

PERSONAL SERVICES CONTRACT

This contract is between Washington County, a political subdivision of the State of Oregon ("County"), and, Clear Ballot Group, Inc. ("Contractor").

County and Contractor, in consideration of the mutual promises, terms and conditions provided herein, agree to the following:

SECTION 1 - PURPOSE AND STANDARD OF SERVICES

- 1.1. This contract sets forth the responsibilities and clarifies the relationship between the County and the Contractor.
- 1.2. Services performed by Contractor shall be performed to the standards described in Section 30 of the County Standard Contract Terms and Conditions below.

SECTION 2 - CONSIDERATION

- 2.1. Contractor shall perform the services described in Attachment A, in consideration for which County agrees to pay for the services in the manner as further described in this contract.
- 2.2. The maximum amount payable under this contract is \$500,000; unless otherwise amended. Contractor bears the risk of non-payment for services in excess of the amount stated above without prior County approval; but County reserves the right to ratify and pay for such services in its sole discretion.
- 2.3. If applicable, payments based upon hourly rates or other measurements and provisions for travel expenses are set forth and identified in Attachment A.
- 2.4. Unless otherwise stated in Attachment A, the payment terms are thirty days after invoice approval by the County Contract Administrator.

SECTION 3 - CONTRACT TERM

- 3.1. The effective date is: October 31st, 2015, or upon final signature, whichever is later.
- 3.2. This Agreement shall continue in effect so long as County pays the Maintenance and License fees.
- 3.3. Passage of the contract expiration date shall not extinguish or prejudice the County's right to enforce this contract with respect to any default or defect in performance that has not been cured.

SECTION 4 - ADDITIONAL DOCUMENTS AND ATTACHMENTS

4.1. The following documents are incorporated into this contract:

☐ Solicitation #_____.

☒ Contractor's response dated: February 20, 2015.

☒ Washington County Standard Contract Terms and Conditions.

4.2. The following Attachments are incorporated into and made a part of this contract:

☒ Attachment A - Statement of Work/Schedule/Payment Terms

☒ Attachment B - Software License and Services

☐ Attachment C - Modifications to Standard Contract Terms and Conditions

☐ Attachment D - Modifications to Standard Insurance Requirements

☐ Attachment E - Federal Certifications

☐ Attachment F - Specific Program Requirements

☐ Other_____.

4.3. In the event there is a conflict between the documents comprising this contract, the following order of precedence shall apply: the terms and conditions in the body of this contract; Standard Contract Terms and Conditions, Attachment A, Attachment B, and Contractor's response.

Contract No.: _____

SECTION 5 - COUNTY CONTRACT ADMINISTRATOR

Name: Destiny Fogarty Olivas

Mail Stop: 1

Address: 155 N First Ave. Room B60, Hillsboro, OR 97124

Telephone: 503-846-4907

E-Mail: Destiny_Fogarty-Olivas@co.washington.or.us

Contract No.: _____

SECTION 6 - SIGNATURES

CONTRACTOR:

By my signature below, I certify that I am authorized to execute this contract on behalf of Contractor.



30 OCT 2015

Signature

Date

Stephen N. Trout

Director of Election Innovation

Name (Printed)

Title

Business Name or DBA (Check Payable to): Clear Ballot Group, Inc

Address: 7 Water Street, Suite 7 Boston, MA 02109

Steve.trout@clearballot.com

E-Mail

DUNS Number (if applicable)

Contractor Contact Person:

Name: same as above

E-Mail: _____

Address:

Telephone: 503-967-3190

Fax Number: _____

COUNTY:



11/19/15

Signature

Date

Don Bohn

Asst. County Administrator

Printed Name

Title

Recording Secretary:

(For use with Board items)

Minute Order #: _____

STANDARD CONTRACT TERMS AND CONDITIONS

1. **Subcontracts and Assignment.** Contractor shall not enter into any subcontracts for any of the work required by this contract, or assign or transfer any of its interest in this contract, without the prior written notice to County. County shall have 10 working days to object. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.
2. **Third Party Beneficiaries.** County and Contractor are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.
3. **Written Notice.** Any notice of change, termination, or other communication having a material effect on this contract shall be upon the County Contract Administrator and the Contractor Contact Person and served in one of the following manners: a) In-person delivery; or b) deposited in the U.S. Mail under certified or registered handling, postage prepaid. Except as provided in this contract, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.
4. **Governing Law/Venue/Attorney Fees.** This contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between County and Contractor that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon; provided, however, if a Claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Each party shall be responsible for its own costs and attorney fees for any claim, action suit or proceeding, including any appeal.
5. **Remedies Cumulative.** All rights and remedies of County and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of County according to law.
6. **Severability/Waiver.** County and Contractor agree that, if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any provision of this contract shall not constitute a waiver by that party of that or any other provision of this contract.
7. **Public Contracting Statutes.**

- 7.1 ORS 279B.220 through 279B.235 and 279C.500 through 279C.870, as applicable, are incorporated herein by reference.
- 7.2 The Contractor agrees to:
- a. Make payment promptly, as due, to all persons supplying, to Contractor, labor or material for the performance of the work provided for in this contract;
 - b. Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of the contract:
 - c. Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished pursuant to this contract; and
 - d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
8. **Independent Contractor.**
- 8.1 Contractor shall perform the work required by this contract as an "Independent Contractor." Although County reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the County cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by County relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this contract. Contractor is responsible for determining the appropriate means and manner of performing the work.
- 8.2 Contractor represents and warrants that Contractor is not an employee of the County, is not currently employed by the Federal Government, meets the specific independent Contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of the County, as those terms are used in ORS 30.260 et. seq.
- 8.3 Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this contract.
- 8.4 Contractor agrees to immediately provide County notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without County's written consent, any obligation of Contractor to indemnify County for any actions under this contract.
9. **Environmentally Preferred Products/Material Safety Data Sheets.** Whenever possible, the Contractor should use environmentally preferable products which present a lesser impact to the public health and the environment than competing products. Contractor agrees, upon execution of this contract, to submit a copy of the relevant material safety data sheet(s) for any chemical substance the Contractor will bring on to the County's premises and use as part of the work described in this contract.
10. **Nondiscrimination.** No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this contract on the grounds of race, color, religion,

gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the County.

11. Termination.

11.1 This contract may be terminated under the following conditions:

- a. By mutual consent of both parties.
- b. Contractor may terminate this contract upon a material default of County; however, Contractor must provide written notice to the County Contract Administrator and provide County with thirty days to cure the default.
- c. County may at any time terminate, the whole or any part of, this contract for default if Contractor fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the County, fails to correct such failures within thirty calendar days or such other period as the County may authorize or require.

11.2 Upon receiving a notice of termination issued by County, Contractor shall immediately cease all activities under this contract, unless expressly directed otherwise by County in the notice of termination.

11.3 In the event the Board of Commissioners of Washington County reduces, changes, eliminates, or otherwise modifies the funding for this contract, or if funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services, then County may terminate this contract, in whole or in part, effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, and Contractor agrees to abide by any such decision.

11.4 In addition to its other rights to terminate, County may terminate this Agreement, in whole or in part, for convenience upon ninety days' prior notice to Contractor. During this ninety-day period, Contractor shall wind down and cease its services as quickly and efficiently as possible, without performing unnecessary services or activities and by minimizing negative effects on County from such winding down and cessation of services.

11.5 The rights and remedies of the County provided in this section, are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

11.6 If this Agreement is terminated under subsections 11.3 or 11.4, County shall be liable only for payment in accordance with the terms of this contract for services satisfactorily rendered prior to the effective date of termination.

11.7 Upon termination, Contractor shall deliver to County all contract documents, information, works-in-progress, and other property that are or would be deliverables had the contract been completed.

12. Time is of the essence. Time is of the essence in Contractor's performance of each and every obligation and duty under this contract

13. **Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract.
14. **Compliance with Applicable Law.** Contractor and its subcontractor(s) shall comply with all federal, state, and local laws and ordinances applicable to the work performed under this contract including, but not limited to the following, as applicable: Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659A.142 and all regulations and administrative rules established pursuant to those laws; and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
15. **Contractor Certification Regarding Debarment, Suspension, Proposed Debarment and other Responsibility Matters.** The Contractor certifies to the best of its knowledge and belief that neither it nor any of its principals:
 - 15.1 Are presently debarred, suspended, proposed for debarment, or declared ineligible from submitting bids or proposals by any federal, state or local entity, department or agency;
 - 15.2 Have within a three-year period preceding this offer, been convicted or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performance of a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property;
 - 15.3 Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph 15.2 of this certification;
 - 15.4 Have within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal, state or local public agency.
 - 15.5 Are on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>
 - 15.6 Are out of compliance with the tax laws of Oregon and all tax laws of political subdivisions of the State of Oregon, including, but not limited to, ORS 305.620 and ORS chapters 316, 317 and 318. Washington County may terminate the contract if contractor fails to comply with any tax laws during the term of the contract.
16. **Oregon Registration.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this contract.
17. **Use of County Facilities.** Contractor and its employees or agents shall have the right to use only those facilities of County that are necessary to perform the services under this contract and shall have no right of access to any facility of the County without prior approval of County management. County shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of Contractor or its employees, subcontractors or agents which may be stored on County premises.

18. **Publicity.** Contractor shall not use in its external advertising, marketing programs or other promotional efforts, any data, pictures, or other representations of the County except on prior specific written authorization from County management.
19. **Counterparts.** This contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
20. **Warranties.** Contractor represents and warrants to County that: (a) Contractor has the power and authority to enter into and perform the contract, (b) the contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, and (c) Contractor's performance under the contract shall be in a good and workmanlike manner and in accordance with the professional standards.
21. **Records.** Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that County and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this contract for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of the County to perform site reviews for all Services Delivered by Contractor. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three years, except as required longer by law, following final payment and termination of this contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions. If OMB Circular A-133 is applicable to this Agreement, then Contractor shall supply County with Contractor's DUNS Number.
22. **Work Product.** All work products of the Contractor which result from this contract ("the work products"), except material previously and mutually identified as confidential or proprietary, shall be provided to County upon request and shall be considered the exclusive property of the County. In addition, if any of the work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants County a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so. Such work products include, but are not limited to: databases, templates, file formats, scripts, links, procedures, materials, training manuals and other training materials, specially created key commands, and any other information, designs, plans, or works provided or delivered to the County or produced by Contractor under this contract.
23. **County Policies.** During the performance of this contract, Contractor shall follow County's Affirmative Action Program which is to promote the objectives of the Equal Opportunity Commission's guidelines as set forth in the Equal Opportunity Act of 1972, Oregon State Laws, legal mandates, and Presidential Executive Order 11246 entitled Equal Employment Opportunity as amended by Executive Order 11375 and as supplemented in Department of Labor Regulation 41 CFR part 60. Contractor shall also follow the County Harassment Free and Violence in the Workplace Policies. All subcontracts shall also comply with these provisions.
24. **Indemnification and Hold Harmless.** Contractor shall defend, indemnify and hold harmless the County, its agents, officers, elected officials and employees from and against all claims, demands and judgments (including attorney fees) made or recovered against them including, but not limited to, damages to real or

tangible property or for bodily injury or death to any person, arising out of, or in connection with this contract, to the extent such damage, injury or death is caused or sustained in connection with the negligent performance or willful misconduct of Contractor, or its employee, agents or subcontractors. The County agrees to promptly notify Contractor in writing of any such claim or demand to indemnify and agrees to cooperate with Contractor in a reasonable manner to facilitate the defense of such claim.

25. **Insurance.** Contractor shall provide insurance coverage and limits as described below. All insurance carried by Contractor must be primary to and non-contributory with any insurance, including any self-insurance or retentions carried by the County. A waiver of subrogation in favor of the County shall be required on General Liability, Workers Compensation and Automobile Liability coverage.
- 25.1 **Workers' Compensation Insurance.** Contractor shall comply with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. No Workers' Compensation Insurance has been or will be obtained by the County for Contractor or Contractor's employees and subcontractors. Contractor shall provide and maintain workers' compensation coverage for its employees, officers, agents or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000/ \$500,000/ \$500,000.
- 25.2 **Commercial General Liability Insurance.** Contractor shall at all times carry a Commercial General Liability insurance policy for at least \$1,000,000 combined single limit per occurrence and at least \$2,000,000 in the aggregate per project, for Bodily Injury, Property Damage, and Personal Injury. This insurance shall include contractual liability coverage for the indemnity provided under this contract.
- 25.3 **Automobile Liability Insurance.** Contractor shall at all times carry Automobile Liability Insurance in the amount of \$1,000,000 combined single limit per accident for Bodily Injury and Property Damage for Contractor's vehicles, whether owned, hired, or non-owned, which includes coverage for Washington County, its agents, officers, elected officials and employees.
- 25.4 **Professional Liability/Errors and Omissions Insurance.** Contractor shall at all times carry a Professional Liability/Errors and Omissions type insurance policy with limits of not less than \$1,000,000 each occurrence (or each claim if coverage is afforded on a claims made basis) and \$2,000,000 in the annual aggregate. If this policy is a "claims made" type policy, the policy type and company shall be approved by Washington County prior to commencement of the Work.
- 25.5 **Extended Reporting Coverage ("Tail Coverage").** For Professional Liability/Errors & Omissions Insurance written on a "claims made" basis and for any other required liability insurance provided on a "claims made" basis, Contractor shall provide "tail" coverage at the completion of the contract for a duration of thirty-six (36) months or continuous "claims made" liability coverage provided for thirty-six (36) months following contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the retroactive date of the coverage is on or before the effective date of this contract.
- 25.6 **Maximum Deductible/Retention.** Any deductible or retention must be disclosed on the certificate of insurance and no deductible or retention may exceed \$25,000 without the prior written consent of the County. Contractor is responsible to pay any amounts within the deductible or retention amount.

- 25.7 **Additional Insureds.** The County, its agents, officers, elected officials and employees must be named as additional insureds with respect to Contractor's services to be provided under this Contract. All liability insurance policies, with the exception of professional and/or workers compensation policies, must be endorsed to show this additional coverage.
- 25.8 **Insurance Certificates.** Contractor shall deliver to the County, prior to the commencement of the work, a certificate of insurance evidencing all policies required by this contract including additional insured provisions afforded by the policy. This requirement can be satisfied by providing a copy of the coverage form and/or the endorsement(s). Further, it is an affirmative obligation upon the Contractor to advise the Contract Administrator within two business days of any substantive change of any insurance policy or endorsement set out herein, and failure to do so shall be construed to be a breach of this contract.
- 25.9 **Subcontractor Insurance.** Contractor shall require and verify that all of its subcontractors of any tier provide insurance coverage and limits identical to the insurance required of the Contractor under this contract, unless this requirement is expressly modified or waived by the County.
26. **Survival.** The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.
27. **Amendment.** This contract may only be amended by a written amendment signed by authorized agents of both parties.
28. **Protecting the Federal Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.** The Federal Government suspends or debar Contractors to protect the Federal Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so. The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000 to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government. A corporate officer or a designee of the Contractor shall notify the Contract Administrator, in writing, before entering into a subcontract with a party that is debarred, suspended or proposed for debarment.
29. **Security of Information**
- 29.1 The County is required to notify its customers if any electronically stored information or written document that contains personal information has been subject to a security breach. Any Contractor of the County who becomes aware of any potential breach of a document or electronic file containing personal information of client of the County will immediately notify the Contract Administrator, who will work with the County Public Information Officer to notify the affected persons. A breach occurs when any unauthorized individual or entity gains access to personal information or when unintended disclosure of personal information is made, for example loss or theft of a electronic device containing personal information, loss or theft of a paper document containing personal information, unauthorized access to a network containing personal information, or a document containing personal information being sent to the wrong address.

- 29.2 No County Contractor will print a person's full Social Security Number (SSN) on any document that will be sent through the mail, without a written request from the person whose SSN will be printed on the document, except as required by law. The Contractor will use only the last 4 digits of a SSN on all documents unless there is a compelling business reason to use the entire SSN. If a document contains a full SSN, the Contractor will take steps to protect the document from unauthorized disclosure. Contractors will not provide copies of a document containing a full SSN to anyone other than the person whose SSN is listed on the document, except as allowed by State or Federal law. The Contractor may provide a copy of a document to a third party with the SSN redacted if the document is otherwise allowed to be released. No Contractor will publicly post or display a document containing a full SSN.
- 29.3 Any County Contractor that collects personal information must develop, implement and maintain reasonable safeguards to protect the security and confidentiality of the information. Employees of the Contractor with access to personal information must take reasonable steps to prevent a breach of the information. Reasonable steps include locking file cabinets, monitoring who has access to areas containing personal information, locking computer workstations if leaving the area, and maintaining physical control over files, computer workstations, thumb drives, cds or other media which contains personal information. Contractors must also ensure the proper disposal of documents or other media which contains personal information. Contracting with a document shredding company will be considered proper disposal of paper documents. The Contractor will be responsible for properly disposing of or erasing electronically stored personal information on hard drives, CDs, thumb drives or other devices under their control.
30. **Performance Standards.** Unless the Contractor is providing architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or related services, as defined in ORS 279C.100, the Contractor must meet the standards as defined in the Statement of Work..
31. **Remedies.** The consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by this contract may include, but are not limited to:
- a. Reducing or withholding payment;
 - b. Requiring the Contractor to perform, at the Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; and
 - c. Declaring a default, terminating the contract and seeking damages and other relief available under the terms of the contract or other applicable law.
32. **Whole Contract.** THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS CONTRACT.

Personal Services Contract

Attachment A

Statement of Work

Dated October 31st, 2015

Solution Overview & Scope of Work (General):

The purpose of this SOW is to implement the Clear Ballot central ballot-tallying solution, including ClearDesign and ClearVote, (hereinafter collectively referred to as the "Solution") for the County. The Solution will replace the County's current ES&S system and will be used to design and tally ballots. The County plans to have ballots printed by a third-party vendor, and Clear Ballot's certification of the selected print vendor is part of the scope of the project.

The high-level scope includes:

1. Provide and install hardware (scanners, workstations and servers).
2. Install software.
3. Conduct and facilitate a re-run of the November 2015 Election, to prove Solution accuracy.
4. After Solution accuracy is validated, then run Solution Presentation allowing external stakeholders a chance to view and ask questions about the new Solution before it is used for a live election.
5. Setting up the system in the Washington County Elections office.
6. Conduct training on the system for County Elections and County IT staff.
7. Redesign the elections process to leverage the features of the Solution.
8. Conduct Acceptance Testing.

Key Assumptions:

1. Installation needs to begin after the November 3rd Election and be complete before the November 2015 Election Re-Run and Solution Presentation Deliverables.
2. The county will first use the system either in the March 2016 or the May 2016 Election. Acceptance Testing and Training will need to be completed by the beginning of March or the start of the May 2016 Election 61 day Election Preparation period.
3. Final System Acceptance will happen after the May 2016 Election is complete.
4. There will be a Re-Run of the November 2015 Election using the Solution and an external Stakeholder Solution Presentation. This deliverable will be scheduled no later than January 2016. The success criteria of the Re-Run will be the Solution results matching the results of the legacy system, or the Solution results are determined to be more accurate than the legacy results.
5. Designing and printing ballots is the most critical task that the system needs to support in order to prepare for the May Election. Therefore, configuration and testing of the ClearDesign module should take place as early in the schedule as possible.
6. County will select a ballot-printing vendor for certification by Clear Ballot.
7. Contractor deliverables will be reviewed for quality at pre-determined Quality Gate check-in points. These check-in points give the County an opportunity to review contractor deliverables for quality before moving into the next project phase. The success criteria is defined in the Standard Contract Terms and Conditions #30, or Attachment A – Statement of Work.

Goals and Objectives:

1. Provide Solution accuracy validating by performing a Re-Run of the November 2015 Election.
2. Provide external stakeholder transparency by having a Solution Presentation.
3. Implement the system in time to conduct the May 2016 Election.
4. Increase the efficiency of the ballot-tallying process.
5. Increase the accuracy and transparency of the voting process.
6. Redesign the current ballot-tallying process to leverage the innovative features of ClearVote, including on-screen adjudication.

Project Schedule:

The project shall be initiated and completed pursuant to a mutually agreed upon schedule and work plan attached hereto as Personal Services Contract, Statement of Work, and Exhibit 1.

Scheduling assumptions:

1. Hardware requirements will be finalized prior to signing the Agreement, since the cost needs to be finalized in order to complete the Agreement.
2. In order to be most efficient in time and resources, Clear Ballot proposes to conduct the ClearDesign installation and training before the ClearCount installation and training, in order to focus on ensuring that the ability to design and print ballots is in place in time for a May Election. Clear Ballot will work to coordinate trainings with other Oregon counties in order to share training costs.

Implementation Process:

Kick-off Meeting:

A kick-off meeting will be held soon after the Agreement is executed.

Purpose of the kick-off meeting will be to review the scope, Project Plan, schedule, roles and responsibilities, ground rules, etc. Clear Ballot shall be responsible for the meeting agenda with input from the County.

Planning:

Prior to the beginning of implementation the primary planning that needs to take place on behalf of the County is to identify resources and ensure the availability of those resources at the appropriate times throughout the contract.

Training and Testing:

Training will be a combination of in person and online training as outlined below.

Acceptance testing will also be conducted on-site and shall adhere to the concepts and procedures further described in the Testing Section and the Acceptance Criteria Section below.

Requirements for the Solution:

The following requirements will be included in the Acceptance Test:

Requirement	Acceptance Criteria
OCVR import	County staff is able to import data from a past

	election in OCVR and demonstrate the data was imported with zero errors.
Certify third-party ballot printing company	County has selected and Clear Ballot has certified ballots printed by third-party printer sufficiently scan and tally.
Ballot Design	County staff is able to design ballot styles from a past election to Oregon State Election standards.
Creating ballot definition files and importing them into ClearVote to set up the election.	County staff is able to import data from a past election in OCVR into ClearVote to set up an election with zero errors.
Exporting raw data for analysis and ad hoc reporting	County staff is able to export data and able to import it into Microsoft Excel.
Archiving elections and ballot images	Election has been archived to backup storage medium along with ballot images.
Restoring an archived election	County staff is able to restore an archived election.

The following requirements will be included in the Final Acceptance Test, to occur concurrent with the May 2016 election. Each of these items will be tested during implementation prior to the election, but the requirements listed below allow the County to see each requirement in a live election environment and the acceptance criteria will satisfy a successful election for Final System Acceptance:

Requirement	Acceptance Criteria
Scanning ballots and performing online adjudication	County staff has scanned a minimum of 2,000 ballots on each scanner with a jam rate of less than 0.2%. On-screen adjudication decisions for ballots scanned during acceptance testing are reflected in the results for 100% of the ballots.
Throughput	Scanners demonstrate a capacity to scan a minimum quantity of 3,000, 8.5" X 17" ballots per hour.
Tallying the vote and producing results reports in HTML format	Customer staff has produced an HTML format results report that can be posted to the Customer website with minimal effort. This process should be repeatable on an hourly schedule.
Ability to locate the paper ballot associated with an image stored in the system	County staff can locate 10 paper ballots, selected by County, based on information associated with images stored in the system.
Exporting results to OCVR	County staff is able to export results data directly to OCVR with zero errors.

Ability to produce audit reports (electronically and or in paper)	County staff is able to produce an audit log of each scanner reflecting date, time and processing activity.
Exporting results to ORESTAR (Oregon Elections System for Tracking and Reporting)	Customer staff is able to export results data directly to ORESTAR with zero errors.
Final Acceptance	All ballots from the May Election are printed, marked, scanned and tallied with zero errors.

Deliverables:

1. A finalized and detailed project plan, see SOW Exhibit 1.
2. Hardware (including scanners, workstations/ScanServer, and laptops) delivered to the County in new condition and installed and in working order.
3. Installation of ClearDesign and ClearCount software.
4. Configuration of ClearDesign, including OCVR import.
5. The results export is suitable for upload to OCVR and ORESTAR.
6. Ability to export election results in HTML format for posting on the County Election's website.

Hardware, Software, and/or Storage Design, Installation, and/or Consulting:

1. Clear Ballot shall be responsible for procuring, configuring and shipping all hardware to County.
2. Clear Ballot staff shall be responsible for installing hardware and software, with assistance from County Elections or IT staff as needed. County shall provide at least one (1) Elections staff member and one (1) IT staff member to participate/observe the hardware and software installation in order to become familiar with the installation procedures.

Project Management:

1. Clear Ballot shall have primary project management responsibility and shall be responsible for ensuring that the project is completed on time and on budget.
2. The Clear Ballot Project Manager shall provide regular status reports to the Project Sponsor, Elections Manager and County Project Manager. At a minimum, the status report should include tasks at risk/in jeopardy, tasks completed, estimate of time required to complete tasks in progress, and tasks planned to start in the upcoming week.

County Responsibilities:

1. County will ensure that County Elections and IT staff are available to work with Clear Ballot when needed.
2. County will be responsible for providing furniture needed in the counting area (tables, chairs, etc.).
3. County will be responsible for selecting a third-party, ballot-printing vendor and making any necessary arrangements for printing ballots.

Contractor Responsibilities:

1. Clear Ballot shall have primary project management responsibility.
2. Clear Ballot shall notify the County in advance as to what resources are required and when.

3. Clear Ballot shall be responsible for procuring, configuring, shipping and installing all hardware.
4. Clear Ballot shall be responsible for installing software, with County participation.
5. Clear Ballot shall be responsible for conducting training and shall provide the necessary equipment and training materials, unless prior arrangements have been made with the County.
6. Clear Ballot shall support and provide guidance (when necessary) while County is performing User Acceptance Testing, and throughout the System Acceptance period.
7. Clear Ballot shall be responsible for certifying any ballot printer(s) selected by the County.

Training:

1. Training shall be conducted by Clear Ballot staff.
2. Training shall be completed no later than March 1, 2016.
3. Training shall consist of the following 6 courses:
 - a. ClearVote Overview
 - b. ClearVote Installation and Setup
 - c. ClearVote System Administration
 - d. ClearVote Operations and General Maintenance
 - e. Using ClearVote Election Reports (training based on certified functionality)
 - f. Using ClearDesign
4. The Clear Ballot Project Manager shall work with the County to develop a detailed training schedule. The schedule shall identify the date, time and location for each session and the attendees for each session. The timing requirement for the schedule is to allow adequate time for staff to arrange their schedules to be able to attend.
5. Clear Ballot shall provide manuals and training videos. Manuals and videos are currently available for the ballot-tabulation process.

Testing:

Acceptance Test Plan:

A detailed acceptance test plan shall be developed as part of the project. At a high level, the acceptance test plan must demonstrate that the system can support items defined in the Requirements Section of this SOW to the satisfaction of the County.

Acceptance Testing:

Following delivery and installation of the Solution, Customer shall have ten (10) business days to test the Solution and respond to Clear Ballot with written indication of any defects (hereinafter "Acceptance Testing"). Upon notification of any Solution defect(s), Clear Ballot shall repair said defects at no additional cost to Customer and resubmit the resolved defective component or the entire Solution to Customer for Acceptance Testing as described herein.

Final Acceptance Testing:

The Solution shall be considered fully accepted upon the successful completion of testing the Acceptance Criteria as described in the previous Final Acceptance Table which follows the Requirements for the Solution Section of this SOW. The May 2016 Election, using the Solution, after certification of the results; will act as Final Acceptance.

Acceptance Criteria or Procedure:

Acceptance criteria for all standard features of the system are described in the table entitled "Requirements for Solution" and will be based on an acceptance test that will exercise all system functions that the County will use in the course of conducting an election.

System Documentation and Manuals:

Clear Ballot shall provide one complete set of product documentation on paper and one complete set in PDF format. Said documentation shall be maintained on Clear Ballot's online support portal. This documentation shall include all technical, database, application, training and user documentation and manuals.

Knowledge Transfer:

Clear Ballot shall provide knowledge transfer to ensure County staff are fully capable of using and supporting the Solution. Such knowledge transfer will be facilitated by the following:

1. County staff will work alongside Clear Ballot staff when Clear Ballot staff are installing Software and Hardware or performing any other standard configuration and maintenance on the system.
2. County staff will participate in formal training as described in the Training Section of this SOW.
3. County staff will participate in an acceptance test that will simulate the actual ballot-tallying process as closely as possible.

Change Order Process:

In the event that a change in the scope, schedule, or cost of this SOW is necessary, such change shall be documented, communicated, and agreed upon following the following Change Control Process.

The Change Control Process applies whenever a change request is submitted. A change request can be cost or no-cost and can apply to a project aspect, such as scope, time, cost, process, or contractual terms.

The type of change being requested will determine the level of resolution and sign off authority required to make the change effective.

On the contractor side, the project manager has overall responsibility for executing the change management process for each change request.

1. Identify the need for a change (Stakeholders) – Change requestor will submit a completed change request form to the project manager.
2. The project manager will keep a log of all submitted change requests throughout the project's lifecycle.
3. The project manager will conduct a preliminary analysis on the impact of the change to risk, cost, schedule, and scope and seek clarification from team members and the change requestor.
4. The project manager will submit the change request, as well as the preliminary analysis, to Clear Ballot for review.
5. Clear Ballot will discuss the proposed change and decide whether or not it will be approved based on all submitted information.

6. If a change is approved by Clear Ballot, the project manager will update and re-baseline project documentation as necessary.

On the County side, the County PM and/or the Elections Manager are the point of contact for all changes. The County PM and/or Elections Manager have authority to approve and prioritize no-cost change requests and changes that do not affect communicated deployment timelines and payment milestones. The County PM will consult internally within the County as necessary to determine the appropriate level of escalation for changes which may have significant impact on cost, scope, schedule, or quality.

Both the Contractor and County PMs are responsible to disseminate the change request information to their stakeholders.

Sub-Contractors:

According to the Standard Contract Terms and Conditions, Subcontracts and Assignments, section 1 of the Agreement, the Contractor shall not enter into any subcontracts for any work required by this contract, without prior written notice to the County.

Fees/Rates, Invoices, Payment:

Hardware and Software:

Hardware Purchase Price/Discounts:

County shall acquire from Clear Ballot the Hardware described in Personal Services Contract, Statement of Work, and Exhibit 2 "Hardware Quote Details" at the prices listed therein.

Software Purchase Price:

County shall acquire from Clear Ballot, the Software described in Personal Services Contract, Attachment B (Clear Ballot Group Software License and Services Agreement) Exhibit 1 "Software Order."

Training Price:

County shall receive from Clear Ballot, the training deliverables described in Personal Services Contract, Statement of Work, Exhibit 3 "Training and Documentation."

Prices for SOW Categories:

Category	Total Price
Hardware	\$ 120,825.04
Software	\$ 220,000
Professional Services (including Installation and Training)	\$ Not to exceed \$40,000

Invoices/Payments: Unless specified otherwise herein, upon acceptance of deliverables by County, and successful completion of the milestones described in the Payment Milestones table below, Clear Ballot shall invoice for payment as described in the Payment Milestones table.

Payment Milestones:

Milestone	Payment Amount
1. Hardware and Software Purchase	100% of Hardware 50% of Software
2. Hardware and Software Installation	20% of Software
3. Training and Acceptance Testing Completion	20% of Software 90% of Professional Services
4. Final Acceptance Testing Completion at May 2016 election	10% of Software 10% of Professional Services

The maximum amounts to be invoiced by Clear Ballot under this SOW, excluding training, shall not exceed \$500,000 for all Payment Milestones and as outlined in the above "Prices for SOW Categories" table.

Termination of SOW: This SOW may be terminated upon ten (10) days written notice from County. In the event that the Solution cannot pass County's Final Acceptance, Clear Ballot shall refund all fees paid by County, and at County's sole discretion, either; 1) accept the return of the Hardware and Software with no further cost or liability to County, or 2) accept the return of the Software and transfer any Clear Ballot rights and responsibilities relating to the Hardware to County, and County shall retain possession of the Hardware for use with a replacement Solution.

Refunds: In the event Clear Ballot is unable to achieve Final Acceptance, at Customer's sole discretion, Customer may return all Hardware and Software purchased from Clear Ballot for a full refund, or amounts as may be described in further detail in the Agreement. All monies owed to Customer by Clear Ballot shall be due and payable thirty (30) days following receipt of the returned Hardware and Software by Clear Ballot

The undersigned hereby agree to be bound by the terms and requirements of this SOW and the attached Exhibits and Attachments.

Washington County

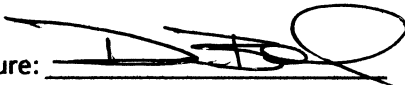
Clear Ballot Group

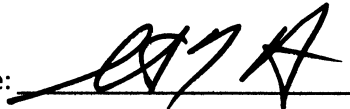
Name: Don Bohn

Name: Stephen N. Trout

Title: Asst. County Administrator

Title: Director of Election Innovation

Signature: 

Signature: 

Date: 11/19/15

Date: 30 OCT 2015

APPROVED WASHINGTON COUNTY
BOARD OF COMMISSIONERS

MINUTE ORDER # 15-276

DATE 9-1-15

BY Barbara Hejmanek
CLERK OF THE BOARD

SOW EXHIBIT 1

Project Plan

Task Name	Duration	Start	Finish	Resource Names	Predecessors
Inception	108 days	Mon 7/13/15	Wed 12/9/15		
Board approval to award CB County Contract	1 day	Tue 9/1/15	Tue 9/1/15		
Elaboration	103 days	Mon 7/20/15	Wed 12/9/15		
Conference call with vendor - to go over rules of engagement and first draft of contract	1 day	Tue 9/29/15	Tue 9/29/15	County & CB	
Contract edits - includes SOW, L&M and PSC and schedule	23 days	Wed 9/30/15	Fri 10/30/15	County & CB	10
Finalize HW Config & Pricing for Contract	8 days	Wed 9/30/15	Fri 10/9/15	County & CB	10
Finalize Contract (vendor signature, turned over to County Purchasing)	0 days	Mon 11/2/15	Mon 11/2/15	County & CB	11
Contract approval process and signatures	10 days	Mon 11/2/15	Fri 11/13/15	County	13
Costing for items outside of contract with CB - (Printer, Monitors, Router, wiring, furniture)	8 days	Wed 9/30/15	Fri 10/9/15	County	10
Order/Delivery of Furniture and non-contractual Equipment	20 days	Mon 11/9/15	Fri 12/4/15	County Elections, County ITS	
Complete Wiring for electricity and network	5 days	Mon 11/23/15	Fri 11/27/15	County Facilities, County ITS	
Set up furniture install non-contractual equipment	3 days	Mon 12/7/15	Wed 12/9/15	County Elections, County Facilities, County ITS	17
Construction	146 days	Mon 11/16/15	Mon 6/6/16		15
Project Kick Off	1 day	Mon 11/23/15	Mon 11/23/15	CB, County Elections	
Weekly Project Status Meeting	141 days	Mon 11/23/15	Mon 6/6/16	CB, County Elections	
Order ClearCount server - Ship to CBG	11 days	Mon 11/16/15	Mon 11/30/15	CB	
Order Scan & Admin Stations - Ship to CBG	11 days	Mon 11/16/15	Mon 11/30/15	CB	
Order Fujitsu Scanner ship to County	10 days	Mon 11/16/15	Fri 11/27/15	CB	
CBG Configure CB Servers, ScanStations, Admin Stations to include Clear Design	5 days	Mon 11/30/15	Fri 12/4/15	CB	54

CBG delivers Servers, ScanStations, Admin Stations to County to Rev. 1.07	4 days	Fri 12/4/15	Wed 12/9/15	CB	
Install Scanners, and Servers, Scan & Admin Stations	2 days	Mon 12/14/15	Tue 12/15/15	CB, County ITS	56
Implementation Complete	0 days	Tue 12/15/15	Tue 12/15/15		57
Transition	5 days	Mon 12/14/15	6/13/2016		
November 2015 Election Re-Run (Go, No Go QG).	3 days	Wed 12/16/15	Fri 12/18/15		
ClearVote Install and Set-up	1 day	Mon 12/14/15	Mon 12/14/15	CB, County ITS, County Elections	
Re-Run of November Election	2 days	Tue 12/15/15	Wed 12/16/15	CB, County Elections	61
takeholder Presentation	1 day	Thu 12/17/15	Thu 12/17/15	CB, County Elections	62
Go, No Go Decision	0 days	Fri 12/18/15	Fri 12/18/15	County	62
Training	13 days	Mon 1/11/16	Wed 1/27/16		
Clear Design Staff Training	5 days	Mon 1/11/16	Fri 1/15/16	CB, County Elections	
Clear Vote Overview	3 days	Mon 1/18/16	Wed 1/20/16	CB, County Elections	66
Clear Vote System Administration	1 day	Thu 1/21/16	Thu 1/21/16	CB, County Elections	67
Clear Vote Operations & General Maintenance	1 day	Fri 1/22/16	Fri 1/22/16	CB, County Elections	68
Clear Vote Reporting, OCVR Export	1 day	Fri 1/22/16	Fri 1/22/16	CB, County Elections	
Initial Training Complete	0 days	Fri 1/22/16	Fri 1/22/16		70
Acceptance Testing	10 days	Mon 12/14/15	Fri 12/25/15	CB, County Elections	61
May 2016 Election Prep.	70 days	Mon 3/7/16	Mon 6/13/16		
ClearDesign Primary Election Refresher Training	2 days	Mon 3/7/16	Tue 3/8/16	CB, County Elections	
May 2016 Election	0 days	Tue 5/17/16	Tue 5/17/16	County	
Final System Acceptance Complete	0 days	Mon 6/13/16	Mon 6/13/16	CB, County Elections	

SOW Exhibit 2 Hardware Quote Details

Washington County, OR
Hardware Quote Details



Clear Ballot

QTY		Per Unit	Total Price
Fujitsu Scanners			
4	Fujitsu fi-6800 Scanner	\$15,222.92	\$60,891.68
4	Four Years Fujitsu Support and Maintenance ⁽¹⁾	\$9,859.37	\$39,437.48
Additional Hardware			
4	ScanStation Laptops ⁽²⁾	\$1,473.99	\$5,895.96
3	ClearDesign and Election Administration Laptops ⁽²⁾	\$1,473.99	\$4,421.97
1	ClearDesign Server - Laptop ⁽³⁾	\$1,473.99	\$1,473.99
2	ScanServer - Desktop ⁽⁴⁾	\$4,100.00	\$8,200.00
2	Router	\$80.00	\$160.00
4	ScanStation Stands	\$85.99	\$343.96

Footnotes:

(1): Includes four years of Fujitsu support. Basic Support in 2015 and 2017 and ScanCare Support in 2016 and 2018. The exact dates can be set to reflect election calendar requirements in each year.

(2): Dell Precision M2800 Mobile Workstation, Windows.

(3): Dell Precision M2800 Mobile Workstation, Linux.

(4): Dell PowerEdge 320 Tower Server with RAID and USB 3.0.



Clear Ballot Group | 7 Water St, Suite 7 | Boston, MA 02109 | www.ClearBallot.com

SOW Exhibit 3

Training and Documentation

This Training and Documentation SOW Exhibit 3, hereinafter referred to as "Exhibit 3" shall be incorporated into and governed by the terms of the Agreement by and between County and Clear Ballot. Unless otherwise expressly provided for in this Exhibit 3, in the event of a conflict between the provisions contained in the Agreement and those contained in this Exhibit B 3, the provisions contained herein shall prevail.

Clear Ballot responsibilities for training

Clear Ballot will provide initial training on site for up to 12 days for up to 10 Customer employees (two 3-hour sessions per day.)

Clear Ballot will provide training at a location chosen by the Customer, that is convenient to and sized for their staff, and that has been furnished by the Customer with sufficient tables and chairs, equipment, and electrical service. Clear Ballot will provide different levels of training, customized to the role of the staff member, as agreed to with the Customer. Clear Ballot will provide digital manuals for staff designated for training. The Customer may reproduce manuals as needed.

The materials for the training will be available online, as well as training videos and a complete support knowledge base.

When practical, and agreed upon by both Clear Ballot and the Customer, training may be provided by remote screen sharing and conferencing, as an option to reduce costs by limiting travel expenses.

If requested by the Customer, Clear Ballot will provide additional customized training on a per-session basis at the rates described in Attachment B, Exhibit 2.

Clear Ballot will provide a "train-the-trainer" program to facilitate Customer independence and ensure that Customer staff can train newer workers.

In addition, Clear Ballot will provide PDF files of well designed, accurate, and voter friendly brochures describing to the voters how the voting systems are operated. These can be reproduced by the Customer for possible voter awareness initiatives.

Initial Training: can be customized to include additional items but must include the following topic areas:

- ClearVote System Administration
- ClearVote Operations and General Maintenance
- Using the ClearVote Election Reports
- Using ClearDesign

Training for Upgrades: In the case of system upgrades, Clear Ballot will provide digital copies of new guides and manuals at no extra charge. Additional training will be provided at published rates for Clear Ballot training, as requested by the Customer.

Customer responsibilities for training

All staff using the software and hardware shall have completed initial training or "train-the-trainer" sessions, or training provided by a trained Customer staff member, including review of all user checklists and training manuals.

The Customer will provide a training location with suitable tables, chairs, hardware and electrical service for training purposes.

The Customer Trainees Shall:

- Be trained and able to successfully use the hardware and software for primary and general elections
- Learn how to install Clear Ballot software and make changes to settings as indicated in training
- Store the equipment and maintain it securely according to Clear Ballot standards provided in the documentation
- Extract data from the ClearVote System
- Conduct election operations and reporting in accordance with the election regulations in Oregon
- Be able to participate in lifting a 70 lb. scanner if participating in set-up or breakdown of hardware.

The Customer Shall:

- Be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of ballot printers that have not been certified by Clear Ballot.

Clear Ballot Responsibilities for Documentation:

Clear Ballot Shall supply at delivery the user documentation necessary to install, operate and maintain the system provided at no cost to the Customer. User documentation will include at least the following:

- End-to-end instructions for operation of the system
- In-depth description of configuration options
- Security and hardening procedures
- Definitions of Clear Ballot specific terms
- Election Testing Procedures

Customer may provide to its constituents copies of materials that Clear Ballot provides to the Customer for training or instruction about the use and operation of the system. Any items provided by Clear Ballot to the Customer containing information confidential and proprietary to Clear Ballot or the ClearVote system shall be clearly marked as such, and except as required by Customer by rule, law, or statute, shall not be disseminated outside of the county without the express written consent of Clear Ballot.



Clear Ballot

This Software License and Services Agreement ("Agreement") dated for reference purposes as of _____, 2015, ("Effective Date") is entered into between Clear Ballot Group, Inc., a Delaware corporation ("Clear Ballot") and Washington County, Oregon, a political sub-division of the State of Oregon ("Customer").

1 DEFINITIONS

1.1 "Authorized Users" means Customer's employees and such other types of users, if any, as may be expressly authorized in an Order and who are performing services solely for the benefit of Customer. Unless expressly provided otherwise in the relevant Software Order, Authorized Users do not include Customer's vendors, contractors, or any other third parties, including technology service providers.

1.2 "Days" means calendar days, unless specified otherwise.

1.3 "Designated Jurisdiction" means the jurisdiction in which the Licensed Software and Services will be used, and includes all jurisdictions for which the Designated Jurisdiction administers elections on behalf of. The initial Designated Jurisdiction shall be identified in the applicable Software Order.

1.4 "Documentation" means the documentation made generally available by Clear Ballot to its customers for use of the Licensed Software, as updated from time-to-time by Clear Ballot in its discretion.

1.5 "Licensed Software" means the Object Code version of Clear Ballot's ClearVote Software ("CBG Software") and the Object Code version of any other computer programs to be licensed by Clear Ballot to Customer under a Software Order, including any bug fixes, updates and new releases thereof provided by Clear Ballot as part of Support Services or purchased by Customer under a subsequent Software Order. The Licensed Software shall be used solely for the purposes of defining an election and tabulating and reporting election results in the Designated Jurisdiction. The term "Licensed Software" also includes any and all Documentation applicable to such computer programs.

1.6 "Object Code" means computer programs assembled or compiled, which are readable and usable by machines, but not generally readable by humans without reverse-assembly, reverse compiling, or reverse-engineering.

1.7 "Order" means a request to license Licensed Software (a "Software Order") or purchase Services (a "Service Order") under this Agreement. Each Order will be sequentially numbered and specifically reference this Agreement.

1.8 "Services" means, collectively, any Support Services or Professional Services, both as defined below, purchased by Customer under an Order.

1.9 "Source Code" means computer programs written in higher-level programming languages, sometimes accompanied by English language comments. Source Code is intelligible to trained programmers and may be translated to Object Code for operation on computer equipment through the process of compiling.

PSC Attachment B

CLEAR BALLOT GROUP SOFTWARE LICENSE AND SERVICES AGREEMENT

1.9.1 "Source Code Escrow" means the storage of the Source Code in an account with an independent third-party escrow provider.

1.10 "Warranty Period" means three-hundred-sixty-five (365) calendar days for ClearVote Software from the completion of Final Acceptance (as defined in the SOW) testing by the Designated Jurisdiction.

2 SOFTWARE, SUPPORT AND SERVICE ORDERS

2.1 This is an agreement under which Customer may order software products, services and support from Clear Ballot. Clear Ballot's acceptance of any Order made by Customer under this Agreement shall be subject to all applicable provisions of this Agreement, as well as any additional provisions that may be set forth in the Order. In the event of conflicting terms or conditions, the terms of the Personal Services Contract shall govern.

2.2 *Software Orders.* Customer may order software products by using a Software Order in the form shown in Exhibit 1 (Software Order). Upon Clear Ballot's receipt of a Software Order from Customer, the software products described in the Software Order will be "Licensed Software" for purposes of this Agreement.

2.3 *Support.* Customer support will be accessible via phone, e-mail, and a secure web portal on the Clear Ballot website. Detail on support is set forth in the Service Level Agreement, attached hereto as Exhibit 2.

2.4 *Service Orders.* Customer may order on-site support and services for the Licensed Software by signing and delivering to Clear Ballot an order in a form reasonably approved by Clear Ballot.

3 LICENSE AND RESTRICTIONS

3.1 *Grant of License.* Subject to the terms and conditions of this Agreement and provided Customer has paid all undisputed fees and costs due under this Agreement, Clear Ballot grants Customer a perpetual, nonexclusive, nontransferable license to use the Licensed Software during the term set forth in the applicable Software Order. Authorized Users may use the Licensed Software on Licensee's behalf for the purposes contemplated herein. Customer shall ensure Authorized Users comply with all relevant terms of this Agreement and any failure to comply will constitute a breach by Customer. Customer may make a single copy of the Licensed Software for backup and archival purposes.

3.2 *Restrictions on Use.* Except as expressly authorized by this Agreement, Customer may not knowingly (i) use or permit the Licensed Software to be used in any manner, whether directly or indirectly, that would enable Customer's employees, agents, or any other person or entity to use the Licensed Software in any jurisdiction other than the Designated Jurisdiction or for anyone's benefit other than Customer, (ii) rent, sell, assign, lease, sublicense, or otherwise

transfer the Licensed Software, (iii) derive or attempt to derive the Source Code, source files, or structure of all or any portion of the Licensed Software by reverse engineering, disassembly, decompilation, or any other means, except to the extent permitted by applicable law, (iv) copy, translate, port, modify, or make derivative works based on the Licensed Software, (v) use the Licensed Software except as set forth in the Documentation, (vi) use the Licensed Software or Clear Ballot Confidential Information to contest the validity of any Clear Ballot intellectual property, including the Licensed Software; (vii) modify, remove, or destroy any proprietary markings or confidentiality legends placed upon or contained within the Licensed Software, the Documentation, or any related materials; (viii) use the Licensed Software in a manner to compete with Clear Ballot or to assist a third party in competing with Clear Ballot; (ix) except with Clear Ballot's prior written consent, use the Licensed Software outside the Designated Jurisdiction; (ix) operate a service bureau or other similar service for the benefit of third parties using the Licensed Software; (x) export, directly or indirectly, the Licensed Software from the United States; or (xi) disclose the Licensed Software to any non-U.S. national in the United States in violation of any United States export or other similar law (e.g., unauthorized "deemed exports"). Clear Ballot also expressly authorizes County to use Other County's License Software to facilitate County's continuity of operations in the event of an emergency.

3.3 Minimum System Configuration. The minimum hardware and software requirements for proper operation of the Licensed Software are set forth in the Software Order or the relevant Documentation. Such minimum requirements shall not be augmented or otherwise revised to significantly increase the requirements or render existing hardware or software unsupportable without Clear Ballot providing to Customer at least 180 days prior written notice of Clear Ballot's intent to do so. Customer shall be solely responsible for purchasing, providing and installing all other required equipment, networks, peripherals and hardware not included in the Statement of Work.

3.4 Intellectual Property Ownership. The Licensed Software contains material that is protected by United States copyright, trade secret law and other intellectual property law, and by international treaty provisions. All rights not expressly granted to Customer under this Agreement are reserved by Clear Ballot. All copyrights, patents, trade secrets, trademarks, service marks, tradenames, moral rights and other intellectual property and proprietary rights in the Licensed Software and Services will remain the sole and exclusive property of Clear Ballot or its licensors, as applicable. Customer agrees and acknowledges that (i) Except in the case of any work product contracted for by Customer pursuant to a mutually agreed Statement of Work and specified in such Statement of Work as work-made-for-hire under Section 101 of Title 17 of the United States code, and developed by Clear Ballot under said Statement of Work, Clear Ballot will be the exclusive owner of all right, title and interest in and to all software, programming, tools, documentation, materials and other intellectual property of any kind used, developed, or delivered by Clear Ballot to Customer in connection with this Agreement; and (ii) Elections BCP License_Maint_final

this is not a work-made-for-hire agreement under Section 101 of Title 17 of the United States Code. Notwithstanding the foregoing, Customer and Clear Ballot will preserve all Licensed Software and Services owned by the other party from any liens, encumbrances and claims of any individual or entity.

3.5 Feedback. Customer may provide suggestions, comments, or other feedback (collectively, "Feedback") to Clear Ballot with respect to its products and services, including the Licensed Software. Feedback is voluntary and Clear Ballot is not required to hold it in confidence and may use Feedback for any purpose without obligation of any kind. To the extent a license is required under Customer's intellectual property rights to make use of the Feedback, Customer hereby grants Clear Ballot an irrevocable, non-exclusive, perpetual, royalty-free license to use the Feedback in connection with Clear Ballot's business, including enhancement of the Licensed Software.

3.6 License Term. The term of the license granted in Section 3.1 (Grant of License) will commence upon execution of the relevant Software Order and continue for the term specified in the Order, unless earlier terminated in accordance with the provisions of this Agreement.

4 TERM

This Agreement shall be effective as of the Effective Date and continue in effect until the expiration or termination of all Orders (the "Term").

5 FEES, EXPENSES AND TAXES

Payment Terms. Customer will pay the license, service and support fees required under the mutually executed Orders, all of which will be billed on an annual basis, payable in advance. Customer will reimburse Clear Ballot for reasonable special or unusual expenses incurred at Customer's specific written request. Provided that the work described in the invoice has been completed in accordance with the terms of the Order and accepted by County, all undisputed amounts to be paid by Customer are due and payable thirty (30) Days after Customer's receipt of the complete and accurate invoice. All payments not disputed in good faith by Customer and not made by Customer within ninety (90) days of when due will be subject to late charges of the lesser of (i) one percent (1.0%) per month of the overdue amount or (ii) the maximum amount permitted under applicable law. Customer will pay all sales, use and excise taxes relating to, or under, this Agreement, exclusive of taxes based on or measured by Clear Ballot's net income, unless Customer is exempt from the payment of such taxes and provides Clear Ballot with evidence of the exemption.

6 HARDWARE

6.1 Hardware. Although the Licensed Software may be used with scanners made by various manufacturers, the Licensed Software is only supported when used with scanners described in the Documentation.

6.2 Hardware Discounts. During the Term, and provided Customer is in compliance with this agreement and has paid all undisputed fees and costs due under this Agreement, Customer will be eligible to receive Clear Ballot's pricing when Customer purchases, leases, or rents scanners from the Hardware manufacturer described in the Documentation.

Customer shall be responsible for negotiating all other terms of such rental, purchase, or support agreements with said manufacturer or their authorized reseller.

7 LIMITED WARRANTIES

7.1 Licensed Software. Clear Ballot warrants that during the Warranty Period and as additionally described and agreed in the Exhibit 2, the Licensed Software will operate in substantial conformance with the Documentation. Except as described in Exhibit 2, all warranty claims not made in writing within the Warranty Period will be deemed waived. This warranty is contingent on the proper installation and use of the Licensed Software as described in the Documentation. Clear Ballot further warrants it will use commercially reasonable efforts to screen the Licensed Software prior to delivery to Customer for viruses, Trojan horses and other malicious code (collectively "Malicious Code Breach").

7.2 Services. Clear Ballot warrants that any Services will be performed in a professional, workmanlike manner and shall substantially conform to the specifications set forth in the applicable Service Order for a period of thirty (30) Days from the date of completion, unless specified otherwise in the Service Order.

7.3 Exclusive Remedy. The foregoing warranties are solely for the benefit of Customer and Customer shall have no authority to extend such warranty to any third party. The sole and exclusive remedy of Customer and the sole and exclusive liability of Clear Ballot for breach of the foregoing warranties, shall be: (1) at Customer's sole discretion, to seek repair or replacement of the non-conforming Licensed Software, or (2) for Services performed by Clear Ballot or an authorized sub-contractor, re-performance of the relevant Services at no additional cost to Customer, or (3) In the case of Clear Ballot's Malicious Code Breach of the County's systems, Clear Ballot shall be fully liable to County for any costs or expenses, including, but not limited to, any County staff time, that results from said breach. In the event of such an introduction into the County's systems, Clear Ballot shall fully cooperate, at its sole expense, with County's subsequent efforts to mitigate the effect of any such introduction. Clear Ballot shall not be responsible for use of the Licensed Software if not operated substantially in a manner recommended in the Documentation or any material failure by Customer to use due care in the use and validation of the results produced by the Licensed Software.

7.4 Modification of Licensed Software. Except as otherwise agreed in writing by the parties, any modification to the Licensed Software by Customer or any third party engaged by Customer, or failure by Customer to reasonably implement any improvements or updates to the Licensed Software as supplied by Clear Ballot, shall void Clear Ballot's support obligations under the relevant Support Order and Clear Ballot's warranties under this Section 7 (Limited Warranties), to the extent any failure or error results from such modification.

7.5 Disclaimer of Other Warranties. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 7 (LIMITED WARRANTIES) AND CLEAR BALLOT'S OBLIGATIONS UNDER ANY CERTIFICATIONS WHICH CLEAR BALLOT IS REQUIRED TO MAINTAIN, THE LICENSED SOFTWARE AND ANY SERVICES ARE PROVIDED TO
Elections BCP License_Maint_final

CUSTOMER "AS IS," WITH ALL FAULTS, AND WITHOUT WARRANTY OF ANY KIND. EXCEPT FOR CLEAR BALLOT'S OBLIGATIONS UNDER ANY CERTIFICATIONS WHICH CLEAR BALLOT IS REQUIRED TO MAINTAIN, CLEAR BALLOT EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OF INFORMATION, QUIET ENJOYMENT, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR CLEAR BALLOT'S OBLIGATIONS UNDER ANY CERTIFICATIONS WHICH CLEAR BALLOT IS REQUIRED TO MAINTAIN, CLEAR BALLOT DOES NOT WARRANT THAT THE LICENSED SOFTWARE AND ANY SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. EXCEPT FOR CLEAR BALLOT'S OBLIGATIONS UNDER ANY CERTIFICATIONS WHICH CLEAR BALLOT IS REQUIRED TO MAINTAIN, CLEAR BALLOT DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF THE LICENSED SOFTWARE OR RELATED DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, QUALITY, RELIABILITY, APPROPRIATENESS FOR A PARTICULAR TASK OR APPLICATION, OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CLEAR BALLOT OR CLEAR BALLOT'S AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES PROVIDED IN THIS SECTION 7 (LIMITED WARRANTIES). If applicable law affords Customer implied warranties, guarantees, or conditions despite these exclusions, those warranties will be limited to one (1) year and Customer's remedies will be limited to the maximum extent allowed by Sections 7.5 (Disclaimer of Other Warranties) and 10 (Limitations of Liability and Actions).

8 AUDIT

8.1 Audit of Customer by Clear Ballot. During the Term of this Agreement and for one (1) year thereafter, no more than once in any twelve (12) month period, Clear Ballot may audit Customer's use of the Licensed Software ("Audit"). An Audit may include the inspection and review of computers or servers on which the Licensed Software has been installed or hosted, and records, procedures, or business practices that relate to Customer's performance under and compliance with the terms of this Agreement. Clear Ballot shall provide Customer reasonable advance notice of an Audit, which must be performed by Clear Ballot. Customer will reasonably cooperate with Clear Ballot in the conduct of the Audit. Audits will be conducted during Customer's normal business hours and shall in no event disrupt Customer's business. The cost of the Audit shall be borne by Clear Ballot. In the event that Customer is found by Clear Ballot to be out of compliance with the terms of this Agreement, Clear Ballot shall notify Customer of the Clear Ballot's findings, in detail. Customer shall have fifteen (15) days to review Clear Ballot's findings and respond to Clear Ballot and become compliant.

8.2 Customer Access to Records. Clear Ballot shall retain, maintain and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Term of the Agreement, or as may be required by applicable law, or until the conclusion of any audit,

controversy or litigation arising out of or related to this Agreement, whichever is later. Clear Ballot shall maintain all financial Records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Clear Ballot shall permit the County's authorized representatives access to the Records at reasonable times and places for purposes of examination and copying.

9 LIMITATIONS OF LIABILITY AND ACTIONS

9.1 *Disposition of Licensed Software on Termination.* Upon the expiration or termination of this Agreement for any reason, the license and all other rights granted to Customer hereunder shall immediately cease, and Customer shall (i) return the Licensed Software to Clear Ballot together with all reproductions and modifications of the Licensed Software and all copies of any Documentation, notes and other materials

respecting the Licensed Software, (ii) attest that Customer shall no longer use or allow to be used the Licensed Software, (iii) provide Clear Ballot a written certification that Customer has ceased all use of the software and has complied with all of its obligations under this Section.

9.2 *Construction.* The section headings in this Agreement are for convenience of reference only, will not be deemed to a part of this Agreement, and will not be referred to in connection with the construction or interpretation of this Agreement. Unless otherwise expressly stated, the words "herein," "hereof," and "hereunder" and other words of similar import refer to sections of this Agreement as a whole and not to any particular section, subsection, or other subpart of this Agreement. The words "include" and "including" shall not be construed as terms of limitation and shall, in all instances, be interpreted as meaning "including, but not limited to."

The parties have executed this Agreement to become effective as of the Effective Date.

CUSTOMER

BY: 

Don Bohn

(PRINTED NAME)

Asst. County Administrator

(TITLE)

CLEAR BALLOT GROUP, INC.

BY: 

Stephen N. Trout

(PRINTED NAME)

Director of Election Innovation
(TITLE)

30 OCT 2015
(DATE)

Professional Services Contract
Attachment B - Clear Ballot Group Software License and Services Agreement
EXHIBIT 1
SOFTWARE ORDER

This Software Order is entered into by and between Clear Ballot Group, Inc. ("Clear Ballot") and the undersigned ("Customer") under the Software License and Services Agreement (the "Agreement") between the parties. The terms and conditions set forth in the Agreement shall have the same meaning when used as defined terms in this Software Order. In the event of any conflict between the body of the Agreement and this Software Order, the body of the Agreement shall prevail.

1. **Designated Jurisdiction.** Designated Jurisdiction for the Licensed Software shall be:
2. **Licensed Software and Fees**

Licensed Software	Licensing Fee
ClearVote Software (including the functionality of ClearDesign and ClearCount)	Perpetual License Agreement: \$220,000 Annual Maintenance and Support Fee: \$55,000 Annual maintenance and support fees shall begin in year two of the Agreement, and increase 3% each year thereafter.

3. **License Term**

Perpetual License with separate annual support fees: The term of the license shall begin on the Software Order Effective Date and continue in perpetuity thereafter, unless earlier terminated in accordance with the Agreement (the "Term").

The initial support term ("Initial Support Term") shall be five (5) years from the Effective Date. After the Initial Support Term, this Order shall automatically renew for additional one (1) year periods, and all applicable fees shall be due at the commencement of each successive one (1) year period (each a "Renewal Support Term") unless either party notifies the other of cancellation of Support Services no later than forty-five (45) Days prior to the end of such Support Term. The Initial Support Term and any Renewal Support Terms are referred to collectively in this Order as the "Support Term."

The parties have executed this Software Order to become effective as of the date of the latest signature below (the "Software Order Effective Date").

CUSTOMER

BY: _____

Don Bohn

(PRINTED NAME)

Asst. County Administrator

(TITLE)

CLEAR BALLOT GROUP, INC.

BY: _____

Stephen N. Trout

(PRINTED NAME)

Director of Election Innovation

(TITLE)

30 OCT 2015

(DATE)

Professional Services Contract
Attachment B - Clear Ballot Group Software License and Services Agreement
Exhibit 2
Maintenance and Service Level Agreement

This Maintenance and Service Level Agreement, Exhibit 2, shall be incorporated into and governed by the terms of the Software License and Services Agreement by and between County and Clear Ballot. Unless otherwise expressly provided for in this Exhibit 2, in the event of a conflict between the provisions contained in the Agreement and those contained in this Exhibit 2, the provisions contained in the Agreement shall prevail.

Maintenance

Software Maintenance.

Maintenance and technical support are provided to the Customer according to the terms of this agreement for all software provided, including ongoing telephone support, problem determination, and resolution, to enable the Software to perform in all material respects in accordance with its documentation. Software support shall be provided according to the Support Services Matrix. Clear Ballot shall provide certified software upgrades, updates, and new releases (collectively hereinafter "Upgrades") to the Customer as developed, subject to state approval of changes where required.

Hardware Maintenance.

Clear Ballot shall ensure any Clear Ballot approved Hardware is capable of running the Licensed Software in conformance with Clear Ballot documentation. Clear Ballot shall act as the Hardware reseller for Clear Ballot approved ballot scanners ("Ballot Scanners"), as described in the Documentation. Hardware maintenance for Ballot Scanners shall be provided directly by the Ballot Scanner manufacturer, however, Clear Ballot shall remain the help desk responder and will evaluate and address issues and will contact hardware manufacturer to initiate their support Hardware support services for servers, scan-stations, and workstations provided to Customer by Clear Ballot are described in the Support Services Matrix. Maintenance for all hardware not provided by Clear Ballot shall be the responsibility of Customer.

Responsibilities of the Customer: The Customer will perform all recommended maintenance and maintain backups described in Clear Ballot documentation and documentation provided by Hardware manufacturers. The Customer will purchase maintenance materials for all Ballot Scanners, at Customer's sole expense, if additional materials are required above what is provided as part of hardware service contracts. The Customer is responsible for replacing consumables (e.g., cleaning supplies.)

Responsibilities of Clear Ballot: Clear Ballot will answer technical questions and troubleshoot Issues related to Clear Ballot approved Ballot Scanners. Clear Ballot will assist in arranging on-site maintenance services from Ballot Scanner manufacturer to service the Ballot Scanners. Any costs incurred above and beyond maintenance purchased as part of this contract will occur at the Customer's expense and be based on **Additional Pricing Support Matrix**.

Customer Support

Clear Ballot's online knowledge base and Q&A are available 24 hours per day, 7 days per week, through Clear Ballot's support portal powered by Desk.com.

<u>Support Portal</u> Knowledge Base, Q&A, Available 24/7: https://clearballot.desk.com/ Email (see Schedule) Click the email link at https://clearballot.desk.com/	<u>Help Desk Phone (see schedule)</u> 857-250-4961 For general Customer Support, choose option 2. For Technical Support, choose option 3.
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For software questions, Clear Ballot will address the issue in a timely manner, and will escalate the case as provided in the Support Services Matrix below.

To the extent possible, Clear Ballot will provide solutions to common questions about the hardware, and if necessary report the issue for technical support by the hardware manufacturer.

Support Services Matrix

DELL Hardware Support Services Matrix				
	Next Day Basic Service	ProSupport	ProSupport Plus	Comments
DELL Server (Dual Power Supply / RAID1)			24 x 7 On-site Service; 2 Hr. Response	1 Initial Yr., plus 2 Yr Extended, 3 Yr. Total; 2 Hour 7x24 hr Onsite with Emergency Dispatch and 6 Hour Repair.
DELL Laptops		24 x 7 Technical Phone Support; Pro-Support Next Business Onsite.		Laptop is a 4 Year extended coverage.

Hardware: When a hardware issue has been reported via Desk.com, Clear Ballot will create a "ticket" and contact the hardware service provider. Terms for support are attached to this contract section. Clear Ballot will then monitor the service ticket in order to provide updates to the customer in a timely manner.

Software Support

	Desk.com	Response Time Guarantee	Escalation Time Period	Comments
Clear Design				
Off-Election Cycle (Outside E-60 and between E-30 and E-0)	Customer Report	Next - Business Day *	2 Days **	<ul style="list-style-type: none"> • Clear Ballot will provide technical support Monday through Friday, 7 a.m. to 5:00 p.m. Pacific time, excluding state holidays, prior to 60 days before Election Day ("E-60"). • Escalation will occur if reported problem is not resolved within 48 hours of initial response.
Election Cycle (E-60 to E-30)	Customer report	2 Hour Response *	4 Hours **	<ul style="list-style-type: none"> • Clear Ballot will provide technical support 24 hours x 7 days, beginning 60 days prior to the election and ending 30 days prior to Election Day . • Escalation will occur if reported problem is not resolved within 4 hours of initial response.

	Desk.com	Response Time Guarantee	Escalation Time Period	Comments
Clear Count				
Off-Election Cycle (outside E-45)	Customer Report	Next - Business Day *	2 Days **	<ul style="list-style-type: none"> • Clear Ballot will provide technical support Monday through Friday, 7 a.m. to 5:00 p.m. Pacific time, excluding state holidays, prior to 45 days before Election Day ("E-45"). • Escalation will occur if reported problem is not resolved within 48 hours of initial response.
Election Cycle (E-45 to E-8) and (E+4 to E+20)	Customer Report	2 Hours *	4 Hours **	<ul style="list-style-type: none"> • Clear Ballot will provide technical support 24 hours x 7 days, beginning 45 days prior to the election and ending 3 days after to Election Day . • Escalation will occur if reported problem is not resolved within 4 hours of initial response.
Peak Election Cycle (E-7 to E+3)	Customer Report	1 Hour *	2 Hours **	<ul style="list-style-type: none"> • Clear Ballot will provide technical support 24 hours x 7 days, beginning 45 days prior to the election and ending 3 days after to Election Day . • Escalation will occur if reported problem is not resolved within 2 hours of initial response.

* **Note:** Clear Ballot will respond to the Customer within the times set forth above within the election cycle. Clear Ballot will attempt to resolve the deficiency or help with questions that address the issue within the "Escalation Time Period". Clear Ballot further agrees to address on a priority basis any deficiency of the Clear Ballot software which may affect its function during the Clear Design (E-60 to E-30) or Clear Count (E-7 to E+3) critical periods of operation. Should the software deficiency require a software upgrade, Clear Ballot will work diligently with the State to provide information and review of any required software updates.

** **Note:** Resolution will be on a best effort basis. Proper testing is the best method to ensure that problems arise outside of critical timeframes. Additionally, should software modifications be required, the State of Oregon may need to provide administrative approval prior to installing an updated version of software.

On-Site Support: Clear Ballot will provide on-site Election Coverage from E-1 to E+3 for any elections run prior to Final Acceptance of the Clear Ballot system in this Agreement. After Final Acceptance, the Customer will schedule on-site election coverage or additional training on an as needed basis via Desk.com at rates as applicable to this contract. If no rates for additional on-site coverage or training are covered by this Agreement, coverage will be based on published rates at that time.

Documentation

Clear Ballot shall supply, at delivery, the user documentation necessary to install, operate and maintain the system. This documentation will be provided at no cost to Customer.

Customer may provide copies of this documentation solely for training or instruction about the use and operation of the system. Any documentation provided by Clear Ballot to the Customer containing information confidential and proprietary to Clear Ballot shall be clearly marked as such, and shall not be disseminated outside of Customer and constituents without the express written consent of Clear Ballot.

Tiered Responses

The Support Services Matrix describes time frames for customer report of an issue or request for support, and expected response times and escalation times if the problem is not resolved. The responses and escalation levels are within the election cycle context and vary depending on the application module and the calendar associated with the election. It is possible that the responses may evolve through 3 phases.

Response Time: Clear Ballot shall respond as described in the support Services Matrix to all maintenance/technical support calls/inquiries made by the Customer. Clear Ballot shall assess reported defects and issues as described in the Support Services Matrix. Clear Ballot will always attempt to solve issues remotely as the first best option but will provide onsite support when necessary.

Tier 1 Response: Tier 1 support will be the first point of contact. A major function for Tier 1 response is to understand the specifics and context of the issue being reported. Tier 1 personnel are familiar with application modules. Many questions and issues will be resolved by Tier 1 support. For example, Tier 1 will ensure that equipment is properly connected as described in documentation. Tier 1 will also create hardware support tickets and initiate calls to support vendors for scanners, laptops, and servers. Tier 1 will also verify the software versions in use and the types of hardware installed. In many cases, Tier 1 will resolve the issue. However, if the issue is not resolved within the described timeframes of the matrix, Tier 2 response will be initiated.

Tier 2 Response: Tier 2 support will be a quality assurance technician or trainer specific to the application in question. Tier 2 will attempt to resolve the problem if it is procedural in nature, or reproduce the issue remotely so that the problem can be resolved, tested and a solution provided to the Customer. Additionally, Tier 2 will assist with application questions related to Clear Design or Clear Count. If the issue being reported is significantly impacting the election process, Tier 2 will escalate the issue to Tier 3.

Tier 3 Response: Tier 3 support will be controlled, monitored by, and/or directly worked on by the software developer responsible for the application module determined to be responsible for the reported issue. The Tier 3 Response is the highest level of response.

Additional Support Pricing

Customer may request additional support outside the contracted service levels at the following published rates:

Additional Pricing Support Matrix

Tier 1 on-site support	Tier 2 & 3 on-site support	Training on site	Hourly Rate for Maintenance Support
\$2,600, Two-day service minimum charge	\$ 4,200, Two-day service minimum charge	\$1,500, 1 trainer, 1 day	\$125 per hour with a two hour minimum plus reimbursement at the Standard Mileage Rate as set forth by the Internal Revenue Service
\$ 1,000, additional day	\$ 1,500, additional day	\$ 1,000, additional day	

A 25% travel surcharge may be added for support requests made less than 21 days before required on-site support.

Performance Guarantees:

1. Clear Ballot shall resolve all reported malfunctions that prevent the system from creating ballots, scanning ballots, adjudicating ballots, or reporting results within the following timeframes or the specified performance penalties shall apply:
 - a. Up to ten (10) business days - No penalty
 - b. More than ten (10) business days - Credit of 10% of Annual Maintenance and Support Fees paid during the current Term.
2. Repeat Malfunctions.
 - a. Should the same malfunction that prevents the system from creating ballots, scanning ballots, adjudicating ballots, or reporting results occur more than one (1) time in any given month, or one or more times in any two (2) consecutive months, and Clear Ballot fails to resolve the malfunctions within ten (10) business days, the credit of Annual Maintenance and Support Fees described in sub-section 1.b. of this Performance Guarantees Section shall be doubled.
 - c. Should the same malfunction occur three (3) or more times in any given month, or in any three (3) or more consecutive months, and Clear Ballot fails to resolve the malfunctions within ten (10) business days, the credit of Annual Maintenance and Support Fees described in sub-section 1.b. of this Performance Guarantees Section shall be tripled.
3. Malfunctions During Peak Election Cycle.
 - a. During the Peak Election Cycle, if Clear Ballot has not resolved a reported malfunction that prevents the system from scanning ballots, adjudicating ballots, or reporting results within twenty four (24) hours of the initial report, Clear Ballot shall prepare, execute and bear the costs of a mutually agreed resolution, such as provide additional labor or equipment, to resolve the Election Day malfunction, or refund to Customer the Annual Maintenance and Support Fees paid during the prior twelve (12) months.
4. Performance guarantees for hardware shall only apply to hardware provided by Clear Ballot and shall only apply while hardware is covered by manufacturer's warranty and maintained according to Clear Ballot documentation.