name of person signing)

(Print or type title of person signing)

Signed and sworn to before me on (date) _____, by _____,
at _____
City, County and State

Notary Public Signature

Seal

Commission expires:

APPENDIX 3

INFORMATION SECURITY AND IDENTITY PROTECTION POLICY

BOARD OF ELECTION COMMISSIONERS
CITY OF CHICAGO

Information Security and Identity Protection Policy

I. Introduction

A. The Board of Election Commissioners (Board) intends to manage its information technology and information assets to maximize their efficient, effective, and secure use in support of the Board's business and its constituents and to prevent unauthorized or unlawful disclosure of social security numbers or other personal information.

B. This document, the Information Security and Identity Protection Policy (Policy), defines the governing principles for the secure operation and management of the information technology used, administered, and/or maintained by the Board and for the protection of the Board's information assets and individual identity.

C. Violations of the Board's Information Security and Identity Protection Policy must be reported to the Board's Executive Director.

II. Purpose

A. To define the responsibilities of the Board's officers, employees, vendors, consultants agents and others with respect to appropriate use and protection of the Board's information assets and technology.

B. To ensure that the Board's information assets and technology are secure from unauthorized access, misuse, disclosure, degradation, or destruction.

III. Scope

A. This Information Security and Identity Protection Policy applies to the Board of Election Commissioners and its officers, employees, temporary employees, interns, vendors, consultants, contractors and agents thereof--collectively referred to as "User(s)". The principles set forth in this Policy are applicable to all information technology and assets, in all formats, used by the Board.

B. This Policy does not create any rights, constitute a contract, or contain the terms of any employment contract or other contract between the Board of Election Commissioners, any employee or applicant for employment, or any other person. Rather, this Policy details certain purposes, procedures, guidelines, responsibilities, and other matters the Board of Election Commissioners deems relevant to its management of information assets. The Board reserves the right to amend this Policy or any part or provision of it.

IV. Definitions

Please familiarize yourself with the definitions in appendix A as part of your understanding of this Policy.

V. Organizing Information Security

A. Information Security. The Department of Electronic Voting Systems is responsible for designing, implementing and maintaining a Board-wide information security program -- in conjunction with other departments -- and for assisting all Board departments in implementing and maintaining information management practices at their respective locations.

B. Confidentiality Agreements. Employees, consultants, contractors or other persons who use the Board's information technology are required to read, understand, and agree to the Board's Confidentiality and Acceptable Use Agreement regarding their responsibilities and conduct related to the protection of the Board's information assets and technology.

C. Third Parties. The Board often utilizes third parties in support of delivering business services. When, as a result, these arrangements extend the Board's information technology enterprise or business processes into the third parties' computing environments -- for example, in cases of Application Service Providers (ASPs) -- the third parties must abide by this Policy, as applicable, unless specific additional provisions have been established through contractual agreements.

VI. Asset Management

A. Information Classification. The Board's information, whether in electronic or physical form, can be categorized into three classifications. Due care must be taken to protect the Board's information assets in accordance with the three classifications, as described within this Policy.

1. Confidential. Sensitive personally identifiable information (PII) used for business purposes within the Board which, if disclosed through unauthorized means, could adversely affect registered voters and the Board's personnel, including employees and constituents, and could have legal, statutory, or regulatory repercussions. Examples include: information exempt from disclosure under the Illinois Freedom of Information Act ("FOIA"), information protected from disclosure under the federal Health Insurance Portability and Accountability Act ("HIPAA"), other personnel information including Social Security numbers, driver's license numbers, State identification card numbers, telephone numbers and personal financial information protected by the Illinois Personal Information Protection Act ("PIPA").

2. Internal. Information related to the Board's business that if disclosed, accessed, modified or destroyed by unauthorized means, could

have limited or significant financial or operational impact on the Board. Examples include: strategic plans, vendors' proprietary information, responses to Requests for Proposals (RFPs), information protected by intergovernmental non-disclosure agreements or other non-disclosure agreements, and design documents. Other information related to the Board's information technology that is considered Internal includes dial-up modem phone numbers and access point Internet Protocol (IP) addresses.

3. Public. Information intended for unrestricted public disclosure in the course of the Board's business. Examples include: certain voter registration information data, certain election information and records, forms, press releases, public information materials, and competitive bid and employment advertisements.

B. Responsibility for Assets

1. Ownership of Assets. All information stored and processed over the Board's technology systems is the property of the Board. Users of the system have no expectation of privacy associated with the information they store in or send through these systems, within the limits of the federal, state and local laws and, where applicable, foreign laws.

2. Acceptable and Unacceptable Use of Assets

a. To effectively conduct the Board's business and operations, the Board makes available to authorized employees and third parties various information technology resources, including e-mail, the Board's Intranet, the Internet, and other communication and productivity tools. Use of these resources is intended for business purposes in accordance with Users' job functions and responsibilities, with limited personal use permitted only in accordance with the Board's personnel rules, this policy, and other applicable Board policies. The limited personal use of information technology resources is not permissible if it creates a non-negligible expense to the Board, consumes excessive time, or violates departmental policy. The privilege of limited personal use may be revoked or limited at any time by the Board or department officials.

b. Users must not allow any consultant, visitor, friend, family member, customer, vendor or other unauthorized person to use their network account, e-mail address or other Board-provided computer facilities. Users are responsible for the activities performed by and associated with the accounts assigned to them by the Board.

- c. No User may use Board-provided Internet or Intranet access or the Board's Confidential, Internal or Public information to solicit or conduct any personal commercial activity or for personal gain or profit or non-Board approved solicitation.
- d. Users must not make statements on behalf of the Board or disclose Confidential or Internal Board information unless expressly authorized in writing by their Department Management. This includes Internet postings, or bulletin boards, news groups, chat rooms, or instant messaging.
- e. Users must protect Confidential or Internal information being transmitted across the Internet or public networks in a manner that ensures its confidentiality and integrity between a sender and a recipient. Confidential information such as Social Security numbers and electronic Protected Health Information (ePHI) must be transmitted using encryption software.
- f. Internal information such as email lists must not be posted to any external information source, listed in telephone directories, placed on business cards, or otherwise made available to third parties without the prior express written permission of the User's Department Management.
- g. Users must not install software on the Board's network and computer resources without prior express written permission from the Department of Electronic Voting Systems. Person-to-person (P2P) applications, Voice over IP (VOIP), instant messenger (IM) applications, and remote access applications pose an especially high risk to the Board and their unauthorized use is strictly prohibited. Board business must not be conducted on any device that allows P2P communication (such as file sharing music applications) without explicit approval from the Department of Electronic Voting Systems.
- h. Users must not copy, alter, modify, disassemble, or reverse engineer the Board's authorized software or other intellectual property in violation of licenses provided to or by the Board. Additionally, Users must not download, upload, or share files in violation of U.S. patent, trademark, or copyright laws. Intellectual property that is created for the Board by its employees, vendors, consultants and others is property of the Board unless otherwise agreed upon by means of third party agreements or contracts.
- i. Users must not access the Internet, the Intranet or e-mail to use, upload, post, mail, display, or otherwise transmit in any

manner any content, communication, or information that, among other inappropriate uses:

- i. interferes with official Board business;
- ii. is hateful, harassing, threatening, libelous or defamatory, pornographic, profane, or sexually explicit;
- iii. is deemed by the Board to offend persons based on race, ethnic heritage, national origin, sex, sexual orientation, age, physical or mental illness or disability, marital status, employment status, housing status, religion, or other characteristics that may be protected by applicable civil rights laws;
- iv. impersonates a person (living or dead), organization, business, or other entity;
- v. enables or constitutes gaming, wagering or gambling of any kind;
- vi. promotes or participates in unauthorized fundraisers;
- vii. promotes or participates in partisan political activities;
- viii. promotes or participates in unauthorized advertising of Board projects and any advertising of private projects;
- ix. compromises or degrades the performance, security, or integrity of the Board's technology resources and information assets;
- x. contains a virus, logic bomb, or malicious code;
- xi. constitutes participation in chain letters, unauthorized chat rooms, unauthorized instant messaging, spamming, or any unauthorized auto-response program or service.

C. Identity Protection.

1. Neither the Board nor any User may publicly post, publicly display or publicly disclose in any manner an individual's telephone number or an individual's social security number, driver's license number, or State identification card number, except for the last four digits of such numbers.

2. Social security numbers, driver's license numbers, State identification card numbers or telephone numbers, when requested from individuals registering to vote or applying to register to vote, shall be placed in a discrete location on a standardized form and such numbers shall be redacted from such form if the form is required to be released as part of a public records request.
3. Neither the Board nor any User may print an individual's social security number, driver's license number, or State identification card number, except for the last four digits of such numbers, on any voter registration card or application form, or on any application for ballot.
4. Neither the Board nor any User may print an individual's social security number, driver's license number, State identification card number or telephone number, in whole or in part, on any materials that are mailed to the individual through the U.S. Postal Service, any private mail service, electronic mail, or any similar method of delivery, unless State or federal law requires it and unless enclosed in an envelope so that such numbers are not visible without the envelope having been opened.
5. Neither the Board nor any User may collect a social security number, except for the last four digits of such number, from any individual seeking to register to vote.
6. Neither the Board nor any User shall use a social security number, driver's license number, State identification number or telephone number for any purpose other than for the purpose for which it was collected.
7. The Board shall identify all Users who may have access to social security numbers, driver's license numbers, State identification card numbers or telephone numbers in the course of performing their duties.
8. The number of Users who have access to information or documents that contain social security numbers, driver's license numbers, State identification card numbers or telephone numbers shall be limited to those who actually need such access as part of their duties.
9. All Users having access to social security numbers, driver's license numbers, State identification card numbers or telephone numbers in the course of performing their duties shall be trained to protect the confidentiality of information and to understand the requirements of the law.
10. Social security numbers, driver's license numbers, State identification card numbers or telephone numbers of individuals shall not be disclosed or made accessible to the general public or to anyone other than to the Board's officers, employees, temporary employees, interns, vendors, consultants, or contractors having been given authorized access

to such data or information unless required pursuant to court order, warrant or subpoena.

11. Notwithstanding the prohibitions set forth above, social security numbers, driver's license numbers, State identification card numbers and telephone numbers may be disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary in order for the entity to perform its duties and responsibilities and if the governmental entity and its agents, employees, and contractors maintain the confidential and exempt status of such data.

12. Documents or data containing social security numbers, driver's license numbers, State identification card numbers or telephone numbers shall be disposed of only in accordance with procedures approved by the Local Records Commission.

VII. Human Resources Security

A. Prior to Employment. All employees, consultants, and contractors and other persons designated by the Board who use the Board's information technology as part of their job function are required to sign the Board's Confidentiality and Acceptable Use Agreement.

B. During Employment

1. Information Security Awareness, Education, and Training. Security awareness begins during the hiring process and it is the responsibility of the User to remain aware of current security policies. Users should read the security reminders that are periodically distributed.

2. Disciplinary Process. Any violation of this Policy, or any part or provision hereof, may result in disciplinary action, including termination and/or civil action and/or criminal prosecution.

C. Termination or Change of Employment

1. Return of Assets. When a User leaves the Board, all Information Assets remain the property of the Board. A User must not take away such information or take away a copy of such information when he or she leaves the Board without the prior express written permission of the Board.

2. Removal of Access Rights. Upon termination of an employee or vendor, the person who requested access to technology resources must request the termination of that access using the Board's access request procedure. In the event that the requestor is not available, the responsibility is placed upon the manager of the employee or vendor. The

Board may automatically disable or delete accounts where termination is suspected even if formal notification was bypassed.

VIII. Communications and Operations Management

A. Protection Against Malicious Code

1. It is the Board's policy to conduct virus scanning of its technology resources to protect them from the threat of malicious code. The Board will intercept and/or quarantine any networking and computer resource that poses a virus threat to its information assets.
2. All servers and workstations (networked and standalone) must have the Board's approved antivirus protection software installed, properly configured, and functioning at all times. Additionally, systems that have not been issued by the Board but that use the Board's network must also be protected by antivirus software.
3. All incoming and outgoing e-mails must be scanned for viruses.
4. Users are responsible for ensuring that software, files, and data downloaded onto the Board's workstations are properly scanned for viruses.
5. Users must conduct virus scans on all external media received or used by the Board.
6. Users must ensure that all workstations (networked and standalone) have the most current antivirus signature files loaded.

B. Back-Up

1. The Board will perform regular backups of User files stored on the Board's file servers and storage media that are centrally managed by the Department of Electronic Voting Systems. This process will be coordinated in conjunction with the Board's User departments based on their individual business needs.
2. The Board will not back up multimedia files in formats including, but not limited to, .mp3, .m4a, .m4p, .avi and .mov, except as needed for Communications Department monitoring of news-media reports, web sites, television or radio interviews and for preparation of commercials, and except as needed by the Community Services Department for preparation and editing of videos for training programs.

C. Media Handling

1. Disposal of Media. Except as otherwise provided by law or court order, electronic information maintained in a department's office may be destroyed by department staff or the Department of Electronic Voting Systems when the retention period expires, in compliance with the Board's implementation of the State of Illinois Local Records Act.

D. Monitoring

1. Monitoring System Use

a. Users should have no expectation of privacy in their use of Internet services provided by the Board. The Board reserves the right to monitor for unauthorized activity the information sent, received, processed or stored on Board-provided network and computer resources, without the consent of the creator(s) or recipient(s). This includes use of the Internet as well as the Board's e-mail and instant messaging systems.

b. All information technology administrators, technicians and any other employees who by the nature of their assignments have privileged access to networks or computer systems must obtain written approval from the Department of Electronic Voting Systems to monitor User activity.

2. Clock Synchronization. All server clocks must be synchronized in a manner approved by the Department of Electronic Voting Systems in order to provide for timely administration and accurate auditing of systems.

IX. Access Control

A. User Access Management

1. User Account Management

a. Access to Confidential and Internal data must be made using a formal Access Request Form.

b. User accounts that have not been used for 90 days may be disabled without warning. After 180 days of inactivity, these accounts may be deleted without warning.

c. Departments must use the access request process to notify the Department of Electronic Voting Systems of a change in employment status (such as when a User takes a leave of absence, transfers departments, or is terminated). The account of a User on

a leave of absence can be retained, suspended, or deleted at the discretion of the User's department.

B. User Responsibilities

1. Password Use

a. All e-mail, network, and domain accounts must be password protected. All new accounts will be created with a temporary password. The temporary password must be changed upon first use.

b. Mobile devices must be password protected; this includes but is not limited to personal digital assistants (PDA), smart phones, laptops, handhelds (e.g. Blackberries) and off-site desktops.

c. Passwords used on the Board's systems and on non-Board systems that are authorized for use must have the following characteristics unless otherwise approved by the Department of Electronic Voting Systems:

- i. Passwords must be a minimum of 8 characters in length;
- ii. Passwords must contain both alphabetic and numeric characters;
- iii. Passwords must not be the same as the username;
- iv. Passwords must not contain proper names or words taken from a dictionary;
- v. Passwords must be changed at minimum every 90 days; and,
- vi. Passwords used for production systems must not be the same as those used for corresponding non-production system such as the password used during training.

d. Passwords must not be disclosed to anyone. All passwords are to be treated as Confidential information.

2. Screen Savers. Use of password-protected screen savers is recommended to prohibit unauthorized system access. Screen savers should initiate after 10 minutes of inactivity. Password-protected screen savers are required on workstations that access Confidential information such as electronic Protected Health Information. Password-protected

screen savers are also required on workstations that access Internal information if the workstation is not in an area that has restricted access.

C. Mobile Computing and Remote Access

1. Laptops, off-site computers, and mobile media that contain Confidential information must be encrypted using an encryption technique approved by the Department of Electronic Voting Systems. Mobile media that contain Internal information must be protected using an encryption technique approved by the Department of Electronic Voting Systems, a strong logon password, or restricted physical access in order to protect the data. Examples of mobile media include flash drives, DVDs, CDs, and external hard drives.

2. Personal media devices (for example, MP3 players such as iPods) must not be used as peripheral devices on Board-issued workstations.

3. Remote access is provided by the Board as an information conduit to assist in the accomplishment of municipal duties and goals. Any other use is strictly prohibited. Requests for remote access must have a valid business reason and be approved by the Department of Electronic Voting Systems.

4. All remote access connections must be through a secure, centrally administered point of entry approved by the Board. Authorized remote access connections must be properly configured and secured according to Board-approved standards including the Board's password policy. All remote desktop protocol implementations must be authorized by the Department of Electronic Voting Systems. Remote access through unapproved entry points will be terminated when discovered.

5. Non-Board owned computer equipment used for remote access must be approved and must also comply with the Board's standards. The Board will not be responsible for maintenance, repair, upgrades or other support of non-Board owned computer equipment used to access the Board's network and computer resources through remote access services.

6. Users who utilize workstations that are shared with individuals who have not signed a Confidentiality Agreement with the Board must ensure that the Board's data is removed or deleted after each use.

X. Information Security Incident Management

A. Reporting Information Security Events and Weaknesses

1. Violations of the Board's Information Security and Identity Protection Policy or any or all parts or provisions of this Policy must be

reported to Department Management or to the Department of Electronic Voting Systems.

2. Users must ensure that a representative of the Department of Electronic Voting Systems is notified immediately whenever a security incident occurs. Examples of security incidents include a virus outbreak, defacement of a website, interception of email, blocking of firewall ports, and theft of physical files or documents.

3. All reports of alleged violations of this Policy, or any part or provision hereof, will be investigated by the appropriate authority. During the course of an investigation, access privileges may be suspended.

XI. Compliance

A. Compliance with Legal Requirements

1. Intellectual Property Rights

a. Intellectual Property that is created for the Board by its employees is property of the Board unless otherwise agreed upon by means of third party agreements or contracts.

b. No User may transmit to, or disseminate from, the Internet any material that is protected by copyright, patent, trademark, service mark, or trade secret, unless such disclosure is properly authorized and bears the appropriate notations.

2. Prevention of Misuse of Information Processing Facilities. Users are prohibited from using the Board's processing facilities -- including data centers, network cabinets or closets, and other facilities housing the Board's technology equipment -- in any way that violates this Policy, or any federal, state, or municipal law.

3. Compliance with Security Policies and Standards. All Users must read and sign the Board's Confidentiality and Acceptable Use Agreement prior to being authorized to access the Board's information technology and information assets.

Appendix A - Common Terms and Definitions

1. Computer Resources - All related peripherals, components, disk space, system memory and other items necessary to run computer systems.
2. Department Management - A supervisor, manager, director, or other employee of the Board designated by the Board or its Executive Director to be responsible for implementation of this Policy.
3. Electronic Mail (E-mail) - The transmission of messages through electronic means in a body or attachment using the Board's network or other information technology.
4. Information Assets - Information and data created, developed, processed, or stored by the Board that has value to the Board's business or operations.
5. Information Technology or Network and Computer Resources - Computer hardware and software, network hardware and software, e-mail, voice mail, video conferencing, facsimile transmission, telephone, remote access services, printers, copiers, and all other printed and electronic media.
6. Intranet - The suite of browser-based applications and HTML pages that are available for use only with access to the Board's internal network.
7. Internet - The worldwide 'network of networks' connected to each other using the IP protocol and other similar protocols. The Internet enables a variety of information management services, including, but not limited to, email, instant messaging, file transfers, file uploads, file downloads, news, and other services.
8. Internet Services - Any service in which its primary means of communication is the Internet. For example, e-mail, web browsing and file transfers.
9. Mobile Computing Devices - Mobile devices and Mobile media. Mobile data processing devices are used as business productivity tools. Examples include: laptops, personal digital assistants (PDAs), smart phones, handhelds (e.g. Blackberries), and off-site desktops. Mobile media are devices typically used to transport data. Examples include: flash drives, DVDs, CDs, and external hard drives.
10. Network - The linking of multiple computers or computer systems over wired or wireless connections.
11. P2P - Peer-to-Peer network. A network where nodes simultaneously function as both "clients" and "servers" to other nodes on the network, P2P may be used for a variety of uses, but it is typically used to share files such as audio files. Examples of P2P networks include Napster, KaZaA, and LimeWire. If a node is not properly configured, any file on the device may potentially be accessed by anyone on the network.
12. Protected Health Information - Individually identifiable health information about an individual that relates to the past, present, or future physical or mental health or condition, provision of health care, or payment for health care.
13. Remote Access Services - A service that enables off-site access to the Board information technology and assets. Examples include the Board's telephone exchanges, internal phone switches, wireless access points (WAP), and Virtual Private Network (VPN) connections. Remote access includes, but is not limited to, dial-in modems, frame relay, ISDN, DSL, VPN, SSH, and cable modems.
14. Security Incident - An event that has an adverse impact on the confidentiality,

integrity, and availability of computer systems, computer networks, electronic information assets, or physical information assets.

15. User(s) - The Board's officers, employees, temporary employees, interns, vendors, consultants, contractors, and authorized agents who utilize the Board's information assets and technology.

16. World Wide Web (WWW) - Browser-based applications and HTML pages that are available for access and use across the Internet.

ADOPTED: JULY 29, 2008

BOARD OF ELECTION COMMISSIONERS
CITY OF CHICAGO

Confidentiality and Acceptable Use Agreement

Purpose

Information security, confidentiality, and copyright protection are matters of concern for Board of Election Commissioners for the City of Chicago (the "Board"), employees of the Board and for all other persons who have access to Board computer files, information and records, whether they are employees, vendors, consultants, or others. The Board maintains information in the form of computerized files. The Board also utilizes computer software and methodologies created internally and by third parties that may be protected by intellectual property, patent, copyright and trade secret laws. As such, the Board is contractually obligated to prevent any and all unauthorized disclosure or use of these information assets.

Recipient's Obligations

A position of trust has been conferred upon every authorized person who, as part of their job function, comes in contact with confidential information to keep this information secure and private. Board employees, contractors and others who gain access to confidential information in the possession of or under the control of the Board are obligated to recognize and adhere to these responsibilities while on or off the job. Therefore, an employee of the Board or a person authorized to access Board data files and information agrees:

- To follow the Board's privacy and security policies, standards, and guidelines including the Information Security and Identity Protection Policy;
- Not to expose voters' or employees' confidential information (such as social security numbers, driver's license numbers, State identification card numbers, telephone numbers or other sensitive information) as mandated by the Illinois Personal Information Protection Act;
- Not to expose health information (such as an individual's diagnosis or treatment) as protected by HIPAA privacy and security rules;
- Not to engage in or permit unauthorized use of any information in files or programs maintained by the Board;
- Not to seek to benefit personally or permit others to benefit personally through the release of confidential information which has come to him/her by virtue of their job function or assignment;
- Not to copy, alter, modify, disassemble, reverse engineer or decompile any intellectual property. Intellectual property that is created for the Board by its employees, vendors, consultants and others is property of the Board unless otherwise agreed upon by means of third party agreements or contracts;
- Not to exhibit or divulge the contents of any Board record to any person except in the conduct of his/her work assignment or in accordance with the policies of the Board;
- Not to disclose the specifics of non-public Board related business to unauthorized

Confidentiality and Acceptable Use Agreement

personnel;

- Not to remove or cause to be removed copies of any official record or report from any file from the office where it is kept except in the performance of his/her duties;
- Not to use or request others to use the Board's information technology for personal reasons beyond limited personal use as described in the Information Security and Identity Protection Policy;
- Not to conduct Board business on devices that allow P2P communication (such as music file sharing) without explicit approval from the Board;
- To password protect mobile devices issued by the Board or those authorized to connect to the Board's information technology resources. Examples include but are not limited to: personal digital assistants (PDA), smart phones, laptops, handhelds (e.g. Blackberries) and off-site desktops;
- Not to aid, abet, or act in conspiracy with another to violate any part of this Confidentiality and Acceptable Use Agreement or of the Information Security and Identity Protection Policy;
- To report any violation of this Confidentiality and Acceptable Use Agreement or of the Information Security and Identity Protection Policy by anyone to his/her supervisor immediately;

I have read, understand, and agree to follow the Board's Confidentiality and Acceptable Use Agreement regarding my responsibilities to the security and privacy of the Board's information and technology assets. I acknowledge that I have reviewed and understand the Board's Information Security and Identity Protection Policy.

I understand that any intentional violation of this Agreement may result in disciplinary action, including termination and/or civil action and/or criminal prosecution.

Employee/Recipient Signature

Date

X _____

Employee/Recipient Name (Printed)

Department or Company (Printed)

APPENDIX 4

PROPOSED CONTRACT

AGREEMENT

Between

**BOARD OF ELECTION COMMISSIONERS
FOR THE CITY OF CHICAGO**

And

Table of Contents

ARTICLE I. CONTENTS OF AGREEMENT	1
SECTION 1.01 CONTENTS OF AGREEMENT.....	1
SECTION 1.02 ENTIRE AGREEMENT.....	2
ARTICLE II. DEFINITIONS.....	2
SECTION 2.01 DEFINITIONS AND TERMS.....	2
ARTICLE III. DESIGN, INSTALLATION AND TESTING OF ELECTRONIC POLL BOOK SYSTEM.....	4
SECTION 3.01 DESIGN, INSTALLATION AND TESTING OF ELECTRONIC POLL BOOK SYSTEM.....	4
SECTION 3.02 STATEMENT OF WORK.....	4
SECTION 3.03 TERM.....	4
SECTION 3.04 TIME OF ESSENCE.....	4
SECTION 3.05 APPLICATION SOFTWARE LICENSE; SERVICES; TERM.....	5
SECTION 3.06 LICENSES AND USE OF THIRD PARTY SOFTWARE.....	6
SECTION 3.07 COMPLIANCE WITH THIRD PARTY LICENSE AGREEMENTS.....	7
SECTION 3.08 UPDATES, ENHANCEMENTS AND MODIFICATION OF THIRD PARTY SOFTWARE.....	7
SECTION 3.09 SITE SURVEY.....	7
SECTION 3.10 TRAINING.....	7
ARTICLE IV. ACCEPTANCE TESTING; FINAL ACCEPTANCE	8
SECTION 4.01 DESIGN OF ACCEPTANCE TESTING SPECIFICATIONS.....	8
SECTION 4.02 BOARD APPROVAL OF SPECIFICATIONS.....	8
SECTION 4.03 COMPONENT ACCEPTANCE TESTS.....	8
SECTION 4.04 FAILURE OF ACCEPTANCE TESTING; RE-TESTING.....	8
SECTION 4.05 BOARD'S RIGHTS UPON TERMINATION AFTER FAILURE TO MEET ACCEPTANCE TESTS.....	9
SECTION 4.06 ACCEPTANCE OF SYSTEM COMPONENTS.....	9
SECTION 4.07 FINAL ACCEPTANCE.....	9
ARTICLE V. TERMS OF PAYMENT	9
SECTION 5.01 PAYMENT TERMS.....	9
SECTION 5.02 QUANTITY.....	9
SECTION 5.03 MOST FAVORED CUSTOMER.....	10
SECTION 5.04 FIXED PRICES.....	10
SECTION 5.05 PAYMENTS.....	10
SECTION 5.06 INTEREST.....	10
SECTION 5.07 TAXES.....	11
SECTION 5.08 INVOICES.....	11
SECTION 5.09 PAYMENTS TO SUBCONTRACTORS.....	11
ARTICLE VI. PROJECT MANAGEMENT.....	11
SECTION 6.01 PRIORITY OF KEY PERSONNEL; SUBCONTRACTOR; RESOURCES.....	11
SECTION 6.02 BOARD'S RIGHT TO REPLACE.....	11
SECTION 6.03 PROGRESS REPORTS.....	12
SECTION 6.04 FORCE MAJEURE, DELAYS AND EXTENSIONS.....	12
SECTION 6.05 NO DAMAGES FOR DELAY.....	13
ARTICLE VII. WARRANTIES AND REPRESENTATIONS.....	13
SECTION 7.01 TECHNICAL CONSISTENCY, COMPETENCY AND STANDARDS.....	13
SECTION 7.02 GENERAL STANDARDS OF WORKMANSHIP.....	13

SECTION 7.03	ELECTRONIC POLL BOOK SYSTEM.	13
SECTION 7.04	PROPRIETARY RIGHTS; LIENS AND ENCUMBRANCES; COMPLIANCE WITH ALL LAWS.	14
SECTION 7.05	CONFIGURATION.....	14
SECTION 7.06	COMPATIBILITY.	14
SECTION 7.07	WARRANTY REQUIREMENTS.	14
SECTION 7.08	NO OTHER WARRANTIES.	15
ARTICLE VIII.	INDEMNIFICATION	15
SECTION 8.01	INDEMNIFICATION.	15
SECTION 8.02	LIMITATION.....	16
SECTION 8.03	NO LIMITATION ON ACCOUNT OF INSURANCE.....	16
ARTICLE IX.	DEFAULT, DAMAGES AND TERMINATION.	16
SECTION 9.01	DEFAULT.....	16
SECTION 9.02	EVENTS OF DEFAULT.....	17
SECTION 9.03	REMEDIES.	17
SECTION 9.04	FORBEARANCE NOT A WAIVER.	18
SECTION 9.05	MUTUAL AGREEMENT.	18
SECTION 9.06	NON-APPROPRIATION.....	19
SECTION 9.07	EARLY TERMINATION; TERMINATION FOR CONVENIENCE.....	19
SECTION 9.08	CONSEQUENTIAL DAMAGES.	19
SECTION 9.09	RIGHTS AND OBLIGATIONS OF THE PARTIES ON TERMINATION OR EXPIRATION OF AGREEMENT.....	19
SECTION 9.10	COOPERATION.....	19
ARTICLE X.	GENERAL REQUIREMENTS.	20
SECTION 10.01	PERFORMANCE BOND.	20
SECTION 10.02	INSURANCE.	20
SECTION 10.03	NON-DISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE.....	20
SECTION 10.04	CONFIDENTIALITY.	21
SECTION 10.05	INDEPENDENT CONTRACTOR.....	21
SECTION 10.06	SUBCONTRACTING OR ASSIGNMENT.....	22
SECTION 10.07	AUDITS.....	22
SECTION 10.08	COMPLIANCE WITH ALL LAWS.....	22
SECTION 10.09	COMPLIANCE WITH BOARD'S POLICIES.	23
SECTION 10.10	CONFLICT OF INTEREST.....	23
SECTION 10.11	ACCURACY AND UPDATE OF INFORMATION.	23
SECTION 10.12	NOTICES.	23
SECTION 10.13	AMENDMENTS.....	24
SECTION 10.14	SEVERABILITY.	24
SECTION 10.15	GOVERNING LAW.	24
SECTION 10.16	INTERPRETATION.	24
SECTION 10.17	CONSENTS AND APPROVALS.....	25
SECTION 10.18	COUNTERPARTS.	25

APPENDICES

Appendix A	Request for Proposal
Appendix B	Proposal
Appendix C	Statement of Work
Appendix D	Price Sheet and List of Equipment and Software
Appendix E	Implementation Schedule
Appendix F	Acceptance Testing Specifications
Appendix G	Payment Schedule
Appendix H	Performance Bond
Appendix I	Evidence of Insurance
Appendix J	Information Security and Identity Protection Policy
Appendix K	Minority and Women-Owned Business Enterprise Commitments

AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of _____, 20__ (the "Effective Date") between _____ ("Contractor"), a corporation organized and existing under the laws of the State of _____ and having its principal place of business at _____, _____, _____, and the Board of Election Commissioners of the City of Chicago ("Board"), a unit of government organized and existing under the laws of the State of Illinois and having its principal place of business at 69 W. Washington Street, Suites 600/800, Chicago, Illinois, 60602.

WHEREAS, under the laws of the State of Illinois the Board has charge of and must make provisions for all elections to be held in the city of Chicago at such times and places provided for by law; and

WHEREAS, the Board has charge of the registration of voters in the city of Chicago and for the maintenance of voter registration records and lists; and

WHEREAS, the Board desires to develop and use an electronic poll book system; and

WHEREAS, Contractor has experience and expertise in designing, installing and testing electronic poll book systems; and

WHEREAS, the Board wishes to obtain, and Contractor is willing to provide, an Electronic Poll Book System on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings and promises contained herein, the parties hereto agree as follows:

Article I. Contents of Agreement

Section 1.01 Contents of Agreement.

This Agreement is comprised of the general terms and conditions set forth herein, together with all the following appendices and referenced attachments, which are incorporated herein and made a part of this Agreement, as well as any change orders or modifications subsequently executed pursuant to the provisions hereof (collectively, the "Contract Documents"):

- Appendix A:** Request for Proposal issued by the Board, including all addenda and exhibits thereto, referred to collectively as the "RFP"
- Appendix B:** Contractor's Proposal in response to the RFP, and all subsequent correspondence and documents submitted by Contractor prior to the Effective Date of this Agreement, as defined herein, referred to collectively as the "Proposal"
- Appendix C:** Statement of Work
- Appendix D:** Price Sheet and List of Equipment and Software
- Appendix E:** Implementation Schedule
- Appendix F:** Acceptance Testing Specifications
- Appendix G:** Payment Schedule

- Appendix H:** Performance Bond (if applicable)
Appendix I: Evidence of Insurance
Appendix J: Information Security and Identity Protection Policy
Appendix K: Minority and Women-Owned Business Enterprise Commitments

Section 1.02 Entire Agreement.

This Agreement, including all appendices in Section 1.01 hereof (the “contract documents”), constitutes the entire agreement between the Board and the Contractor and supersedes all communications, oral and written, between the parties on this subject matter. In the event there is a conflict between a term or condition in the body of this Agreement and a term or condition contained in an appendix to this Agreement, or such term or condition in the body of this Agreement cannot be mutually complied with or performed simultaneously with an obligation or term or condition of an attached appendix, the terms and conditions in the body of this Agreement shall control and supersede any appendix attached hereto.

Article II. Definitions

Section 2.01 Definitions and terms.

“Bid” means an offer, submitted in response to an invitation for bids, to perform a contract, at a fixed price, on the terms and conditions specified in the invitation for bids.

“Bidder” means a person submitting a bid.

“Board” means the Board of Election Commissioners for the City of Chicago.

“Commissioner” means a Commissioner of the Board.

“Contract” means a contract for the supply of products or services, but does not include a contract for public works, construction, or professional services such as contracts with attorneys, accountants, consultants, and public relations firms.

“Contract documents” means all documents referred to in this Agreement and in the appendices hereto.

“Contractor” means a person having a contract with the Board or seeking to enter into a contract with the Board and includes bidders and proposers.

“Deliverables” means and includes all products and services that Contractor is required to deliver and/or produce to the Board according to the Agreement.

“Electronic Poll Book System” or “System” shall mean and include all application software, equipment, and third party software and equipment to be provided by Contractor and necessary for the System to comply with and meet the requirements and specifications of the contract documents, including but not limited to the equipment and software listed in **Appendix D** hereto.

“Evaluation Committee” means the Purchasing Agent, the Executive Director, and such other employees, assistants or consultants the Board may assign, who shall be responsible for reviewing and evaluating each responsive proposal received by the Board and who may recommend to the Purchasing Agent, the Executive Director or the Board that an award be made to a proposer or proposers.

“Executive Director” means the Executive Director of the Board.

“Equipment” means all tangible personal property such as hardware, computers, cables, connectors, modems, parts and materials provided by Contractor as the items listed in **Appendix D** hereto. “Equipment” shall include any Third Party Equipment supplied by Contractor or its subcontractors.

“Invitation for Bids” means a document and the process utilized for soliciting bids that set forth the description of the goods or services to be provided and all of the terms and conditions (other than price) of the contract.

“Office” refers to the Board’s central office located at 69 West Washington Street, Suites 600/800, Chicago, Illinois 60602.

“Person” means an individual or a corporation, partnership, joint venture, limited liability company, sole proprietorship, or other legal entity, but does not include any unit of federal, state or local government or their respective employees acting within the scope of their employment.

“Products” means all personal property, including but not limited to equipment, materials, software, printing, manuals, documentation and insurance, and the financing of those products.

“Professional and artistic services” means those services provided under contract to the Board by a person or business, acting as an independent Contractor, qualified by education, experience and technical ability.

“Proposal” means an offer, submitted in response to a request for proposals, to perform a contract on terms and conditions to be agreed upon by the Board and the proposer.

“Proposer” means a person or entity submitting a proposal.

“Purchasing Agent” means the Purchasing Agent of the Board and includes the Purchasing Agent’s authorized designees.

“Responsible” refers to a bidder, proposer, or Contractor that, in the determination of the Board, possesses the judgment, skill, ability, capacity, financial resources, experience, reliability, and integrity required to perform a contract.

“Responsive” refers to a bidder, proposer, or Contractor that has submitted a bid or proposal that complies with all requirements of the invitation for bids or the request for proposals.

“Request for Proposal” or “RFP” means a document utilized for soliciting proposals.

“Services” means the furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

“Software” means all application software, firmware and third party software necessary for the successful operation and performance of the Electronic Poll Book System, including but not limited to those items listed in **Appendix D** hereto.

“Specifications” means any description, provision or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service or other item to be procured under this Agreement. Specifications may include a description of any requirement for

inspecting, testing, or preparing a supply, service, professional or artistic service, construction or other item for delivery. In these specifications, instructions for bidding and bidding requirements are addressed to "Bidder." In these specifications, instructions for proposers and proposal requirements are addressed to "Proposer." Specifications for performance under the contract awarded to a successful Bidder/Proposer are addressed to "Contractor."

"Third Party Software" means any commercial "off the shelf" software that is proprietary to third parties and which is to be provided by Contractor without any modifications or as listed in **Appendix D** hereto.

"Third Party Software Modifications" means any and all modifications or enhancements made to any third party software listed in **Appendix D** by Contractor or any subcontractor for the purpose of enabling the Electronic Poll Book System to perform as required.

"Warehouse" refers to the Board's central storage facility located at 1819-1869 West Pershing Road, Chicago, Illinois.

Article III. Design, Installation And Testing Of Electronic Poll Book System

Section 3.01 Design, Installation and Testing of Electronic Poll Book System.

On the terms and subject to the conditions hereinafter set forth, Contractor agrees to design, build, install, test, train Board personnel for, supply all equipment, software and other licenses and permits for, and otherwise make fully operational, an Electronic Poll Book System ("System") in accordance with the schedule provided herein. Contractor further agrees to grant a license to the Board for the use of all necessary software, subject to and in accordance with the terms and conditions set forth herein. The specifications and performance capabilities of the Electronic Poll Book System shall be those as set forth in the contract documents, as defined herein.

Section 3.02 Statement of work.

The nature and scope of the tasks, services, goods and products ("Deliverables") to be provided by Contractor to the Board under this Agreement are more specifically set forth in the Statement of Work attached hereto as **Appendix C**. Included within the Statement of Work shall be a detailed plan to deliver and implement the System, specifying the tasks to be completed, the individual or entity responsible for implementing the System, and the estimated time needed to implement the System ("Implementation Schedule") as set forth in **Appendix E**.

Section 3.03 Term.

This Agreement shall have a term of _____ () months from the Effective Date hereof unless otherwise agreed in writing by the parties or unless terminated earlier as provided herein.

Section 3.04 Time of Essence.

Contractor acknowledges that the Electronic Poll Book System must be fully completed, installed, tested and made operational not later than _____ () months after the Effective Date of this Agreement ("Completion Date"). Contractor further acknowledges that the Board has selected Contractor to provide the Electronic Poll Book System based in material part on Contractor's representations to the Board that Contractor could timely design and

complete the System not later than the times set forth in the Implementation Schedule herein. Accordingly, Contractor and the Board agree that time is of the essence in this Agreement.

Section 3.05 Application Software License; Services; Term.

(A) Grant of License

Upon full payment by the Board of the software license fee stated in **Appendix D** attached hereto, and subject to the terms and conditions in this Agreement, Contractor shall grant the Board a personal, nonexclusive, nontransferable license to use the Application Software solely for the Board's use under applicable law and solely in conjunction with the Electronic Poll Book System. The license shall commence upon delivery of the Application Software. The Application Software licensed shall include in its meaning any improvements, additions or modifications of the version or versions of the Application Software that Contractor has otherwise expressly licensed the Board to use and materials related thereto and all modifications, documentation, and technical information provided to the Board in written form for use in connection with the Application Software. The license may not be assigned or transferred by the Board, voluntarily or by operation of law, to any party without the Contractor's express prior written permission. The Board shall have no power to grant sub-licenses, prepare derivative works or modify the Software. Any use of all or any portion of the Application Software not expressly permitted by the terms of this Agreement is strictly prohibited.

(B) Ownership

Contractor shall retain ownership of all copyright and other proprietary rights in the Application Software and any modifications or translations thereof. The Board shall acquire only the limited license to the Application Software granted under the express terms of this Agreement.

(C) Identifying marks

No right is granted to the Board by this Agreement to use any identifying mark (such as, but not limited to, trade names, trademarks, trade devices, service marks or symbols, and abbreviations, contractions or simulations thereof) owned by, or used to identify any product or service of Contractor or any affiliate of Contractor. Board agrees that it will not, without the prior written permission of Contractor, (i) use any such identifying mark in advertising, publicity, or in any other manner to identify any of its products or services, and/or (ii) represent, directly or indirectly, any product or service of the Board as a product or service of Contractor or such an affiliate.

(D) Price

In consideration of the grant of the license, the Board shall pay Contractor the software license fee stated in this Agreement. Subject to payment of the applicable annual license fees, Contractor agrees to continue to license the Application Software to the Board for as long as the Board desires to use such software.

(E) Prohibited Acts

Except as may be consented to in writing by Contractor or except to the extent required by law or expressly permitted by this Agreement, the Board shall not (and shall not permit any other party to):

(1) Transfer a copy onto any other disk or hardware or otherwise copy the Application Software in whole or in part except for purposes of system backup;

(2) Reverse engineer, disassemble, decompile, decipher or analyze the Application Software in whole or in part;

(3) Alter or modify the Application Software in any way or prepare any derivative works of the Application Software or any part of the Application Software;

(4) Alter, remove or obstruct any copyright or proprietary notices from the Application Software, or fail to reproduce the same on any lawful copies of the Application Software;

(5) Use the Application Software other than on the equipment at locations utilized by the Board in conducting election-related activities, or in offices or storage facilities of the Board; or

(6) Export, directly or indirectly, any Application Software to any country outside of the United States, or make disclosure of the Application Software to any foreign national where such disclosure would require an export license or other governmental permit.

(F) Confidentiality

The Board acknowledges that the Application Software is the sole and exclusive property of Contractor or its subcontractors, contains confidential information of Contractor or its subcontractors and embodies certain valuable proprietary information and trade secrets of Contractor or its subcontractors. Except as expressly permitted by this Agreement, the Board shall not give or make available the Application Software, or any part thereof, or otherwise disclose confidential information contained in, supplied with or relating to the Application Software to any third party, except to such of its employees or agents as are required to have access to the Application Software in the normal course of use of the Application Software and under like conditions of confidentiality as contained in this paragraph. The provisions of this paragraph shall survive the termination or expiration of this Agreement.

(G) Return of Software

Upon termination or expiration of this Agreement the Board shall (i) forthwith return to Contractor all Application Software in its possession or control, or, if so requested by the Contractor, destroy all such Software and (ii) purge all Application Software from any electronic media, and certify in writing to the Contractor that it has been destroyed and purged.

(H) Legal Proceedings

In the event that the Board becomes a party to any litigation or other legal proceeding seeking, in whole or in part, directly or indirectly, release of Contractor's Software source code or any other information identified by Contractor as confidential, the Board will notify Contractor and will not object to Contractor's participation in such proceeding to the extent necessary to protect Contractor's confidential information.

Section 3.06 Licenses and Use of Third Party Software.

Contractor shall provide to the Board one or more licenses or sublicenses to use each and every item of Third Party Software, as defined herein, effective on the date of Final Acceptance,

and the Board thereupon will assume Contractor's obligations thereunder, except those with respect to payment to the licensor or sub-licensor by Contractor. Subject to execution of and compliance by the Board with the terms of any required license agreement, all such licenses and sublicenses shall be fully-paid, perpetual and irrevocable, shall be subject to no restrictions or limitations which would prevent the use of the Electronic Poll Book System, or in connection therewith the Third Party Software or Third Party Software Modifications in the System. Contractor shall cause to be delivered to the Board such documents and information as the Board may reasonably deem necessary to verify Contractor's right and authority to grant any sublicense on behalf of the owners of the Third Party Software. Contractor represents and warrants that it has obtained the right to acquire and so assign such licenses to the Board and all necessary rights to the Third Party Software. None of the assignments of any license or sublicense by Contractor to the Board, nor the acceptance thereof by the Board nor the assumption by the Board of any license or sublicense shall waive or release or otherwise diminish Contractor's responsibilities to the Board under this Agreement, and no provision of any such license or sublicense or agreement with respect thereto shall be deemed to modify any provisions of this Agreement.

Section 3.07 Compliance with Third Party License Agreements.

The Board hereby represents and warrants that the Board will comply fully and completely with all Third Party License Agreements that impose any obligations upon the Board pursuant to Section 3.06 hereof. The Board will indemnify Contractor from, and pay all damages, losses, fees and expenses incurred by Contractor (including reasonable attorney's fees) as a consequence of any failure of the Board to so comply.

Section 3.08 Updates, Enhancements and Modification of Third Party Software.

Contractor shall provide or cause to be provided to the Board any updates, enhancements of or modification to Third Party Software that Contractor as a licensee of the Third Party Software is provided free of charge promptly after the same first was provided to Contractor prior to the expiration of the Warranty Period under this Agreement and shall notify the Board of the Board's right to purchase any updates, enhancements or modifications to the Third Party Software from the respective licensor thereof at the rates offered by such licensor promptly after the same first was offered to Contractor prior to the expiration of the Warranty Period under this Agreement.

Section 3.09 Site Survey.

Contractor represents that it has inspected the Sites located at the Board's warehouse at 1819-1869 West Pershing Road and at 69 West Washington Street in Chicago, Illinois, as the case may be, performed and completed a site survey for such Site or Sites and is prepared to proceed with performance under the terms of this Agreement. Contractor shall provide to the Board the site operation specifications required for the equipment at each location, as the case may be. Contractor will make reasonable efforts to consult with and assist the Board to determine if the site conditions at such locations meet or exceed the operating specifications for the equipment.

Section 3.10 Training.

Contractor shall provide to the Board's staff sufficient training in the operation, maintenance and repair of all aspects of the Electronic Poll Book System to the extent of the Board's responsibilities hereunder, in accordance with this Agreement. Contractor shall provide

to the Board's staff, to election judges and to the voting public such training as identified in the Contractor's Proposal and in the Statement of Work, **Appendix C** hereto, provided that the topics to be taught, the amount of time for preparation and presentation, the course schedules and the amount of funds to be budgeted and spent for these activities shall be subject to prior approval by the Board.

Article IV. Acceptance Testing; Final Acceptance

Section 4.01 Design of Acceptance Testing Specifications.

Contractor shall prepare and deliver to the Board detailed plans for the testing and acceptance of the Electronic Poll Book System, hereinafter referred to as "Acceptance Testing Specifications."

Section 4.02 Board Approval of Specifications.

The Acceptance Testing Specifications shall be subject to written approval by the Board and shall, upon such approval, be appended and made a part of this Agreement as **Appendix F** hereto. Approval of the Acceptance Testing Specifications by the Board does not constitute Final Acceptance as defined in Section 4.07 hereof nor does such approval excuse Contractor from delivering the completed and fully operational Electronic Poll Book System materially complying with the requirements of this Agreement, provided, however, that such requirements may be modified by written amendments to this Agreement signed by both parties in accordance with the provisions hereof.

Section 4.03 Component Acceptance Tests.

The Board shall, following delivery and receipt of any component of the Electronic Poll Book System, test such component in accordance with the Acceptance Testing Specifications, to establish that the component(s) of the Electronic Poll Book System in question meet the Acceptance Testing Specifications. Such acceptance tests shall be conducted on the Board's site and equipment in order to determine whether the component(s) in question meet the Acceptance Testing Specifications. The results of all testing shall be thoroughly documented by the Board and provided to the Contractor for review. Contractor shall provide sufficient technical assistance and oversight to the Board as may be necessary to assist the Board in properly conducting the acceptance testing.

Section 4.04 Failure of Acceptance Testing; Re-testing.

If upon testing pursuant to Section 4.03 any component of the Electronic Poll Book System does not successfully meet the Acceptance Testing Specifications applicable to such component, the Board shall promptly notify the Contractor in writing (hereinafter, a "notice of failure") and shall specify with as much detail as possible in which respects the component failed to meet the Acceptance Testing Specifications. Contractor shall make such necessary corrections and modifications in the component as will permit the component to be ready for re-testing. Contractor shall notify the Board when such repairs or replacements have been made, and the Board shall commence and complete re-testing of the component within ten (10) days of such notice from Contractor.

Section 4.05 Board’s Rights Upon Termination After Failure to Meet Acceptance Tests.

Upon the Board’s termination of this Agreement after failure of the System to meet Final Acceptance in accordance with Section 4.07 below, the Board shall promptly return all equipment and software and associated documentation and materials to Contractor at Contractor’s expense.

Section 4.06 Acceptance of System Components.

A System component shall be deemed to have been accepted by the Board on the earlier to occur of (i) failure of the Board to timely test the System component or (ii) failure of the Board to timely issue a notice of failure, or (iii) completion by Contractor of corrections, or replacement of the System component by Contractor and satisfaction of all repeated acceptance testing by the Board in accordance with the Acceptance Testing Specifications, following receipt of notice of failure.

Section 4.07 Final Acceptance.

The Board and Contractor shall conduct final acceptance testing of the Electronic Poll Book System, successful completion of which shall constitute “Final Acceptance.” If the Board reasonably believes that the Electronic Poll Book System has passed the Final Acceptance testing, the Board shall in writing notify Contractor that the System has passed the Final Acceptance testing. If the Board reasonably believes that the Electronic Poll Book System does not successfully pass the testing for Final Acceptance, the Board shall, within three (3) business days after completion of Final Acceptance Tests, notify the Contractor in writing (hereafter, “notice of failure”) and shall specify with as much detail as possible in which respects the System failed to pass the Final Acceptance test. Contractor shall make such necessary corrections and modifications in the System as will permit it to be ready for re-testing not later than fifteen (15) days from the date of receipt of the Board’s notice of failure. Upon completion of such corrections and modifications, the Board and Contractor shall promptly complete re-testing of the Electronic Poll Book System. Successful use of the System shall mean that the System functions properly and in accordance with the Contract Documents and this Agreement in all material respects. Final Acceptance will only be final upon the transmittal of a written Certificate of Acceptance authorized and executed by the Board, which shall not be withheld or delayed except in accordance with this Agreement; execution of this Agreement by the Board shall not constitute Final Acceptance of the Electronic Poll Book System.

Article V. Terms of Payment.

Section 5.01 Payment Terms.

Payment terms are described in the Payment Schedule appended hereto and made a part hereof as **Appendix G**. The total price for all performance under this Agreement, including all goods and services and all equipment maintenance, software support and maintenance and license fees shall be _____ Dollars (\$ _____) (the “Purchase Price”) as described in **Appendix D**.

Section 5.02 Quantity.

Any quantities shown in any RFP related to this Agreement are estimates only provided for proposal solicitation purposes. The Board reserves the right to increase or decrease quantities ordered under this Agreement provided that the Board shall give Contractor written notice of

said quantity changes. If the Board increases the quantities of deliverables and the amount of the Purchase Price is exceeded as a result, any such increase shall be subject to an agreed written amendment to this Agreement as provided herein. The Board shall be obligated to pay for only such quantities as are ordered by the Board.

Section 5.03 Most Favored Customer.

For a period of 12 months following the Effective Date hereof, if Contractor enters into an agreement with a final retail end-user that contains substantially the same Equipment and Software contained in this Agreement for use in the United States and such final retail end-user is required to pay to Contractor a lower amount than the Board is required to pay to Contractor under this Agreement, Contractor agrees to amend this Agreement to conform amounts due to Contractor under this Agreement to those becoming due to Contractor under the agreement with such final retail end-user. For a period of four years following the Effective Date, Contractor agrees to offer the Board the best pricing it then makes available to any final retail end-user for use in the United States with respect to any new purchases of election equipment and/or software from Contractor or from entity to which Contractor may, in accordance with this Agreement, assign this Agreement. For purposes of this Section, “best pricing” shall take into consideration reductions in the effective price charged by Contractor by reason of rebates, financial incentives, discounts and value points with respect to the purchase of the equipment and/or software.

Section 5.04 Fixed Prices.

Except as otherwise set forth, this Agreement includes firm fixed prices. Contractor acknowledges and agrees that the amounts to be paid to Contractor pursuant to this Agreement are in full satisfaction of all of the services to be performed, all equipment to be provided and all proprietary rights and licenses to be provided or delivered by Contractor hereunder and that no other payments of any nature whatsoever shall be due and owing to Contractor under this Agreement, unless otherwise expressly provided in this Agreement.

Section 5.05 Payments.

At the times set forth in the Payment Schedule, Contractor shall deliver to the Board an itemized invoice as described in Section 5.08 hereof requesting payment for materials delivered and services rendered in accordance with the Payment Schedule. Payments shall be based on unit prices of services actually provided, except as otherwise agreed by the Board and Contractor. The Board will not be obligated to pay for any product or services if Contractor is noncompliant with the terms and conditions of this Agreement. Contractor shall have no claim against the Board for any expense not covered by this Agreement. The Board shall pay Contractor the amount indicated in such invoice within 60 days after receipt of the invoice. The Board shall retain ten percent (10%) of the Purchase Price (“retention payment”), which amount shall not be paid to Contractor until Final Acceptance as defined in Section 4.07 hereof.

Section 5.06 Interest.

The Board agrees to pay interest of 1.0% per month on any amounts not paid to Contractor by the Board at the times such amounts are required to be paid under this Agreement; provided, however, this shall not apply to any retention payments retained under Section 5.05 hereof.

Section 5.07 Taxes.

Payments specified in this Article V are exclusive of all excise, sale, use and other taxes imposed by any federal, state, municipal or other governmental authority, all of which taxes shall be paid by the Board. The Board is responsible for obtaining and providing to Contractor any certificate of exemption or similar document required exempting any sale from sales, use or similar tax liability.

Section 5.08 Invoices.

Upon proper performance by Contractor of its obligations under this Agreement, Contractor shall submit to the Board an invoice in a form approved by the Board certifying that the work performed was in accordance with the Agreement. Invoices shall include part number, description, quantity, unit price, and total consistent with the descriptions of items included in this Agreement. An invoice delivered to the Board shall constitute a representation by Contractor to the Board that the material and services covered by such invoice have progressed to the point indicated, the quality of the materials and services covered by such invoice is in accordance with this Agreement, and that Contractor is entitled to payment in the amount requested.

Section 5.09 Payments to subcontractors.

Contractor shall timely pay each subcontractor out of the amount paid to Contractor under this Agreement the amount to which such subcontractor is entitled in accordance with the terms of Contractor's contract with such subcontractor. The Board shall have no obligation to pay or to be responsible in any way for payment to a subcontractor retained by Contractor.

Article VI. Project Management

Section 6.01 Priority of Key Personnel; Subcontractor; Resources.

Contractor shall assign and maintain a staff of dedicated and competent personnel ("Key Personnel") that is fully equipped and qualified to perform Contractor's duties under this Agreement. Contractor warrants that the Board, during the term of this Agreement, will receive first priority with Contractor's Key Personnel, subcontractors and resources notwithstanding any other contractual obligations, present or future, of Contractor toward third parties. Contractor shall identify the person who will serve as Contractor's project manager under this Agreement. In addition, Contractor agrees not to change or substitute its Key Personnel or resources to perform any function under this Agreement without the Board's written consent, excluding, however, changes due to resignations, illness or other matters beyond Contractor's reasonable control. The Board's consent shall not unreasonably be withheld if the substituted personnel or subcontractor possesses equivalent training, experience and qualifications as the Key Personnel or subcontractor for whom the substitution is made. Contractor's failure or refusal to abide by the provisions of this Section, after notice and opportunity to cure, shall constitute an event of default under this Agreement.

Section 6.02 Board's Right to Replace.

The Board shall have the right to require Contractor to replace (or cause any subcontractor to replace) any personnel of either Contractor or subcontractor working on the Electronic Poll Book System whom the Board reasonably deems, in its discretion, to be unfit or otherwise unsatisfactory. Such personnel shall be replaced promptly by Contractor or by the

subcontractor with individuals of equal or superior skill and experience. Contractor's failure or refusal to abide by the provisions of this Section shall, after notice and opportunity to cure as provided herein, constitute an event of default under this Agreement.

Section 6.03 Progress Reports.

Subject to Section 6.04 below, Contractor shall proceed diligently to complete all work required by this Agreement by the dates stated in the Implementation Schedule and shall deliver to the Board, not less frequently than every _____ weeks, written progress reports summarizing the work completed to date, whether such work then is on schedule, what work is scheduled for the next reporting period and such other information as the Board may reasonably request.

Section 6.04 Force Majeure, Delays and Extensions.

- (A) Contractor shall commence work on the Electronic Poll Book System promptly upon execution of this Agreement and shall proceed and diligently to complete the Electronic Poll Book System by the dates required in the Implementation Schedule contained in **Appendix E**, except as such dates may be extended pursuant to this Section. In the event that the work completed at any time is materially less than that required under the Implementation Schedule, after giving effect to all permitted extensions, and it reasonably appears that Contractor cannot complete the Electronic Poll Book System by the times required under the Implementation and Schedule, after giving effect to any permitted extensions, such event, after notice and opportunity to cure as provided for herein, constitutes an event of default.
- (B) A permitted extension is any of the following: (i) an extension which has been granted by the Board pursuant to this Section and memorialized by execution of an amendment to this Agreement; (ii) an extension shall be deemed automatically granted to the extent that a delay in completion has been caused by an excusable Event of Delay as defined in paragraph (C) below, and Contractor timely complies with this paragraph. Contractor shall, within five (5) business days of the date upon Contractor first has knowledge of the cause of the delay, notify the Board, in writing, of the cause of the delay, stating approximately the number of days Contractor expects to be delayed and stating that Contractor intends to request an extension based on such delay and, within five (5) business days of the cessation of the event causing the delay, notifies the Board, in writing of such cessation. In the event that the delay arises as a result of a Change Order Request by the Board, a request for an extension of time contained in the subsequent Change Order Proposal submitted by Contractor shall be deemed sufficient for purposes of this paragraph to automatically create an extension for such period. Compliance with this paragraph is a condition precedent to receipt of an extension. In the event of a failure to comply, the Contractor shall not be entitled to an extension of time. Contractor must demonstrate that the activity being delayed was delayed by the stated cause of delay and that the delay in such activity necessarily resulted or necessarily would result in a delay of the relevant completion date beyond the relevant date required by the System Schedule, after taking all practicable actions to reschedule work and activities so as to minimize the effect of the event which causes the delay.
- (C) The following shall constitute "Excusable Events of Delay": delays caused by the Board or its employees or agents, natural disasters, fires, epidemics, wrecks, actions or decrees imposed by governmental bodies, strikes, lockouts, enemy or hostile governmental

action, terrorism, power failure, civil commotion, insurrection, sabotage, communications system failure not the fault of the affected party, or by any other event beyond the reasonable control of Contractor. The Board and Contractor, acting reasonably and in good faith, will mutually determine the number of days that Contractor has been delayed by an Excusable Events of Delay.

Section 6.05 No Damages for Delay.

Contractor, its employees, agents and subcontractors shall not be entitled to any damages or additional monetary compensation from the Board or be reimbursed for any losses or for expenses on account of any delay resulting from a permitted extension (other than those delays caused by the Board).

Article VII. Warranties and Representations

Section 7.01 Technical Consistency, Competency and Standards.

Contractor undertakes the responsibility, in view of its superior technical experience, skill and knowledge, of providing all documents, equipment and software necessary to enable the Electronic Poll Book System to meet the requirements of this Agreement. Contractor undertakes the responsibility, in view of its superior technical expertise, skill and knowledge of causing the Electronic Poll Book System to meet the requirements of this Agreement. Contractor warrants that it is fully qualified to perform this Agreement in its area of expertise, and represents that (a) by its own independent investigation it has ascertained (i) the nature of the goods and services required, (ii) the conditions involved in performing services hereunder, and (iii) its obligations under this Agreement, and will (b) verify all information furnished by the Board, satisfying itself as to the correctness or accuracy of that information, and if incorrect or inaccurate, has taken appropriate exception and has determined correct and accurate information. Any failure by Contractor to investigate independently and become fully informed will not relieve Contractor from its responsibilities under this Agreement.

Section 7.02 General Standards of Workmanship.

Contractor shall install and make fully operational the Electronic Poll Book System, and otherwise carry out and perform the duties and obligations required of it under this Agreement with the high degree of skill, care and diligence customarily shown by a contractor experienced, knowledgeable and skilled in the election industry. Contractor shall assure that all services which require the exercise of professional skills or judgment shall be accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Contractor shall remain responsible for the professional and technical accuracy of all services and deliverables furnished under this Agreement, whether such services or deliverables are furnished by Contractor or by others on its behalf. No review, approval, acceptance nor payment for any and all services or deliverables by the Board shall relieve Contractor from the responsibilities referenced herein.

Section 7.03 Electronic Poll Book System.

For a period of five (5) years after the date of Final Acceptance as described in Section 4.07 hereof (the "Warranty Period"), the Electronic Poll Book System is warranted by Contractor (1) to be in good operating order in conformity with Contractor's specifications and descriptions of the same contained in this Agreement, (2) to be free from programming errors which would

cause the Electronic Poll Book System to fail to materially comply with this Agreement, and (3) against defects in workmanship and material which would cause the Electronic Poll Book System to fail to materially comply with this Agreement. During the Warranty Period, Contractor shall, without additional charge, repair or replace any component that fails during the applicable warranty period because of a defect in workmanship or material, provided that the Board has promptly reported such defect to Contractor in writing. All replaced products or parts shall become the property of Contractor or Contractor's subcontractor. If at any time during the Warranty Period the Software fails to materially conform to the provisions of any warranty contained in this Agreement, Contractor shall correct such defect, error or non-conformity with the warranties herein. Contractor shall also assign to the Board, not later than the date of Final Acceptance, any third party manufacturer's warranty for third party equipment which extends beyond the date of the Final Acceptance and which are assignable.

Section 7.04 Proprietary Rights; Liens and Encumbrances; Compliance with All Laws.

Contractor warrants that on the date of Final Acceptance, the equipment and the software, excepting third party equipment and third party software, furnished by Contractor, and all rights thereto, are owned or will be owned by Contractor, and do not violate any third party's copyright, patent, trade secret or other proprietary right. Contractor further warrants that the equipment will on the date of delivery be free and clear of all liens and encumbrances (other than a security interest in favor of Contractor). Contractor warrants that it has full power and authority to grant the rights granted in this Agreement to the Board with respect to the Software without the consent of any other person; and that neither the performance of the service by Contractor nor the license to and the use by the Board of the software and documentation (including the copying thereof) will infringe any registered copyright, trade secret, trademark, patent, invention, proprietary information, nondisclosure or other rights of any third party. Contractor warrants that the Software, its license to and use by the Board, and the performance by Contractor of the services hereunder shall be in compliance with all applicable laws, rules and regulations in effect on the Effective Date of this Agreement.

Section 7.05 Configuration.

Contractor warrants that the equipment and software includes all software and items of equipment necessary to cause the Electronic Poll Book System to meet the operating specifications set forth in the Contract Documents.

Section 7.06 Compatibility.

All equipment, materials and software originally provided under this Agreement (excluding components replaced under warranty) shall be new and shall be consistent and compatible with each other and with any equipment and software utilized in the Electronic Poll Book System. In the event Contractor provides replacement equipment parts or components, Contractor may, in Contractor's sole discretion, provide new, used or reconditioned equipment, parts and components.

Section 7.07 Warranty Requirements.

All of the above warranties are contingent upon payment of all applicable annual maintenances charges and license fees, if any, and the proper use of the Electronic Poll Book System by the Board or any assignee of the Board. These warranties will not apply to any damage, defect, malfunction or failure caused by: (i) accident, unusual physical, electrical or

electro-magnetic stress, neglect, misuse, failure of electric power, air conditioning, humidity control, failure of any element not furnished by Contractor, operation with media not meeting or not maintained in accordance with Contractor specification, or causes other than ordinary use except to the extent the problem arises due to side specifications proposed by Contractor, or (ii) modification of the System by the Board or any person other than Contractor without written approval of Contractor, to the extent of such modification, (iii) removal or alteration of serial numbers, (iv) the Board's failure to follow Contractor's instructions for installation, operation or maintenance of the System, (v) use by any person other than employees of the Board or persons or persons under the direct supervision of the Board or (vi) power failures or surges, lightening, flood, accident, terrorist incident, actions of third parties or other events outside of Contractor's reasonable control, or (vii) physical, mechanical, electrical or magnetic stress not expressly contemplated by the documentation.

Section 7.08 No Other Warranties.

Contractor makes no warranties other than those expressly provided in this Agreement. Contractor disclaims all other warranties, either express or implied, not expressly and specifically set forth herein, except that Contractor shall not disclaim a warranty of fitness for the foreseeable uses or purposes of the Electronic Poll Book System as reasonably inferable from the express terms of this Agreement. In no event whatsoever shall Contractor be liable for indirect, special or consequential damages as a result of its breach or any of the provisions of this Agreement.

Article VIII. Indemnification

Section 8.01 Indemnification.

(A) Duty.

Contractor must defend, indemnify, keep and hold harmless the Board, its officers, representatives, agents and employees (collectively, the "Indemnified Parties") from and against any and all losses, including those related to:

- (1) injury, death or damage of or to any person or property;
- (2) any infringement or violation of any property right (including any patent, trademark or copyright);
- (3) Contractor's failure to perform or cause to be performed Contractor's covenants and obligations as and when required under the contract with the Board, including Contractor's failure to perform its obligations to any subcontractor;
- (4) the Board's exercise of its rights and remedies under this Agreement; and
- (5) injuries to or death of any employee of Contractor or any subcontractor under any workers compensation statute.

"Loss" or "Losses" means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or related to Contractor's breach of this Agreement or to Contractor's negligent or otherwise wrongful acts or omissions or those of its officers, agents, employees, consultants, subcontractors or licensees.

At the Board's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the Board has the right, at its option, to participate, at its own costs, in the defense of any suit, without relieving Contractor of any of its obligations under this Agreement, any settlement must be made only with the prior written consent of the Board, if the settlement requires any action on the part of the Board.

To the extent permissible by law, Contractor waives any limits in the amount of its obligations to indemnify, defend or contribute to any sums due under any Losses, including any claim by any employee of Contractor that may be subject to the Workers Compensation Act (820 ILCS 305/1, et seq.) or any other related law or judicial decision. The Board, however, does not waive any limitations it may have on its liability under the Workers Compensation Act or any other statute or judicial decision.

The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as a result of or during the Contractor's performance of service beyond the term. Contractor acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the Board are apart from and not limited by the Contractor's duties under this Agreement, including the insurance requirements set forth in the Agreement.

Section 8.02 Limitation.

Contractor's duty to indemnify does not apply to a Loss that arises solely out of the intentional misconduct on the part of the Indemnified Party seeking indemnification.

Section 8.03 No Limitation on Account of Insurance.

The insurance Contractor is required by this Agreement to carry, or does carry, or the insurance carried by any Indemnified Party, in no way limits or relieves Contractor of its duty to defend and indemnify the Indemnified Parties under this Agreement.

Article IX. Default, Damages and Termination.

Section 9.01 Default.

Either party has the right to terminate this Agreement if the other party breaches or is in default of any material obligation hereunder and the same has not been cured within fifteen (15) days after receipt of notice of such default by the defaulting party or within such additional cure period as the non-defaulting party may authorize. Notwithstanding the foregoing, in the event a cure cannot be completed within fifteen (15) days of notice, and the party responsible for such cure has commenced the cure within fifteen (15) days after notice and is thereafter diligently pursuing completion of same, the uncured default shall not be considered an Event of Default under this Agreement or give rise to a termination right provided such default is cured within thirty (30) days after receipt of the notice of default. Notwithstanding the foregoing, if Contractor is in default within 45 days prior to the date of any election, Contractor will be given seven (7) days after receipt of notice of such default by Contractor or within such additional cure period as the Board may authorize; however, in the event a cure cannot be completed within seven (7) days of notice and Contractor has commenced the cure within such seven (7) days after notice and completes the same within eight (8) days after expiration of such seven (7) day period provided, however, that the additional cure period shall not operate to interfere with the performance of a timely election.

Section 9.02 Events of Default.

In addition to any other provision in this Agreement, any of the following shall constitute an Event of Default hereunder:

(1) Contractor or Board fails to duly or timely perform any material term, covenant, obligation or provision of this Agreement and such failure is not cured within the same cure period provided in Section 9.01 after written notice thereof from the other;

(2) Causing, by any action or omission, the stoppage or delay of or interference with the services or work of any employee or other Contractor or subcontractor;

(3) Conviction in a criminal court or a finding of liability in civil court relating to the goods or services that Contractor provides to the Board or involving fraud or misconduct adversely affecting any governmental entity;

(4) Contractor ceases doing business as a going concern, or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts as they become due, or files a voluntary petition in bankruptcy, or be adjudicated a bankrupt or an insolvent, or files a petition seeking for itself any reorganization, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation or files an answer admitting the material allegations of a petition filed against it in any such proceeding or fails to have such petition filed against it dismissed within sixty (60) days after filing, or consents to or acquiesces in the appointment of a trustee, receiver or liquidator of it or all or any substantial part of its assets or properties;

(5) Any certificate, statement, representation or warranty contained herein or in the Proposal, or in any certificate or other document, heretofore or hereafter furnished by or on behalf of Contractor, is false in any material respect at the time the facts therein were stated or certified, or omitted any material fact necessary to make the facts therein stated or represented not misleading;

(6) If the Board fails to pay when due any sum owing to Contractor in accordance with the terms of this Agreement contained in Article V hereof;

(7) After expiration of any applicable cure period, any other Event constituting an Event of Default under the terms hereof.

Section 9.03 Remedies.

(A) Board's remedies.

Whether to declare Contractor in default is within the sole discretion of the Board. If the Board considers it to be in the Board's best interests, it may elect not to declare the default or to terminate the Agreement. The parties acknowledge that this provision is solely for the benefit of the Board and that if the Board permits Contractor to continue to provide the services despite one or more events of default, Contractor is in no way relieved of any of its responsibilities, duties, or obligations under this Agreement nor does the Board waive or relinquish any of its rights.

Upon the occurrence of an Event of Default by Contractor hereunder which is not timely cured after written notice by the Board and while such Event of Default is continuing, the Board may take any of the following actions:

(1) take over and complete the implementation of the Electronic Poll Book System, or any part thereof, either directly or through another, as agent for and at the reasonable cost of Contractor;

(2) terminate this Agreement as to all or any obligations yet to be performed hereunder;

(3) suspend this Agreement;

(4) obtain specific performance, an injunction or any other appropriate equitable remedy;

(5) obtain money damages (subject to the limitations and exceptions as set forth in this Agreement);

(6) withhold or set-off all or any part of Contractor's compensation hereunder for services not yet rendered or products not yet delivered; or

(7) obtain any other remedy elsewhere provided by this Agreement or by law or in equity.

(B) Contractor's remedies. Upon the occurrence of an Event of Default hereunder which is not timely cured after written notice by Contractor and which such Event of Default is continuing, Contractor may take any of the following actions:

(1) terminate this Agreement;

(2) obtain money damages;

(3) suspend Contractor's performance under this Agreement (in which case any completion dates or performance milestones shall be deemed extended by the length of time Contractor suspends performance);

(4) obtain any other remedy elsewhere provided in this Agreement or by law or in equity.

(C) Remedies cumulative and not exclusive

The rights and remedies set forth above are cumulative and not exclusive. The exercise or attempted exercise by the Board or Contractor of any right or remedy shall not be deemed to be an election and shall not preclude the subsequent exercise of any other or different right or remedy.

Section 9.04 Forbearance Not a Waiver.

If the Board or Contractor considers it to be in its best interests, it may forbear the exercise of any or all of its rights hereunder, without waiving the rights to exercise any or all of such rights at a subsequent time, and no such forbearance or delay in such exercise shall be deemed to be a waiver of any such right.

Section 9.05 Mutual Agreement.

This Agreement may be terminated by mutual written agreement of both the Board and Contractor.

Section 9.06 Non-Appropriation.

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Board for payments to be made under this Agreement, then the Board will notify Contractor of that occurrence and this contract will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. No payments will be made to Contractor under this Agreement beyond those amounts appropriated and budgeted to the Board by the City of Chicago and/or the County of Cook to fund payments under this Agreement.

Section 9.07 Early Termination; Termination for Convenience.

In addition to the termination permitted pursuant to any other section hereof, the Board may terminate this Agreement or any portion hereof at any time prior to Final Acceptance that the Board deems the Agreement no longer to be in the best interests of the Board by providing Contractor with ten (10) days prior written notice. During such ten-day period, Contractor shall restrict its activities, and those of the Subcontractors, to completing any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination shall be compensated. In the event of a termination for the convenience of the Board, the Board shall pay Contractor an amount equal to all non-recoverable costs for goods and services necessarily incurred by Contractor or expended by Contractor prior to notice of termination.

If the Board's election to terminate this Agreement for default pursuant to the default provisions of this Agreement is determined by any court of competent jurisdiction to have been wrongful, then in that case the termination is to be deemed to be an early termination pursuant to this Section.

Section 9.08 Consequential Damages.

In no event shall either of the parties hereto be liable to the other for the payment of consequential, special or punitive damages. However, the provisions of this Section shall not apply to the Contractor's obligation to indemnify the Board pursuant to Article VIII hereof.

Section 9.09 Rights and Obligations of the Parties on Termination or Expiration of Agreement.

In the event this Agreement expires or is terminated, each party shall forthwith return to the other all papers, materials, and other properties of the other party then in its possession. The terms, conditions, representations and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by either or both parties hereunder shall survive the completion of performance and termination of this Agreement, including without limitation the making of any and all payments due hereunder.

Section 9.10 Cooperation.

The parties shall cooperate in good faith to implement the terms of this Agreement. At such time as this Agreement is terminated or expires, the parties shall undertake in good faith efforts to assure an orderly transition to aid other provider of the services, if any. Contractor shall make an orderly demobilization of its own operations, provide, uninterrupted, the services until the effective date of termination or expiration, and otherwise comply with the reasonable requests and requirements of the Board in connection with the termination or expiration.

Article X. General Requirements.

Section 10.01 Performance bond.

When required by the Purchasing Agent, the successful proposer or proposers must, within seven (7) calendar days of receipt of notice from the Board, furnish a performance bond in such amount as determined by the Board in such form acceptable to the Board. The cost of furnishing any performance bond must be included in the prices quoted by Contractor as part of Contractor's proposal. Receipt of a written notice from the Board to furnish a bond constitutes tentative notice of pending award and proposal acceptance. Release of the contract will be withheld pending receipt and approval of a satisfactory bond. In the event that the proposer fails to furnish a performance bond within said period of seven (7) calendar days, then the deposit of the proposer, if any, will be retained by the Board as liquidated damages and not as a penalty.

Section 10.02 Insurance.

Contractor, at its own expense, must agree to maintain and shall maintain in effect at all time during the term of this Agreement sufficient insurance satisfactory to the Board against all losses and damages arising out of the fault or negligence of Contractor, its agents and subcontractors as set forth in **Appendix I** hereto and shall provide the Board with original certificates evidencing the required coverage. Contractor's insurance policies shall name the following as additional insured on all certificates of insurance: "The Board of Election Commissioners for the City of Chicago, and its Commissioners, officers, employees, agents and facilities." Contractor's duty to indemnify the Board is independent from, and not limited in any manner by, Contractor's insurance coverage obtained pursuant to this Section or otherwise.

Section 10.03 Non-Discrimination; Equal Employment Opportunity; Minority and Women-Owned Business Enterprise.

- (A) Equal Employment Opportunity/Non-Discrimination. During the term of this Agreement, Contractor must comply with and agrees to comply with all federal, state or local laws, statutes, ordinances or policies that make it unlawful for Contractor (i) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his/her compensation, or the terms, conditions, or privileges of his/her employment, because of such individual's race, color, religion, sex, sexual orientation, age, disability or national origin; or (ii) to limit, segregate, or classify Contractor's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee, because of such individual's race, color, religion, sex, sexual orientation, age, disability or national origin.
- (B) Minority and Women-Owned Business Enterprise. The City of Chicago has a Minority and Women-owned Businesses (M/WBE) Procurement Program. The Board is not bound by such program but has looked to Contractor to abide by the spirit of the City of Chicago's program. As part of the review and approval of this Agreement, Contractor has made certain commitments to use good faith efforts to achieve qualified Minority and Women-Owned Business Enterprise involvement and participation in the project described in this Agreement, a description of which is attached hereto as Appendix K, Minority and Women-Owned Business Enterprise Commitments. To ensure Contractor's continued compliance with these commitments, Contractor shall submit with each

invoice it submits to the Board for payment a certified statement describing in detail the level and scope of Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) participation and performance under this Agreement.

- (C) Remedies for Noncompliance. In the event that Contractor fails to comply with its commitments under this Section, it may be treated by the Board as an Event of Default and the Board shall have available to it all remedies available under Section 9.03 of this Agreement, including the right to withhold amounts due Contractor under this Agreement until Contractor provides a remedial plan demonstrating to the Board's satisfaction that Contractor will take appropriate corrective action or that Contractor has exhausted all good faith efforts to comply with its commitments but that it is unable to do so.

Section 10.04 Confidentiality.

Except as expressly and unambiguously permitted hereunder, each party shall hold in confidence and not use or disclose any materials or information disclosed by the other party that are confidential or proprietary, or which may be reasonably regarded as the confidential information of the other party ("Confidential Information"). Each party shall treat the other party's Confidential Information with at least the same degree of care it uses to prevent unauthorized disclosure or use of its own Confidential Information, but in no event less than reasonable care. Confidential Information will not include any materials or information that the recipient can prove (i) is now, or later becomes, through no act or failure to act on the part of the receiving party, generally known or available to the public; (ii) is known by the receiving party at the time of disclosure as evidenced by its records; (iii) is furnished to the receiving party by a third party, as a matter of right and without restriction on disclosure; (iv) is independently developed by the receiving party; (v) is the subject of a written permission to disclose provided by the disclosing party; or (vi) is disclosed in response to a valid order of a court or other governmental body.

To ensure that the Boards' Confidential Information, information assets and technology are secure from unauthorized access, misuse, disclosure, degradation or destruction, and to prevent unauthorized or unlawful disclosure of personal and private information, the Board has adopted an "Information Security and Identity Protection Policy", a copy of which is attached hereto as **Appendix J**. Contractor and each of Contractor's employees, temporary workers, subcontractors, or agents having access to the Board's information assets must sign a Confidentiality and Acceptable Use Agreement, which is included in **Appendix J**, and must abide by the Board's Information Security and Identity Protection Policy. Upon the expiration or termination of this Agreement, each party shall forthwith return to the other all papers, materials or other property of the other party then in its possession.

Contractor shall not issue publicity news releases or grant press interviews, or, except as may be required by law during or after performance of this Agreement, disseminate any information regarding its services or the project to which the services pertain without the prior written consent of the Board.

Section 10.05 Independent Contractor.

Contractor, as well as Contractor's agents, employees, subcontractors and assigned personnel provided under this Agreement shall be independent contractors. Nothing in this Agreement is intended or should be construed as in any way creating or establishing the

relationship of partners or joint venturers between the Board and Contractor, or as constituting Contractor or any officer, order, employee or agent of Contractor as an agent, representative or employee of the Board for any purpose or in any manner whatsoever. Contractor shall be responsible for any and all personal injury or property damage that Contractor may suffer in the course of or in connection with the performance under this Agreement. Contractor agrees not to make any claims against the Board or any of its board members, officers, employees, agents or assigns for any injury or loss that Contractor may suffer. As an independent contractor, Contractor is solely responsible for determining the means and methods for performing under this Agreement.

Section 10.06 Subcontracting or assignment.

Contractor shall not assign, subcontract or otherwise transfer to any other person, firm, or entity any of its duties or obligations under this Agreement without first obtaining written consent from the Board, provided, however, that in no case will such consent relieve Contractor from its obligations, or change the terms of the contract. Contractor shall, within seven working days after award of this contract, notify the Board in writing of the names and addresses of all subcontractors Contractor intends to use to perform services under this Agreement. Contractor shall not make any substitution of a subcontractor without the prior written consent of the Board. Contractor shall not employ any subcontractor that the Board may object to as incompetent or unfit. The consent of the Board shall not relieve Contractor from any of its obligations under the contract. Contractor shall subcontract only with competent and responsible subcontractors. If, in the sole discretion of the Board, any subcontractor is careless, incompetent, violates safety or health rules, obstructs the progress of the services to be provided hereunder, acts contrary to instructions, acts improperly, is not responsible, is unfit, violates any laws applicable to this contract, or fails to follow the requirements of this contract, then Contractor shall, immediately upon notice from the Board, discharge or otherwise remove such subcontractor.

Section 10.07 Audits.

Contractor shall maintain and retain records showing the actual time and costs expended in performance under this Agreement for which Contractor seeks compensation. The Board may, in its sole discretion, audit the records of Contractor or its subcontractors, or both, any time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods cannot work, or services provided under this Agreement and Contractor shall permit an authorized representative of the Board to inspect, copy and audit all data and records of Contractor related to Contractor's performance under this Agreement. Contractor shall promptly reimburse the Board for any amounts the Board has paid Contractor due to overcharges, plus interest penalties amounting to 10% of the amount overcharged per annum until repaid to the Board, plus the full cost of the audit if the amount of overcharges represents 5% or more of the total contract price. Failure of Contractor to reimburse the Board is an event of default under this Agreement and Contractor shall be liable for all of the Board's cost of collection, including any court costs and attorney's fees.

Section 10.08 Compliance with all laws.

Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, regulations, and codes, in effect now or later and whether or not they appear in this Agreement, including those specifically referenced herein. Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required in connection with the

performance of its obligations hereunder, and Contractor must require all subcontractors to do the same. Failure to do so is an event of default and may result in the termination of this Agreement.

Section 10.09 Compliance with Board’s Policies.

Contractor agrees that the employees and agents of Contractor and any subcontractor shall observe all of the rules, regulations, and policies of the Board, including but not limited to confidentiality, security, access and procedural policies of the Board, provided the same have been provided in writing to Contractor and they do not unreasonably impair Contractor’s performance of this Agreement.

Section 10.10 Conflict of Interest

Contractor warrants that no member of the Board nor any officer, employee or agent of the Board has or will acquire any interest, direct or indirect, in this Agreement or in the services to which the Agreement pertains. Contractor promises that no person having any such interest will be employed in performing this Agreement. Contractor further warrants that Contractor has no agreements with third parties that would conflict in any matter or degree with Contractor’s performance under this Agreement. Contractor warrants that it has completed and executed an Economic Disclosure Statement and Affidavit, which was made a part of its Proposal and is hereby made a part of the contract documents.

Section 10.11 Accuracy and Update of Information.

In connection with this RFP and this Agreement, Contractor has provided and will continue to provide various certifications, affidavits and other information and reports. Contractor warrants that any such materials and information provided in connection with the RFP and this Agreement is truthful and complete as of the Effective Date of this Agreement. Contractor shall promptly update such material and information to be complete and accurate as needed due to events or changes occurring after the Effective Date of this Agreement.

Section 10.12 Notices.

Any notice required to be given under this Agreement shall be in writing and shall be given by facsimile, by personal delivery, or by United States registered or certified mail, return receipt requested, or by a licensed courier service, with all delivery and postage charges prepaid. A notice is considered to have been given on the day actually received (facsimile, personal delivery or courier) or refused (personal delivery, courier or mail), or if unclaimed, on the third day following the day on which it was sent by courier or deposited with the United States Post Office.

Notices to the Board shall be sent to: Chicago Board of Election Commissioners
69 West Washington Street, Room 800
Chicago, Illinois 60602
Attention: Lance Gough, Executive Director
Fax No.: 312-269-0003

Notices to Contractor shall be sent to: _____

Either party may, at any time, change its address for notices by sending a notice to the other party stating the change and setting forth the new address.

Section 10.13 Amendments.

The parties may from time to time during the term of this Agreement make modifications and amendments to this Agreement as provided herein. Such modifications and amendments shall only be made by mutual agreement in writing. Any change order that necessitates an increase in cost of less than \$10,000.00 must be authorized in writing by the Board's Executive Director. Any change order or series of change orders that authorize or necessitate an increase in the cost of this Agreement by a total of \$10,000.00 or more must be authorized in writing by two or more Commissioners of the Board and must be executed in conformance with applicable law.

Section 10.14 Severability.

If any provision of this Agreement is held or considered to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case or in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering a provision in question invalid, illegal, inoperative or unenforceable in any case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

Section 10.15 Governing law.

This Agreement shall be governed by and construed under the laws of the State of Illinois. Contractor irrevocably agrees that, subject to the Board's sole and absolute election, any action or proceeding in any way, manner or respect arising out of the Agreement, or arising from any dispute or controversy arising in connection with or related to the Agreement, shall be litigated only in courts within the City of Chicago, County of Cook, State of Illinois, and the Contractor consents and submits to the jurisdiction thereof. In accordance with these provisions, Contractor waives any right it may have to transfer or change the venue of any litigation brought against it by the Board pursuant to the Agreement.

Section 10.16 Interpretation.

Headings of this Agreement are for convenience of reference only and do not modify, define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other gender. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any appendix, exhibit or document shall be deemed to include all supplements and/or amendments thereto entered into in accordance with the terms of this Agreement. All references

to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such person or entity in accordance with the terms of this Agreement.

Section 10.17 Consents and Approvals.

The parties represent and warrant to each other that each has obtained all requisite consents and approvals, whether required by internal operating procedures or otherwise, for entering into this Agreement and the undertakings contemplated hereby.

Section 10.18 Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Remainder of Page is Blank

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative(s):

BOARD OF ELECTION COMMISSIONERS
FOR THE CITY OF CHICAGO

By: _____

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel A. Hernandez, Commissioner

Date: _____

APPENDIX A

REQUEST FOR PROPOSAL

APPENDIX B

PROPOSAL

APPENDIX C

STATEMENT OF WORK

APPENDIX D

**PRICE SHEET AND LIST OF EQUIPMENT
AND SOFTWARE**

APPENDIX E

IMPLEMENTATION SCHEDULE

APPENDIX F

ACCEPTANCE TESTING SPECIFICATIONS

APPENDIX G

PAYMENT SCHEDULE

APPENDIX H

PERFORMANCE BOND

APPENDIX I
EVIDENCE OF INSURANCE

APPENDIX J

INFORMATION SECURITY AND IDENTITY PROTECTION POLICY

APPENDIX K

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE COMMITMENTS