


ORDINANCE NUMBER 180, 2007

**Waiver of the Purchasing Code for a Three Year Contract Between
Erie County Government and Election Systems and Software**

BE IT ENACTED by the County Council of the County of Erie pursuant to Article II, Section 3B (1) of the Erie County Home Rule Charter that this 2007 General Fund Budget Waiver of Section 1C (1) of the County Purchasing Code for a three year contract between Erie County and Election Systems and Software for the maintenance of particular election equipment is hereby approved as outlined on the contract attached hereto as Exhibit A.

This ordinance shall be effective immediately upon adoption.

Attest:



Douglas R. Smith
County Clerk

Date: December 18, 2007

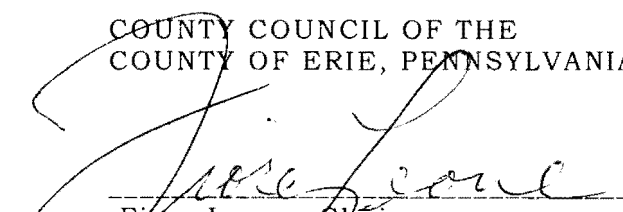
Approved by:



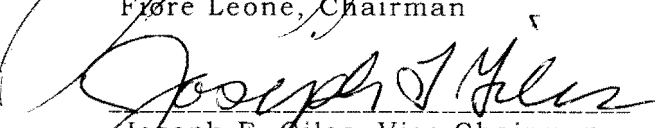
Mark A. DiVecchio
County Executive

Date: 12.24.07

COUNTY COUNCIL OF THE
COUNTY OF ERIE, PENNSYLVANIA



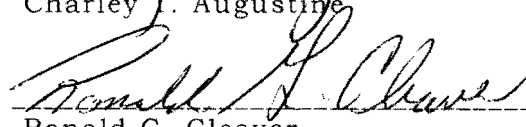
Fiore Leone, Chairman




Joseph F. Giles, Vice Chairman




Charley T. Augustine



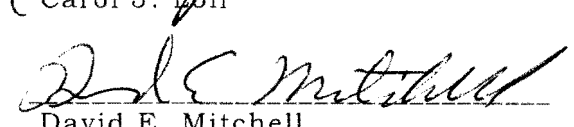
Ronald G. Cleaver



Kyle Foust



Carol J. Loll



David E. Mitchell

Commonwealth of Pennsylvania Purchase Order Form

COSTARS - 10 Voting Systems

Election Systems & Software

January 1, 2008

Erie County, Pennsylvania
through December 31, 2008

Description	Quantity		Unit Price	Total Price
	May Primary	November General		
Part I Complete System Pricing				
Optical Scan: Precinct Tabulation				
Model M100 (Includes Scanner, Double Bin Steel Ballot Box, Start-Up Kit, PCMCIA Card and installation)			\$4,995	
Internal Modem (Landline)			\$200	
Soft sided Transfer / Carrying Case			\$70	
Security Lids			\$57	
PCMCIA Cards (additional)			\$90	
Omni Drive			\$600	
Optical Scan: Central Count Tabulation				
Model M650 (Includes Scanner, Table, Start-Up Kit, Dust Cover and installation)			\$46,250	
Ballot Boxes			\$128	
Ballot Joggers			\$550	
Secrecy Sleeves (Cardboard)			\$3	
DRE Touch Screen				
iVotronic Voter Terminal (includes Booth, PEB, 128mb Flashcard and installation)			\$2,500	
iVotronic ADA Voter Terminal (includes Booth, PEB, 128mb Flashcard and installation)			\$2,795	
iVotronic Supervisor Terminal (includes PEB, 128mb Flashcard, Power Supply, Power Cord and installation)			\$2,200	
Communication Pack (modem w/ thermal printer)			\$995	
Printer Pack (thermal printer only)			\$650	
Additional Flash Cards (128mb)			\$70	
Additional PEB's			\$75	
PEB Reader			\$350	
Flash Card Reader/Writer			\$30	
Soft-sided Carrying Bags			\$105	
RTAL Printer:				
Factory Installed			\$700	
Field Installed			\$850	
Optical Ballot Marking Device				
ES&S AutoMark (Includes Terminal, Transport Case, Ink Cartridge and 256mb Flashcard)			\$5,090	
Table for Voter Assist Terminal			\$350	
Additional Ink Cartridge			\$30	
Additional Flashcard (256mb)			\$90	
Election Management System Software				
UNITY Ballot Image Manager (BIM)			\$10,000	
UNITY iVotronic Image Manager (iVIM)			\$10,000	
UNITY Ballot On Demand (BOD)			\$5,000	
UNITY Data Acquisition Manager (DAM)			\$2,500	
UNITY Election Data Manager (EDM)			\$12,500	
UNITY Election Reporting Manager (ERM)			\$8,000	
UNITY Hardware Programming Manager (HPM)			\$20,000	
UNITY AutoMark Information Management Software (AIMS)			\$2,500	
Training (Per Customer/Per Day Rate)				

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- EMS Software: A system overview that covers the modules licensed by Customer. Class size is limited to 10 and course participant manuals are included. (Customer will ensure participants have an appropriate level of technical experience – including intermediate skills in relational database administration).			\$1,200	
- Poll Worker: ES&S agrees to conduct Poll Worker "Train the Trainer" classes. Class size is limited to 20. Manuals are provided (up to 20), and a master template for duplication for Poll Workers is included.			\$1,200	
- Training (Additional or subsequent training for County Election Officials and Staff.) (Per Customer/Per Day Rate)			\$1,200	
On-Site Election Support (3-day Minimum): ES&S will provide software accumulation assistance on Election Day/Night of each contracted election.			\$1,300	
Public Test/Logic and Accuracy Testing: ES&S will assist in the development of logic and accuracy procedures (according to State Elections Code), and assist in the actual L&A testing procedures.			\$1,300	
Project Management: A project manager appointed by ES&S shall be responsible for the overall planning, communication, management and coordination of ES&S Services. This person shall be the liaison for Customer with ES&S as it pertains to all products, services and obligations set forth in the contract.			\$1,500	

Part II Component Pricing:

Post Warranty Maintenance: (The terms for post warranty Hardware Maintenance and Software Maintenance and Support are set forth on Exhibit B of the original Purchase Order between ES&S and the County)

All rates reflect a per unit annual fee for the first three post warranty years (Note: the first post-warranty period begins on June 1, 2007)

	# of years	Quantity	Rate	Fees
Break/Fix Depot Repair Program:				
- Model 100			\$100	
- Model 650			Not Available	
- iVotronic			\$55	
- ES&S AutoMARK			\$145	
Complete Preventative Maintenance Program:				
- Model 100			\$195	
- Model 650	1		\$2,600	\$2,600.00
- iVotronic			\$95	
- ES&S AutoMARK			\$280	
Firmware Maintenance and Support:				
- Model 100			\$30	
- Model 650	1		\$295	\$295.00
- iVotronic			\$30	
- ES&S AutoMARK			\$30	

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Description	Quantity		Unit Price	Total Price
	May Primary	November General		
Software Maintenance and Support:				
- UNITY Ballot Image Manager (BIM)	1		\$2,000	\$2,000.00
- UNITY Ballot Image Manager (BIM)	1		\$2,000	\$2,000.00
- UNITY Ballot On Demand (BOD)	1		\$1,000	\$1,000.00
- UNITY Data Acquisition Manager (DAM)	1		\$500	\$500.00
- UNITY Election Data Manager (EDM)	1		\$2,500	\$2,500.00
- UNITY Election Reporting Manager (ERM)	1	1	\$1,600	\$1,600.00
- UNITY Hardware Programming Manager (HPM)	1		\$4,000	\$4,000.00
- UNITY AutoMark Information Management Software (AIMS)			\$500	

Part III Optional Item Pricing:

Okidata C9600HDN Ballot on Demand Printer with Guide			\$4,595	
Results Accumulation Network			\$18,720	
Voting Booths (Model VI with Lamp)			\$215	
Voting Booths (Model VI Accessible with Lamp)			\$245	

Other:

Shipping Charges				
Order Subtotal:				\$16,495.00
Additional Discount:				
Order Total:				\$16,495.00

County Name ("Customer")	Erie County Pennsylvania
County contact person	Douglas Smith, County Clerk
Address for delivery of equipment (no PO box)	140 West 6th Street, Room 116
City, State, Zip	Erie, PA 16501
Phone number	814-451-6303
Delivery Date(s)	

County Purchasing Certification: I certify that this document represents a purchase order for Voting Systems and/or Post Warranty Maintenance for such Voting Systems. I certify that: 1) sufficient county funds are available for any of this purchase that exceeds my allocation of federal HAVA and/or State funds; 2) the county portion of funds has been authorized and appropriated by the Board of Commissioners for this purchase; 3) this Purchase Order is subject to the terms and conditions of the COSTARS-10 Voting Systems Contract and the Supplemental Terms and Conditions set forth on Exhibit A attached hereto and fully incorporated herein by this reference; and 4) I am authorized by the Board of Commissioners to submit this purchase order. I have attached a letter or meeting minutes from the Board of Commissioners authorizing this purchase.


Signature

12-1-07
Date

Print Name
Mark A. DiVecchio, County Executive
Title

ELECTION SYSTEMS & SOFTWARE, INC.

Signature

Date

Print Name

Commonwealth of Pennsylvania Purchase Order Form

COSTARS - 10 Voting Systems

Election Systems & Software

Erie County, Pennsylvania
through December 31, 2009

January 1, 2009

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Soft sided Transfer / Carrying Case				\$70	
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iVotronic Supervisor Terminal (includes PEB, 128mb Flashcard, Power Supply, Power Cord and installation)				\$2,200	
Communication Pack (modem w/ thermal printer)				\$995	
Printer Pack (thermal printer only)				\$650	
Additional Flash Cards (128mb)				\$70	
Additional PEB's				\$75	
PEB Reader				\$350	
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RTAL Printer:					
Factory Installed				\$700	
Field Installed				\$850	
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ES&S AutoMark (Includes Terminal, Transport Case, Ink Cartridge and 256mb Flashcard)				\$5,090	
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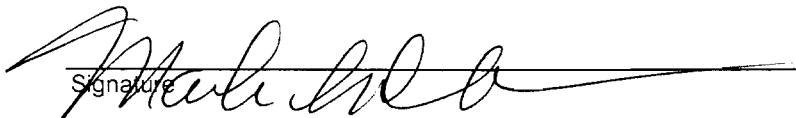
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Print Name

Mark A. DiVecchio, County Executive

Title

12-1-07
Date

ELECTION SYSTEMS & SOFTWARE, INC.

Signature

Date

Print Name

Commonwealth of Pennsylvania Purchase Order Form

COSTARS - 10 Voting Systems

Election Systems & Software

January 1, 2009

Erie County, Pennsylvania
through December 31, 2009

Description [Quantity		Unit Price	Total Price
	May Primary	November General		

Title

Maintenance Notes:

1. **Break/Fix Depot Repair Program:** ES&S will repair or replace any component of our proprietary equipment or software which, while under normal use and service, (a) fails to perform in accordance with its documentation in all material respects, or (b) is defective in material or workmanship. The principal elements of this program are:

- Equipment requiring repairs must be sent to a location designated by ES&S.
- Customer is responsible for freight to and from the designated ES&S repair location.
- Repairs as a result of negligent care of the equipment are not covered under this program.

2. Preventative Maintenance Program:

On-Site Annual Routine Maintenance Services: Includes cleaning, lubrication and calibration services.

On-Site Remedial Maintenance Services: If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the Product to Normal Working Condition as soon as practicable. The Remedial Maintenance Extended Warranty provides that ES&S will repair or replace any component of our proprietary equipment or software which, while under normal use and service, (a) fails to perform in accordance with its documentation in all material respects, or (b) is defective in material or workmanship.

Pricing Notes:

1. Payment Terms:

- 100% of Order Total Due within thirty (30) Calendar Days after Purchase Order Execution.
- 100% of Annual Maintenance Fee will be invoiced prior to the start of each annual maintenance period. Payment terms are net 30 from invoice date.

Delivery Notes:

1. ES&S reserves the right to substitute Customer's selection of precinct accessibility equipment (ES&S AutoMARK or iVotronic ADA Voter Terminal, as applicable) with ES&S' alternative precinct accessibility equipment (ES&S AutoMARK or iVotronic ADA Voter Terminal, as applicable) for delivery and temporary use in Customer's May 2006 Primary Election. In the event that ES&S elects to make such temporary substitution, ES&S shall retrieve the substituted precinct accessibility equipment from Customer's location as soon as reasonably practicable after Customer's May 2006 Primary Election and deliver Customer's selected precinct accessibility equipment in reasonably sufficient time prior to Customer's November 2006 General Election for installation and use therefor.

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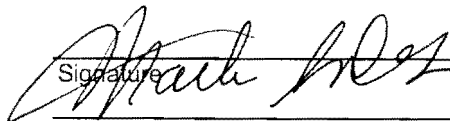
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Signature 
 Print Name
 Mark A. DiVecchio, County Executive
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- Customer is responsible for freight to and from the designated ES&S repair location.
- Repairs as a result of negligent care of the equipment are not covered under this program.

2. Preventative Maintenance Program:

On-Site Annual Routine Maintenance Services: Includes cleaning, lubrication and calibration services.

On-Site Remedial Maintenance Services: If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the Product to Normal Working Condition as soon as practicable. The Remedial Maintenance Extended Warranty provides that ES&S will repair or replace any component of our proprietary equipment or software which, while under normal use and service, (a) fails to perform in accordance with its documentation in all material respects, or (b) is defective in material or workmanship.

Pricing Notes:

1. Payment Terms:

- 100% of Order Total Due within thirty (30) Calendar Days after Purchase Order Execution.
- 100% of Annual Maintenance Fee will be invoiced prior to the start of each annual maintenance period. Payment terms are net 30 from invoice date.

Delivery Notes:

1. ES&S reserves the right to substitute Customer's selection of precinct accessibility equipment (ES&S AutoMARK or iVotronic ADA Voter Terminal, as applicable) with ES&S' alternative precinct accessibility equipment (ES&S AutoMARK or iVotronic ADA Voter Terminal, as applicable) for delivery and temporary use in Customer's May 2006 Primary Election. In the event that ES&S elects to make such temporary substitution, ES&S shall retrieve the substituted precinct accessibility equipment from Customer's location as soon as reasonably practicable after Customer's May 2006 Primary Election and deliver Customer's selected precinct accessibility equipment in reasonably sufficient time prior to Customer's November 2006 General Election for installation and use therefor.

EXHIBIT B
POST WARRANTY MAINTENANCE SERVICES

ARTICLE I
GENERAL

1. **Term; Termination.** This Exhibit B shall be in effect from the date on which the Warranty Period expires until the third anniversary thereof (the "Initial Maintenance Term"). The Maintenance Term shall automatically renew for an unlimited number of successive one year periods until this Exhibit B is terminated by the first to occur of (a) either party's election to terminate it upon expiration of the Initial Maintenance Term or any renewal thereof, written notice of which shall be given to the other party at least sixty (60) calendar days prior to such annual expiration date, (b) the date that is thirty (30) days after either party notifies the other that the other has materially breached this Exhibit B, and the breaching party fails to cure such breach within such thirty (30) day period, or (c) the date that is thirty (30) days after Customer fails to pay any amount due ES&S under this Exhibit B. The termination of this Exhibit B shall not relieve Customer of its liability to pay any amounts due ES&S hereunder.

1. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance Services and Software Maintenance and Support under this Exhibit B, Customer shall pay to ES&S the Hardware Maintenance and Software Maintenance Fees set forth on Schedule B1 for the Initial Maintenance Term and each renewal period. The Hardware Maintenance and Software Maintenance Fees for the Initial Maintenance Term are due in three (3) annual payments, the first payment being due on the date of expiration of the Warranty Period and the second and third payments being due on the first and second anniversary of the date of expiration of the Warranty Period, respectively. After expiration of the Initial Maintenance Term, ES&S may increase the Hardware Maintenance and Software Maintenance Fees for a renewal period by not more than five percent (5%) of the amount of the most recent Fees paid by Customer. The Hardware Maintenance and Software Maintenance Fees for any renewal period shall be due and payable no later than thirty (30) days prior to the beginning of such renewal period. The Software Maintenance Fee shall be comprised of (i) a fee for the Software Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit B or the Agreement. If Customer elects to receive Software Maintenance and Support for an Add-On or New Product during the Term or any renewal thereof, ES&S will charge an incremental Software Maintenance Fee for such services.

ARTICLE II
HARDWARE

1. **Services.** Subject to the terms and conditions of this Exhibit B and Customer's one-time election of which level of Hardware Maintenance Services it desires, ES&S shall provide either the Routine Maintenance Services described under Section 2(b) of this Article II or the Remedial Maintenance Services described under Section 2(d) of this Article II with respect to the products listed on Schedule B1 (the "Products") (collectively the "Hardware Maintenance Services"). Customer shall elect to receive Routine Maintenance Services or Remedial Maintenance Services by delivering written notice of its election to ES&S no later than ninety (90) calendar days prior to expiration of the Warranty Period on the applicable Products.

2. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Exhibit B for the ES&S Equipment listed on Schedule B1 (the "Products") shall be subject to the following terms and conditions:

a. **Inspection.** If Customer has elected not to receive Hardware Maintenance Services under this Exhibit B for a period of twelve (12) months or more, ES&S may require Customer to allow it to inspect the Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are fit for the ordinary purposes for which they are to be used, normal wear and tear excepted ("Normal Working Condition"). The cost of such inspection will be at the current published ES&S rate plus ES&S' Out-of-Pocket Expenses, and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as ES&S deems reasonable and necessary to restore such Product(s) to Normal Working Condition, at Customer's expense with respect to the cost of any parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s). For purposes of this Exhibit B, "Out-Of-Pocket Expenses" shall mean all travel, meal and lodging expenses incurred by ES&S employees or authorized representatives ("ES&S Representatives") who are required to travel to Customer's Designated Location to provide services. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services. Customer's Designated Location is specified on Schedule B1.

b. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products in Normal Working Condition ("Routine Maintenance Services") once each twelve (12) months during the Initial Maintenance Term or any renewal thereof. Customer may request that Routine Maintenance Services be performed more than once during any such twelve (12) month period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule B1 and shall be due within thirty (30) days after invoice. Routine Maintenance Services shall include cleaning, lubrication and calibration services. At the request of Customer, ES&S shall provide a reasonably detailed record of all Routine Maintenance Services performed with respect to one or more Products. The Routine Maintenance Services will be provided either at Customer's Designated Location or at an ES&S-designated depot facility ("Depot"), as elected by Customer on Schedule B1. Customer shall pay all costs associated with shipping Product(s) to a Depot, including insurance.

c. **Compliance with Laws.** In performing its obligations or enjoying its rights under this Agreement, each party shall comply with all applicable laws and regulations. In addition, ES&S represents and warrants to Customer that, at the time of delivery, the Hardware will comply with all applicable requirements of federal and state election laws and regulations that are mandatory and effective as of the effective date and will have been certified by the appropriate state authorities for use in the Jurisdiction. If a change in applicable federal or state election laws or regulations or certification standards necessitates a modification, retrofit or replacement of any of ES&S' proprietary hardware, to the extent such modifications, retrofits or replacements are technologically feasible within the then existing hardware configuration, ES&S shall

develop, manufacture and certify such changes on a timeline to be agreed upon by the parties and at the Customer's sole cost and expense.

d. **Remedial Maintenance Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the Product to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 2(d)(i) are referred to herein as "Remedial Maintenance Services". ES&S shall provide the Remedial Maintenance Services at its Depot; provided, however, that if Remedial Maintenance Services are required for ten (10) or more Products at any given time, Customer may elect to have them provided at its Designated Location; provided, further, that all Remedial Maintenance Services provided for central count equipment shall be provided at Customer's Designated Location. Customer acknowledges that Product(s) identified on Schedule B1 as "depot repair only" may only be repaired at a Depot.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations, and utility or communication interruptions, or if Customer does not notify ES&S within 24 hours after it knows of the defect or malfunction or is otherwise not in compliance with its obligations hereunder, Customer shall pay ES&S for the Remedial Maintenance Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Remedial Maintenance Services.

iii. **Timing.** The date(s) on which any Remedial Maintenance Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Remedial Maintenance Services (which shall be defined as Remedial Maintenance Services that are provided within 48 hours after Customer notifies ES&S of the need therefor), and such emergency Remedial Maintenance Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule B1.

iv. **Loaner Unit.** At Customer's request and subject to product availability, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Remedial Maintenance Services are being performed (a "Loaner Unit"). If the Remedial Maintenance Services are being performed pursuant to Subsection 2(d)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

e. **Exclusions.** ES&S has no obligation under this Exhibit B to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including printer ribbons, paper rolls, batteries, removable memory packs, cancellation stamps, ink pads or red stripe pens, or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days in the Initial Maintenance Term or renewal period for which such fee was paid and the denominator of which is the total number of days in such Initial Maintenance Term or renewal period.

f. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Maintenance Term or any renewal period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

g. **Storage.** When not in use, Customer shall properly store the Products in accordance with the storage requirements established in the Documentation.

ARTICLE III **SOFTWARE**

1. **Services Provided.** ES&S shall provide maintenance and support services for the ES&S Software ("Software Maintenance and Support"), to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship.

2. **Updates.** During the Initial Maintenance Term and any renewals thereof, ES&S shall continue to provide updates in accordance with any update schedule determined by ES&S. Customer is responsible for obtaining any upgrades or purchases of third party hardware or software required to operate the Updates. All Updates shall be deemed to be "Software", and shall be subject to all the terms and conditions of ES&S' license of the Software, upon delivery. Customer shall install Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. In the event Customer requests ES&S to install an ES&S Firmware Update, ES&S shall install such Update only in connection with the Routine Maintenance Services provided herein. ES&S may charge Customer at its then-current rates to (a) install Updates or (b) provide maintenance and support on the Software which is required as a result of Customer's failure to timely install an Update. Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If

Customer proposes changes in the Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of Software in accordance with applicable law. Customer shall pay ES&S for any Update which is required due to a change in federal or state law

2. **Reinstatement of Software Maintenance and Support.** If the Initial Maintenance Term or any renewal thereof expires without being renewed, Customer may thereafter resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees which would have been due to ES&S had the Initial Maintenance Term or any renewal period not expired, as applicable, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software Maintenance and Support.

4. **Conditions.** ES&S shall not provide Software Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent Update provided to it by ES&S, (e) Customer's failure to notify ES&S within 24 hours after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Agreement. Any such Software Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software Maintenance and Support arises.

5. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit B, including all proprietary rights therein or based thereon. Subject to the payment of all Software Maintenance Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit B. All licensed items shall be deemed to be ES&S Software for purposes of this Agreement. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Agreement.

Schedule B1

DESCRIPTION OF PRODUCTS

The Description of Products and the Pricing for such Products are set forth on the COSTARS Purchase Order Form

Please check the Maintenance Program you wish to receive:

<input type="checkbox"/>	Break/Fix Depot Repair Program
<input type="checkbox"/>	Complete Preventative Maintenance Program

Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period, Customer shall pay 90% of the then current maintenance fee per unit.

Surcharge for Emergency Remedial Maintenance Services: 150% of the then current maintenance fee per unit.

Customer's Designated Location:

Location of Services

Customer's Designated Location (for Preventative Maintenance)

Depot (for Remedial Break/Fix Maintenance)

Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location: \$25.00 per unit for all units located at second or more locations.

ES&S UNITY SOFTWARE AND FIRMWARE SUPPORT DESCRIPTION

Software Maintenance and Support Services Provided by ES&S Under the Agreement

1. Telephone support

- ES&S will provide support on procedural questions of a specific nature not covered in ES&S' User Manuals;
- ES&S will verify the appropriate steps to take to resolve issues identified by the Customer.

2. Issue Resolution (to be provided on a limited basis)

- ES&S will provide issue resolution on a limited basis once the Customer has followed all issue resolution procedures as set forth in the User Manuals and as directed in the required training course. If it becomes apparent that the Customer has not followed the appropriate User Manual and/or training directives, Customer will be advised to begin the issue resolution process over by following the procedures identified in the User Manuals or by utilizing ES&S Election Services. The Customer may also be advised that additional training

may be necessary to ensure the Customer has the appropriate level of issue resolution training.

3. ES&S will provide Technical Bulletins on a schedule to be determined by ES&S regarding specific issues the Customer may be experiencing

Software Maintenance and Support Services Not Provided by ES&S Under the Agreement

1. Network design, layout or administration
2. Training for any Unity product
3. Election set up and programming
4. "Where/how do I start my programming of my Election"
5. Installation of Unity modules, firmware or setting date or time – User Guides, Installation Instructions, Training Checklists and Technical Bulletins are provided for these processes
 - Installation of Unity modules, printers and peripherals. These items shall be the responsibility of the Customer.
6. Third Party Interface – Import from non ES&S Voter Registration System
7. Installation of third party hardware or software - User Guides, Installation Instructions are provided for these processes
8. Issue resolution for printers and modems not supported by ES&S applications
9. Issue resolution for requests made by non-ES&S service providers
10. Issue resolution for Audio files – prepared by a non-ES&S approved vendor
11. Setup or Installation of Unity products not in accordance with Certificated Configuration

Software Maintenance and Support Services – Customer Responsibilities

1. Customer shall have completed a full Unity training session for each product selected
 - Customer shall have completed training at a proficiency level to successfully use hardware (firmware) and software products for General and Primary elections
 - Customer shall have the ability to install application firmware and software and make changes to date and time settings
 - Customer shall have the ability to change the stick batteries on the iVotronic system and the pick belts on the Model 650. Any other changes made by the customer must be pre-approved in writing by ES&S

- Customer shall have the ability to store equipment in accordance with ES&S requirements
2. Customer shall have reviewed a complete set of User Manuals
 3. Customer shall have reviewed Training Checklists