



## COMMISSIONERS COURT COMMUNICATION

AGENDA DATE: May 21, 2012

CONSENT OR REGULAR: CONSENT

CONTRACT REFERENCE NO 2011-0113  
(IF APPLICABLE):

### **SUBJECT:**

Approve and Authorize the County Judge to sign First Amendment to POST WARRANTY HARDWARE MAINTENANCE SERVICES, SOFTWARE LICENSE, AND SOFTWARE SUPPORT AGREEMENT with Dominion Voting Systems, Inc.

### **BACKGROUND/DISCUSSION OF TOPIC:**

On April 30, 2012, Commissioners Court approved assignment of Elections voting equipment system contract for the provision of products, services, and parts to Dominion Voting Systems, Inc.

Dominion has informed us that some parts are no longer available & they will not be able to repair some machines. This amendment is to allow them to replace up to 20 machines at no cost to the county.

### **FISCAL IMPACT:**

None

### **PRIOR COMMISSIONERS COURT ACTION (IF ANY):**

Approval of original contract on Aug. 22, 2011 and approval of assignment of 4/30/12.

### **RECOMMENDATION:**

Approval

### **COUNTY ATTORNEY APPROVAL**

The attached document has been given legal review by the El Paso County Attorney's Office on behalf of the County of El Paso, its officers, and employees. Said legal review should not be relied upon by any person or entity other than the County of El Paso, its officers, and employees.

COUNTY ATTORNEY: Lee Shapleigh

LEGAL REVIEW: 5/7/12

LEGAL REVIEW NOTES: Approved as to form

DATE: 5/7/12

### **SUBMITTED BY:**

Javier Chacon, Elections Administrator – jchacon@epcounty.com (915) 546-2154

**FIRST AMENDMENT TO  
POST WARRANTY HARDWARE MAINTENANCE SERVICES,  
SOFTWARE LICENSE, AND SOFTWARE SUPPORT AGREEMENT  
DOMINION VOTING SYSTEMS, INC.  
AND  
EL PASO COUNTY, TX**

On the 22<sup>nd</sup> day of August, 2011, the County of El Paso, Texas (hereinafter called "the County"), and Premier Election Solutions, Inc entered into a Post Warranty Hardware Maintenance Services, Software License, and Software Support Agreement (attached hereto and made a part hereof for all purposes). Thereafter, on April 30<sup>th</sup>, 2012, the County consented to the assignment of said Agreement to Dominion Voting Systems, Inc., a Delaware corporation authorized to do business in Texas (hereinafter "Dominion"). The Parties now desire to amend the original Agreement for good and valuable consideration specified herein. All sections of the Agreement not specifically amended herein shall remain in full force and effect.

1. Notwithstanding anything to the contrary in the Agreement, the following terms and conditions shall apply to any and all warranty provision references for the Accu-Vote TS R6 or Accu-Vote TSX R7 units only.
2. Due to the difficulty in obtaining replacement parts, in the event an Accu-Vote TS R6 or Accu-Vote TSX R7 unit requires repair pursuant to the warranty provisions of the Agreement, Dominion, at its sole discretion, shall have the option to either repair the unit or replace it with a reconditioned Accu-Vote TSX R7 unit in useful working condition at no cost to the County.
3. The warranty provisions of the Agreement and this First Amendment shall apply to a maximum of twenty (20) units prior to 9/30/12. In the event that Dominion replaces or repairs the maximum number of twenty (20) units within that period, the County shall have an option to purchase additional reconditioned Accu-Vote TSX R7 units at a price of five hundred dollars (\$500) per unit. If additional units are provided, payment shall be due from the County within thirty (30) days from the County's receipt of the invoice provided by Dominion.
4. The parties acknowledge and agree to change the Notice contact and address of the Agreement from Premier to Dominion:

To Dominion:            Dominion Voting Systems, Inc.  
                                 Attn: Contracts Administrator  
                                 1201 18<sup>th</sup> St., Suite 210  
                                 Denver, CO 80202  
                                 Telephone: 720-257-5209  
                                 Facsimile: 303-291-3909

5. County and Dominion each represent and warrant to the other that it has the power and authority to execute this First Amendment and to comply with the terms, covenants and conditions set forth herein.

**IN WITNESS WHEREOF**, this First Amendment to the Post Warranty Hardware Maintenance Services, Software License, and Software Support Agreement is executed by the parties and shall be effective on the 14<sup>th</sup> day of May, 2014, regardless of its date of execution.


ATTEST:

**THE COUNTY OF EL PASO, TEXAS**

By \_\_\_\_\_  
County Clerk Delia Briones

By \_\_\_\_\_  
County Judge Veronica Escobar  
Date: May 14<sup>th</sup>, 2012

**DOMINION VOTING SYSTEMS, INC.**

By  \_\_\_\_\_  
Name: Michael Frontera  
Title: Vice President and General Counsel  
Date: 5/9/2012

**Javier Chacon**

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**Subject:** FW: 2011-0113 Election Machines Hardware Maint, License, & Software Support/Dominion/Amend 1  
**Attachments:** K11113 Dominion Amendment 1.docx

**From:** Lee Shapleigh  
**Sent:** Monday, May 07, 2012 6:17 PM  
**To:** Javier Chacon  
**Subject:** 2011-0113 Election Machines Hardware Maint, License, & Software Support/Dominion/Amend 1

Approve and authorize the County Judge to sign First Amendment to POST WARRANTY HARDWARE MAINTENANCE SERVICES,  
SOFTWARE LICENSE, AND SOFTWARE SUPPORT AGREEMENT with Dominion Voting Systems, Inc.

And here is the legal review form that you will need to get it on the agenda:

**COUNTY LEGAL REVIEW FORM**

2011-0113

Contract Description: Election Machines Hardware Maint, License & Software Support/Dominion/Amend 1

**COUNTY ATTORNEY ACTION\*\***

**\*\*Requested Amendments/Clarifications:** We assume you have submitted any questions or comments you have regarding the terms of the contract, as well as any specific provisions to which you object, or which you want to have changed.

☒ X Approved as to Form as Submitted  
☐ Approved as to Form with Amendments/Modifications/Reservations Noted Below\*  
☐ Not Approved

\*1)

This document has been given legal review by the El Paso County Attorney's Office on behalf of the County of El Paso, its officers, and employees. Said legal review should not be relied upon by any person or entity other than the County of El Paso, its officers, and employees.

**Lee Shapleigh**  
**Assistant County Attorney**