



RESOLUTION No. 23-404

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING THE CONTRACT BETWEEN THE COUNTY OF NEVADA AND RUNBECK ELECTION SERVICES, INC., PERTAINING TO A RENEWAL FOR THE SOFTWARE LICENSE AND MAINTENANCE AGREEMENT FOR DATA INFORMATION MANAGEMENT SYSTEMS (DIMS), IN THE TOTAL AMOUNT OF \$81,375.00, FOR THE PERIOD OF JULY 1, 2023 THROUGH JUNE 30, 2024, WHICH FUNDS ARE PROVIDED FOR IN THE ELECTIONS OFFICE'S FISCAL YEAR 2023/2024 BUDGET, WITH THE OPTION TO RENEW THROUGH 2026 FOR A THREE YEAR TOTAL NOT TO EXCEED \$251,522.05, AND AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO EXECUTE THE CONTRACT

WHEREAS, since 1996, Data Information Management Systems, Inc. (DIMS), now owned by Runbeck Election Services, Inc., has provided the County of Nevada Elections Office with a software license and maintenance support for its voter registration database software; and

WHEREAS, on October 9, 2018, the County Board of Supervisors passed Resolution 18-491, which approved the renewal contract for DIMS between the Nevada County and Election Systems & Software (ES&S). At the time of the contract signing, ES&S was the owner of the DIMS software; and

WHEREAS, on June 7, 2019, our office was informed that ES&S sold the DIMS application and all its associated software to Runbeck Election Services, Inc. (Runbeck). In that notification, Nevada County and Runbeck agreed to adopt the terms of the contract that was originally signed between the County and ES&S; and

WHEREAS, Nevada County Elections and Runbeck renewed the DIMS contract (Resolution 21-405) on September 14, 2021, which included the voter registration database software license, maintenance, and support agreement in the amount of \$76,303.00, for the period of July 1, 2021, through June 30, 2022; and

WHEREAS, Nevada County Elections and Runbeck renewed the DIMS contract, under the same terms, in the amount of \$79,005.00, for the period of July 1, 2022, through June 30, 2023; and

WHEREAS, Nevada County Elections and Runbeck now seek to formally renew the DIMS contract, under the same terms, in the amount of \$81,375.00, for the period of July 1, 2023, through June 30, 2024, which funds are provided for in the Elections Office's Fiscal Year 2023/2024 budget, with the option to renew through 2026 for a three year total not to exceed \$251,522.05.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors, of the County of Nevada, State of California, that the Contract between the County of Nevada and Runbeck pertaining to the DIMS software license and support agreement, in the amount of \$81,375.00, for the period of July 1, 2023 through June 30, 2024, which funds are provided for in the Elections Office's Fiscal Year 2023/2024 budget, with the option to renew through 2026 for a three year total not to exceed \$251,522.05, be and hereby is approved, and that the Chair of the Board of Supervisors be and is here by authorized to execute the Contract on behalf of the County of Nevada.

Funds to be dispersed from: 0101-10501-073-1000/521475

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 8th day of August, 2023, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward C. Scofield, Lisa Swarthout, Susan Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Edward C. Scofield, Chair



AGREEMENT WITH RUNBECK ELECTION SERVICES, INC. FOR LICENSE VOTER REGISTRATION SOFTWARE AND SERVICES (DIMS)

This agreement ("Agreement") is made and entered into effective as of the date of the last signature on the signature page by and between the Nevada County, a political subdivision of the State of California ("County") and Runbeck Election Services, Inc., located at 2800 S. 36th Street, Phoenix, AZ 85034 ("Contractor"), with reference to the following facts:

RECITALS

- A. In connection with its elections responsibilities, Client desires to license from Runbeck election management voter registration software and services.
- B. Contractor is specially trained and possesses certain skills, experience, education, and competency to perform these services.
- C. Runbeck desires to sell the Equipment and grant a license to use the software to Client on the terms and conditions set forth in this Agreement.
- D. The Agreement shall consist of this document, Exhibit A Statement of Work and Exhibit B Payment Schedule. In the event of a conflict between any provisions of this Agreement, the following order of precedence shall govern: First (1st) this document; Second (2nd) Exhibit A; Third (3rd) Exhibit B.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 PERFORMANCE OF WORK

- 1.1 Standard of Performance. Contractor shall, in good and workmanlike manner and in accordance with the highest professional standards, at its own cost and expense, furnish all of the labor, technical, administrative, professional and all other personnel, all supplies and materials, equipment, printing, transportation, training, facilities, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by County, necessary or proper to perform and complete the work and provide the services required of Contractor by this Agreement.
- 1.2 Contractor's Representative. The person identified on the signature page ("Contractor's Representative") shall ensure that Contractor's duties under this Agreement shall be performed on behalf of the Contractor by qualified personnel; Contractor represents and warrants that (1) Contractor has fulfilled all applicable requirements of the laws of the State of "State" to perform the services under this Agreement and (2) Contractor's Representative has full authority to act for Contractor hereunder. Contractor and County recognize that the services to be provided by Contractor's Representative pursuant to this Agreement are unique: accordingly, Contractor's Representative shall not be changed during the Term of the Agreement without County's written consent. County reserves the right to terminate this Agreement pursuant to section 6.1 "Termination for Default" if Contractor's Representative should leave Contractor's employ, or if, in County's judgment, the work hereunder is not being performed by Contractor's Representative.

1.3 Contractor as Independent Contractor. Contractor is, for all purposes of this Agreement, an independent contractor, and neither Contractor nor Contractor's employees or subcontractors shall be deemed to be employees of the County. Contractor shall perform its obligations under this Agreement according to the Contractor's own means and methods of work, which shall be in the exclusive charge and under the control of the Contractor, and which shall not be subject to control or supervision by County except as to the results of the work. County hereby delegates to Contractor any and all responsibility for the safety of Contractor's employees, which shall include inspection of property to identify potential hazards. Neither Contractor nor Contractor's employees or subcontractors shall be entitled to any benefits to which County employees are entitled, including without limitation, overtime, retirement benefits, workers' compensation benefits and injury leave.

1.4 Contractor's Agents and Employees or Subcontractors. Contractor shall obtain, at Contractor's expense, all agents, employees, subcontractors, and consultants required for Contractor to perform its duties under this Agreement, and all such services shall be performed by Contractor's Representative, or under Contractor's Representatives' supervision, by persons authorized by law to perform such services. Retention by Contractor of any agent, employee, subcontractor, or consultant shall be at Contractor's sole cost and expense, and County shall have no obligation to pay Contractor's agents, employees subcontractors, or consultants; to support any such person's or entity's claim against the Contractor; or to defend Contractor against any such claim.

In the event any subcontractor or consultant is utilized by Contractor for any portion of the project, Contractor retains the prime responsibility for carrying out all the terms of this Agreement, including the responsibility for performance and ensuring the availability and retention of records of subcontractors and consultants in accordance with this Agreement.

1.4.1 "Related Subcontract" means an agreement to furnish, or the furnishing of, supplies, materials, equipment, or services of any kind to Contractor or any higher tier subcontractor in the performance of some or all of the work in this Agreement. Related Subcontracts includes consultant agreements, which are defined as agreements for services rendered, or the rendering of services, by persons who are members of a particular profession or possess as special skill and who are not officers or employees of the Contractor. Examples include those services acquired by Contractor or a subcontractor in order to enhance their legal, economic, financial, or technical positions. Professional and consultant services are generally acquired to obtain information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance, such as studies, analyses, evaluations, liaison with government officials, or other forms or representation. Related Subcontracts shall not include agreements for ancillary goods or services, or consulting services intended to support Contractor in a general manner not specific to the work performed under this Agreement. "Related Subcontractor" means an individual or entity holding or performing a Related Subcontract.

1.5 Offshore Prohibition. Except where Contractor obtains the County's prior written approval, Contractor shall perform the work of this Agreement only from or at locations within the United States. Any County approval for the performance of work outside of the United States shall be limited to the specific instance and scope of such written approval, including the types of work and locations involved. Notwithstanding the foregoing, this section shall not restrict the country or countries of origin of any assets purchased to provide the work hereunder; provided that when such assets are used to provide the work, such assets shall be used only from or at locations within the geographic boundaries of the United States.

1.6 DVB Participation. If this Agreement resulted from a solicitation containing Disabled Veteran Business ("DVB") requirements and forms, such requirements and Contractor's submitted forms are incorporated herein by reference to the extent not included as an Exhibit to this Agreement. Contractor shall make all commercially reasonable efforts to comply with all such DVB requirements, including meeting the DVB Percent of Utilization on Contractor's DVB Subcontractor Participation Plan. Contractor shall maintain a rate of DVB utilization throughout the term of this Agreement that is reasonably in alignment with the progress of the Agreement (e.g., term, utilization, deliverables). Contractor shall provide to County, upon request, documentation sufficient to verify Contractor's compliance with such requirements.

If in County's determination, Contractor is not in compliance with all DVB requirements, County may take corrective action, which may include (i) requiring Contractor to submit a corrective action plan acceptable to

County detailing actions the Contractor will take to fulfill its DVB requirements and/or (ii) withholding of payments to Contractor equivalent to the amount of DVB underutilization. Such corrective actions shall be in addition to any other remedies the County may have under this Agreement or at law or equity.

ARTICLE 2

SCOPE OF WORK

- 2.1 Statement of Work. Contractor shall perform the work described in the "Statement of Work" attached as Exhibit A to this Agreement, and by this reference incorporated herein, except for any work therein designated to be performed by County.
 - 2.1.1 Evaluation Studies. Contractor shall participate as requested by the County in research and/or evaluative studies designed to show the effectiveness and/or efficiency of Contractor services or to provide information about Contractor's project. Research and/or evaluation studies shall be conducted in a timeframe that is mutually agreed upon by both parties.
- 2.2 Right to Acquire Equipment and Services. Nothing in this Agreement shall prohibit the County from acquiring the same type or equivalent equipment and/or service from other sources, when deemed by the County to be in its best interest.
- 2.3 Responsibility for Equipment. County shall not be responsible nor be held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by Contractor or any of Contractor's employees, even though such equipment may be furnished, rented, or loaned to Contractor by County. The acceptance or use of any such equipment by Contractor or Contractor's employees shall be construed to mean that Contractor accepts full responsibility for and agrees to exonerate, indemnify, and hold harmless County from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment, whether such damage be to the employee or property of Contractor, other Contractors, County, or other persons. Equipment includes, but is not limited to material, computer hardware and software, tools, or other things.
 - 2.3.1 Contractor shall repair or replace, at Contractor's expense, all County equipment or fixed assets that are damaged or lost as a result of Contractor negligence.
- 2.4 Non-Expendable Property Acquisition. County retains title to all non-expendable property provided to Contractor by County, or which Contractor may acquire with funds from this Agreement if payment is on a cost reimbursement basis, including property acquired by lease purchase Agreement. Contractor may not expend funds under this Agreement for the acquisition of non-expendable property having a unit cost of \$5,000 or more and a normal life expectancy of more than one year without the prior written approval. Contractor shall maintain an inventory of non-expendable equipment, including dates of purchase and disposition of the property. Inventory records on non-expendable equipment shall be retained, and shall be made available to the County upon request, for at least three years following date of disposition. Non-expendable property that has value at the end of the Agreement (e.g. has not been depreciated so that its value is zero), and to which the County may retain title under this paragraph, shall be disposed of at the end of the Agreement as follows: At County's option, it may: 1) have Contractor deliver to another County contractor or have another County contractor pick up the non-expendable property; 2) allow Contractor to retain the non-expendable property provided that Contractor submits to the County a written statement in the format directed by the County of how the non-expendable property will be used for the public good; or 3) direct the Contractor to return to the County the non-expendable property.

ARTICLE 3
DISENTANGLEMENT

- 3.1 General Obligations. Upon the expiration or termination of all or a portion of the services provided hereunder ("Transitioning Services,"), the County may elect to have such services, substantially similar services, or follow-on services ("Disentangled Services") performed by County or one or more separate contractors ("Replacement Provider"). Contractor shall take all actions necessary to accomplish a complete and timely transition of the Disentangled Services ("Disentanglement") without any material impact on the services. Contractor shall cooperate with County and otherwise take all steps reasonably required to assist County in effecting a complete and timely Disentanglement. Contractor shall provide Replacement Provider with all information regarding the services and any other information needed for Disentanglement.

Contractor shall provide for the prompt and orderly conclusion of all work required under this Agreement, as County may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly Disentanglement.

- 3.2 Disentanglement Process. Contractor and County shall discuss in good faith a plan for Contractor's Disentanglement that shall not lessen in any respect Contractor's Disentanglement obligations.

If County requires the provision of Transitioning Services after expiration or termination of the Agreement or Disentanglement work not otherwise required under this Agreement, for which additional compensation will be due, such services shall be compensated at: (i) the applicable rates in Agreement or a reasonable pro-rata of those prices, or (ii) if no applicable rates apply, no more than Contractor's costs. Such work must be approved in writing by County approval of a written Disentanglement plan or separately in writing and is subject to the Compensation clause on the signature page.

Contractor's obligation to provide Disentanglement services shall not cease until all Disentanglement obligations are completed to County's reasonable satisfaction, including the performance by Contractor of all Specific Obligations of Contractor. County shall not require Contractor to perform Transitioning Services beyond 12 months after expiration or termination, provided that Contractor meets all Disentanglement obligations and other obligations under Agreement.

- 3.3 Specific Obligations. The Disentanglement shall include the performance of the following specific obligations ("Specific Obligations"):

- 3.3.1 No Interruption or Adverse Impact. Contractor shall cooperate with County and Replacement Provider to ensure a smooth Disentanglement, with no interruption of or adverse impact to Disentangled Services, Transitioning Services, other work required under the Agreement, or services provided by third parties.
- 3.3.2 Client Authorizations. Contractor shall obtain from clients served by Contractor all client consents or authorizations legally necessary to transfer client data to Replacement Provider.
- 3.3.3 Leases, Licenses, and Third-Party Agreements. Contractor shall procure at no charge to County all authorizations necessary to grant Replacement Provider.
- 3.3.4 Return, Transfer, and Removal of Assets. Contractor shall return to County all County assets in Contractor's possession, pursuant to section 2.4 of this Agreement.

County shall be entitled to purchase at net book value Contractor assets used primarily for the provision of Disentangled Services to or for County, other than those assets expressly identified as not being subject to this provision. Contractor shall promptly remove from County's site any Contractor assets that County, or its designee, chooses not to purchase under this provision.

ARTICLE 4

COMPENSATION

County will pay Contractor in accordance with Exhibit B Payment Schedule and this Article 4, for the work specified in Exhibit A Statement of Work (SOW), not to exceed the maximum compensation as set forth on signature page. Contractor shall employ and maintain an accounting and financial system to effectively monitor and control costs and assure accurate invoicing and performance under this Agreement.

4.1 General Principles. Contractor shall comply with generally accepted accounting principles, good business practices. Contractor shall comply with all applicable federal, State, and other funding source requirements. Contractor shall, at its own expense, furnish all cost items associated with this Agreement except as specifically stated herein to be furnished by County.

4.2 Compensation.

4.2.1 Contractor shall be entitled to compensation only upon completion and acceptance of a deliverable or portion of work as described in the Payment Schedule ("Services"). Services shall include any additional or as-needed services specified in the SOW and Pricing Schedule and pre-approved or authorized by County in accordance with this Agreement ("As-Needed Services").

4.2.1.1 Contractor shall be entitled to reimbursement for incidental expenses associated with any such portions of the work only when specifically allowed for in the SOW and Pricing Schedule ("Reimbursable Expenses"), and only upon completion and acceptance of the Services for which they were incurred unless earlier reimbursement is otherwise authorized under this Agreement. Compensation for Reimbursable Expenses shall be at cost.

4.2.1.2 Where travel, lodging, or meal expenses ("Travel Expenses") are allowable Reimbursable Expenses.

4.3 Invoices.

4.3.1 Contractor shall invoice monthly for completed and accepted Services performed in the prior month.

4.3.2 Contractor shall submit invoices to the County.

4.3.2.1 Contractor shall provide accurate invoices with sufficient detail and supporting documentation for County verification.

4.4 Payments. Contractor shall be entitled to payment only upon County approval of a correct and substantiated invoice. Payment terms are, unless otherwise specified by County, thirty (30) days from the later of: (i) performance of work under the Agreement entitling Contractor to payment, (ii) County receipt of a correct and substantiated invoice, and (iii) County receipt of all substantiating information. The County at its sole discretion may issue partial payment where only a portion of an invoice is correct and substantiated. Payment shall be deemed to have been made on the date that County submits electronic payment or mails a warrant or check. The County is precluded from making payments prior to receipt of services (advance payments).

4.5 Full Compensation. The compensation set forth in this Agreement shall constitute the full and complete payment for Contractor's performance of the services set forth herein, Contractor shall not be entitled to any additional payment for services rendered. Contractor shall not be entitled to any compensation, reimbursement, ancillary benefits, or other consideration for services rendered beyond that specified in Agreement.

4.6 Prompt Payment for Vendors and Subcontractors

4.6.1 Unless otherwise set forth in this section 4.6, Contractor shall promptly pay Related Subcontractors for satisfactory performance of work required by this Agreement. Such prompt payment shall be no later than thirty (30) days after Contractor receives payment for such services from County, and Contractor shall apply such payments to the payment of the Related Subcontractor(s) that performed the work.

- 4.6.2 If Contractor determines that any payment otherwise due such Related Subcontractor is subject to withholding in accordance with a Related Subcontract, Contractor shall:
 - 4.6.2.2 Provide written notice to the Related Subcontractor and Nevada County within three (3) business days of such withholding stating the amount to be withheld, the basis for the withholding, and, if applicable, the cure required of the Related Subcontractor in order to receive payment of the amounts withheld; and
 - 4.6.2.3 Reduce the Related Subcontractor's payment by an amount not to exceed the amount specified in the notice furnished under paragraph 4.6.3.1 above.
- 4.6.3 Contractor shall not include in any invoice to the County amounts that the Contractor has withheld or intends to withhold from a Related Subcontractor for failure to satisfactorily perform work in a manner required by this Agreement. If such withholding determination is made after submitting an invoice to the County, Contractor shall submit to County a revised invoice omitting or crediting such amount. Contractor shall not include such amounts in any subsequent invoices unless the Related Subcontractor has cured the basis for withholding.
- 4.7 Partial Payment. Contractor shall be paid only for work performed in accordance with this Agreement. If Contractor fails to perform a portion of the work or fails to perform some or all of the work in accordance with this Agreement, County, at its sole discretion, may provide partial payment to Contractor to reflect the reasonable value of work properly performed.
- 4.8 Withholding of Payment. Without limiting any other provision of this Agreement, County may withhold payment, in whole or in part, if any of the following exist:
 - 4.8.1 Missing Information. Contractor has not provided to County any reports, data, audits, or other information required for Agreement administration, for reporting or auditing purposes, or by State, federal, or other funding source. Misrepresentation. Contractor, with or without knowledge, made any misrepresentation of a substantial and material nature with respect to any information furnished to County
 - 4.8.2 Unauthorized Actions by Contractor. Contractor took any action under this Agreement that required County approval without having first received such approval.
 - 4.8.3 Breach. In the County's determination, Contractor is, or at the time of performance was, in breach of any of the terms of this Agreement.
- 4.9 Disallowance. County may disallow payment at any time if it determines that the basis for the payment is or was not eligible for compensation under this Agreement. If County makes payment to Contractor that is later disallowed by the County, State or federal government, or other funding source, County shall be entitled to prompt recovery of funds in accordance with Article 12.
- 4.10 Maximum Price. During the performance period of this Agreement, the maximum price for the same or similar items and/or services shall not exceed the lowest price at which Contractor then offers the items and/or services to its most favored customer.
- 4.11 Overpayments. If Contractor becomes aware of a duplicate contract financing or invoice payment or that County has otherwise overpaid on a contract financing or invoice payment, Contractor shall immediately notify the County shall be entitled to prompt recovery of funds.
- 4.12 Availability of Funding. The County's obligation for payment under this Agreement is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the County shall arise for payment beyond the end of the County Fiscal Year for which funds are designated by the County. In the event that federal, State, or County funding ceases or is reduced, the County shall, in its sole discretion and without limiting any other provision of this Agreement, have the right to terminate or suspend this Agreement, or to reduce compensation and service levels proportionately.
- 4.13 Rate of Expense. Contractor shall control its rate of expense throughout the term of this Agreement such that it is reasonably in alignment with the progress of the Agreement, inclusive of term, achievement towards objectives, anticipated revenue, deliverables, and other applicable factors. Contractor shall provide to County, upon request, documentation sufficient to verify Contractor's compliance with such requirements.

ARTICLE 5
CHANGES

- 5.1 Changes. Changes to this Agreement may only be made by Administrative Adjustment, Change Order, or amendment, in accordance with this Article 6. No other modification of this Agreement shall be valid.
- 5.1.1 Administrative Adjustment. Changes that do not change the purpose or intent of the Statement of Work, the Terms and Conditions, the Agreement Term, or the total Agreement price of the Agreement, such as line-item budget changes or adjustments to the service requirements, ("Administrative Adjustments") may be made if in writing and signed by COR and Contractor
- 5.1.2 Change Order. The County may at any time, by written order, make Changes within the general scope of this Agreement ("Change Order"). If any Change Order causes an increase or decrease in the cost or time required for the performance of the work under this Agreement, an equitable adjustment shall be made to the price, delivery schedule, or both.
- 5.1.2.1 Contractor must assert any claim for equitable adjustment within thirty (30) days from the date of receipt by the Contractor of the Change Order; however, the Contracting Officer may receive and act upon any such claim asserted at any time prior to final payment under this Agreement where the facts justify such action. Where the cost of property made obsolete or excess as a result of a Change Order is included in the Contractor's claim for equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any equitable adjustment shall be a dispute concerning a question of fact within the meaning of Article 15 "Disputes". However, nothing in this section shall excuse the Contractor from proceeding with this Agreement as changed.
- 5.1.3 Amendment. The County and Contractor may modify this Agreement by written amendment signed by the Contracting Officer and Contractor.

ARTICLE 6
SUSPENSION, DELAY, AND TERMINATION

- 6.1 Termination for Default. In the event of Contractor's breach of this Agreement, County shall have the right to terminate this Agreement, in whole or part. Prior to termination for default, County will send Contractor written notice specifying the cause. The notice will give Contractor ten (10) days from the date the notice is issued to cure the default or make progress satisfactory to County in curing the default, unless a different time is given in the notice. If County determines that the default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, County may terminate this Agreement immediately upon issuing oral or written notice to the Contractor without any prior notice or opportunity to cure. In the event of termination under this Article, all finished or unfinished documents, and other materials, prepared by Contractor under this Agreement shall become the sole and exclusive property of County.
- 6.2 Failure to Perform. Contractor shall immediately notify the COR upon learning that it has, or that it is reasonably foreseeable that it will, fail to perform or timely perform its obligations under this Agreement for any reason, including, but not limited to, a labor dispute, emergency, epidemic, pandemic, or supply chain shortage. In such event, Contractor shall, upon request, prepare and deliver to the COR a written mitigation plan. Nothing in this section relieves the Contractor of its obligations under this Agreement.
- 6.3 Reduction in Funding. In the event there is a reduction of funds made available by County to Contractor under this or subsequent agreements, the County and its departments, officers and employees shall incur no liability to Contractor and shall be held harmless from any and all claims, demands, losses, damages, injuries, or liabilities arising directly or from such action.
- 6.4 Termination for Convenience. Either Party may, by written notice, terminate this Agreement for convenience, in whole or in part, after the initial term. Upon receipt of such notice, Contractor shall promptly report to County all undelivered or unaccepted work performed in accordance with this Agreement prior to termination ("Incomplete Work"). Contractor may, at County's option, be required to complete some or all Incomplete Work during Disentanglement.

- 6.4.1. The County shall pay Contractor as full compensation for work performed and costs of termination:
 - 6.4.1.1. The unit or pro rata price for any delivered and accepted portion of the work.
 - 6.4.1.2. Actual and reasonable Contractor costs for Incomplete Work not mitigable or otherwise recoverable by Contractor. Such compensation shall not exceed the unit or pro rata price due to Contractor had the work been completed.
- 6.4.2. In no event shall the County be liable for any loss of profits or any other consequential damages.
- 6.4.3. County's termination of this Agreement for convenience shall not preclude it from changing the termination to a default, as set forth in section 6.1 of this Agreement, nor from taking any action in law or equity against Contractor for:
 - 6.4.3.1. Fraud, waste, or abuse of Agreement funds, or
 - 6.4.3.2. Improperly submitted claims, or
 - 6.4.3.3. Any failure to perform the work in accordance with the Statement of Work, or
 - 6.4.3.4. Any breach of any term or condition of the Agreement, or
 - 6.4.3.5. Any actions under any warranty, express or implied, or
 - 6.4.3.6. Any claim of professional negligence, or
 - 6.4.3.7. Any other matter arising from or related to this Agreement, whether known, knowable, or unknown before, during, or after the date of termination.
- 6.5. Suspension of Work. The Contracting Officer may order Contractor, in writing, to suspend, delay, or interrupt all or part of the work of this Agreement for the period of time that the Contracting Officer determines appropriate. County reserves the right to prohibit, without prior notice, Contractor or Contractor's employees, directors, officers, agents, subcontractors, vendors, consultants, or volunteers from 1) accessing County data systems and County owned software applications, including websites, domain names, platforms, physical files, 2) treating County's patients, clients, or facility residents, or 3) providing any other services under this Agreement.

ARTICLE 7
COMPLIANCE WITH LAWS AND REGULATIONS

- 7.1. Compliance with Laws and Regulations. Contractor shall at all times perform its obligations hereunder in compliance with all applicable federal, State, County, and local laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all licenses, permits, notices and certificates as are required. Contractor shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health, and sanitation.
- 7.2. Contractor Permits and License. Contractor certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to the County, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all existing foreign or domestic statutes, ordinances, and regulations, or other laws, which may be applicable to performance of services hereunder. The County reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of any services hereunder.
- 7.3. Equal Opportunity. Contractor shall comply with federal and State equal employment opportunity laws, including, but not limited to, the provisions of Title VII of the Civil Rights Act of 1964 in that it will not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment nor shall Contractor discriminate in any way that would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, sexual orientation or marital status.

- 7.4. Non-Discrimination. Contractor shall ensure that services and facilities are provided without regard to ethnic group identification, race, color, nation origin, creed, religion, age, sex, physical or mental disability, political affiliation or marital status in accordance with applicable laws, including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C 2000d), section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C 324), section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1987 (P.L. 100-209), Executive Order 12898 (February 11, 1994), Executive Order 13166 (August 16, 2000), Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000-e), the Age Discrimination Act of 1975 (42 U.S.C. 6101), Article 9.5, Chapter 1, Part 1, Division 2, Title 2 (section 11135, et seq.) of the California Government Code, Title 9, Division 4, Chapter 6 (section 10800, et seq.) of the CCR and California Dept of Social Services Manual of Policies and Procedures (CDSS MPP) Division 21.
- 7.5. AIDS Discrimination. Contractor shall not deny any person the full and equal enjoyment of, or impose less advantageous terms, or restrict the availability of, the use of any County facility.
- 7.6. American with Disabilities Act (ADA) 1990. Contractor shall not discriminate against qualified people with disabilities in employment, public services, transportation, public accommodations, and telecommunications services in compliance with the Americans with Disabilities Act (ADA), the California Fair Employment and Housing Act (FEHA), and California Administrative Code Title 24.
- 7.7. Political Activities Prohibited. None of the funds, provided directly or indirectly, under this Agreement shall be used for any political activities or to further the election or defeat of any candidate for public office. Contractor shall not utilize or allow its name to be utilized in any endorsement of any candidate for elected office. Neither this Agreement nor any funds provided hereunder shall be utilized in support of any partisan political activities, or activities for or against the election of a candidate for an elected office.
- 7.8. Lobbying. Contractor agrees to comply with the lobbying ordinances of the County and to assure that its officers and employees comply before any appearance before the County Board of Supervisors. Except as required by this Agreement, none of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat any legislation pending before State and federal Legislatures, the Board of Supervisors of the County, or before any other local governmental entity. This provision shall not preclude Contractor from seeking necessary permits, licenses and the like necessary for it to comply with the terms of this Agreement.
- 7.9. Religious Activity Prohibited. There shall be no religious worship, instructions, or proselytization as part of or in connection with the performance of this Agreement.
- 7.10. Cartwright Act. Following receipt of final payment under the Agreement, Contractor assigns to the County all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright act (Chapter 2) (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County under this Agreement.
- 7.11. Debarment, Exclusion, Suspension, and Ineligibility.
- 7.11.1. Contractor certifies that, to the best of its knowledge, and except as disclosed to County and acknowledged in writing by County prior to the execution of this Agreement, Contractor, its employees, directors, officers, agents, subcontractors, vendors, consultants, and volunteers:
- 7.11.1.1. Are not presently debarred, excluded, suspended, declared ineligible, voluntarily excluded, or proposed for debarment, exclusion, suspension, or ineligibility by any federal, state, or local department or agency; and
- 7.11.1.2. Have not within a 3-year period preceding this Agreement been convicted of, or had a civil or administrative judgment rendered against them for, the commission of fraud or a criminal offense or civil action in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction; violation of federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property; physical, financial or sexual abuse or misconduct with a patient or client, or medical negligence or malpractice;

- 7.11.1.3. Are not presently indicted or otherwise criminally, civilly, or administratively charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and
 - 7.11.1.4. Have not within a 3-year period preceding this Agreement had one or more public transaction (federal, State, or local) terminated for cause or default.
- 7.12. Code of Ethics. As a material term and condition of this Agreement, Contractor shall develop and implement a Code of Ethics or similar document and maintain it during the term of this Agreement. Additionally, Contractor shall train all employees and volunteers on the Code of Ethics, and all employees, volunteers, directors, officers, and agents shall certify that they have received training and have been provided an opportunity to ask questions of their employer regarding the Code of Ethics. Contractor shall retain these certifications in accordance with the Agreement's provision regarding retention of records
- 7.13. Compliance Program. Contractors with an agreement that exceeds more than \$250,000 in value annually shall establish, and maintain for the duration of this Agreement, a compliance program that meets the standards of Federal Sentencing Guidelines section 8B2.1 and 42 CFR 438.608, regardless of funding source or services.

ARTICLE 8
CONFLICTS OF INTEREST; CONTRACTOR'S CONDUCT

- 8.1. Conduct of Contractor.
- 8.1.1. Contractor shall inform the County of all Contractor's interests, if any, that are, or that Contractor believes to be, incompatible with any interests of the County.
 - 8.1.2. Contractor shall not, under circumstances that might reasonably be interpreted as an attempt to influence the recipient in the conduct of his duties, accept any gratuity or special favor from individuals or organizations with whom the Contractor is doing business or proposing to do business, in accomplishing the work under this Agreement.
 - 8.1.3. Contractor shall not use for personal gain or make other improper use of confidential information acquired in connection with this Agreement. In this connection, the term "confidential information" includes, but is not limited to, unpublished information relating to technological and scientific development; medical, personnel, or security records of individuals; anticipated materials requirements or pricing actions; and knowledge of selections of Contractors or subcontractors in advance of official announcement.
 - 8.1.4. Contractor, its employees, directors, officers, agents, subcontractors, vendors, consultants, and volunteers shall not offer, directly or indirectly, any unlawful gift, gratuity, favor, entertainment, or other item(s) of monetary value to an employee or official of the County.
- 8.2. Referrals. Contractor further covenants that no referrals of clients through Contractor's intake or referral process shall be made to the private practice of any person(s) employed by the Contractor.
- 8.3. Limitation of Future Agreements or Grants. It is agreed by the parties to the Agreement that Contractor shall be restricted in its future contracting with the County to the manner described below. Except as specifically provided in this section, Contractor shall be free to compete for business on an equal basis with other companies.

ARTICLE 9
INDEMNITY AND INSURANCE

9.1 Indemnity. Runbeck agrees to indemnify and hold harmless Client from and against any and all losses, damages, injuries, claims, demands and expenses, including legal expenses, caused by the sole negligence or intentional misconduct of Runbeck with respect to its obligations under this Agreement.

Runbeck further agrees to defend, indemnify, and hold harmless Client from and against any claim, suit, demand, or action alleging the Equipment, or any component thereof, infringes any copyright, trade secret, U.S. patent or any other proprietary right of any third party, and Runbeck shall indemnify Client against any judgment, award or amount paid in settlement to which Runbeck has agreed. Client shall provide Runbeck prompt written notice of such claim, suit, demand, or action and shall cooperate with Runbeck in the defense and settlement thereof. Runbeck shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof.

If a temporary or a final injunction is obtained against Client's use of Equipment by reason of an infringement of a copyright, trade secret, or other proprietary right, Runbeck will, at its option and expense, either:

1. Procure for Client the right to continue using the Equipment; or
2. Replace or modify Equipment, or such infringing portion thereof, so that it no longer infringes such copyright, trade secret, or other proprietary right

9.2 Insurance. Contractor shall, at its own cost and expense, obtain and keep in force and effect during the term of this Agreement, including all extensions. Evidence of insurance and any other documents or notices required to be provided to County.

ARTICLE 10
USE OF DOCUMENTS AND REPORTS

10.1 Public Records Act. The California Public Records Act ("CPRA") requires County to disclose "public records" in its actual or constructive possession unless a statutory exemption applies. This generally includes contracts and related documents. If County receives a CPRA request for records relating to the Agreement, County may, at its sole discretion, either determine its response to the request without notifying Contractor or notify Contractor of the request. If County determines its response to the request without notifying Contractor, Contractor shall hold County harmless for such determination. If County notifies Contractor of the request, Contractor may request that County withhold or redact records responsive to the request by submitting to County a written request within five (5) business days after receipt of the County's notice. Contractor's request must identify specific records to be withheld or redacted and applicable exemptions. Upon timely receipt of Contractor's request, County will review the request and at its sole discretion withhold and/or redact the records identified by Contractor. Contractor shall hold County harmless for County's decision whether to withhold and/or redact pursuant to Contractor's written request. Contractor further agrees that its defense and indemnification obligations set forth in section 9.1 of this Agreement extend to any Claim (as defined in section 9.1) against the County Parties (as defined in section 9.1) arising out of County's withholding and/or redacting of records pursuant to Contractor's request. Nothing in this section shall preclude Contractor from bringing a "reverse CPRA action" to prevent disclosure of records. Nothing in this section shall prevent the County or its agents or any other governmental entity from accessing any records for the purpose of audits or program reviews if that access is legally permissible under the applicable local, State, or federal laws or regulations. Similarly, County or its agent or designee may take possession of the record(s) where legally authorized to do so.

10.2 Custody of Records. Contractor shall deliver to County or its designee, at County's request, all documentation and data related to Contractor's work under this Agreement, including, but not limited to, County data and client files held by Contractor, at no charge to County. County, at its option, may take custody of Contractor's client records upon Agreement termination, expiration, or at such other time as County may deem necessary. County agrees that such custody will conform to applicable confidentiality provisions of State and federal law and that retained records shall be available to Contractor for examination and inspection in accordance with applicable law. Contractor shall destroy records not turned over to County in accordance with applicable retention requirements and this Agreement. Notwithstanding the foregoing, Contractor may retain one (1) copy of the documentation and data for archival purposes or warranty support, and Contractor may maintain records that it is legally required to maintain.

ARTICLE 11
TERM & END OF TERM OPTIONS

AGREEMENT TERM. The initial term of this Agreement shall begin on July 1, 2023 and end on June 30, 2024 for an Agreement period of one (1) year ("Initial Term").

OPTION TO EXTEND. The County shall have the option to extend the term of this Agreement for two (2) increments of one (1) year(s) (each an "Option Period"), for a total of 2 years beyond the expiration of the Initial Term, not to exceed June 30, 2026. Each optional renewal period The Agreement will automatically renew, subject to reasonable adjustment of pricing of 3% and/or terms based on existing market conditions, unless either party furnishes sixty (60) days written notice of its intent not to renew before the term expires.

ARTICLE 12
DISPUTES

Notwithstanding any provision of this Agreement to the contrary, the Contracting Officer shall decide any dispute concerning a question of fact arising out of this Agreement that is not otherwise disposed of by the parties within a reasonable period of time. The decision of the Contracting Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. Contractor shall proceed diligently with its performance hereunder pending resolution by the Contracting Officer of any such dispute. Nothing herein shall be construed as granting the Contracting Officer or any other administrative official, representative or board authority to decide questions of law, or issues regarding the medical necessity of treatment or to pre-empt any medical practitioners' judgment regarding the medical necessity of treatment of patients in their care. The foregoing does not change the County's ability to refuse to pay for services rendered if County disputes the medical necessity of care.

ARTICLE 13
GENERAL PROVISIONS

- 13.1. Change of Control. Contractor shall notify County in writing of any change in majority ownership of Contractor (or all or substantially all of Contractor's assets) through a transaction or series of transactions including, without limitation, an acquisition, sale, reorganization, merger, or consolidation ("Change of Control") at least one hundred eighty (180) days prior to the effective date of a Change of Control or as soon as practicable thereafter if notice cannot legally be provided to County within such timeframe.
 - 13.1.1. Without limiting any other rights or remedies of County, in the event of a pending or actual Change of Control, County may terminate this Agreement in accordance with section 6.4, Termination for Convenience, except that Contractor shall not be entitled to costs of termination set forth in section 6.4.2.
- 13.2. Assignment and Delegation. Contractor shall not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of County, which shall not be unreasonably withheld; provided, however, that Contractor may assign or delegate its rights or obligations under this Agreement to the entity becoming a majority owner of Contractor's assets during a Change of Control, provided that notice is given in accordance with section 13.1 above. Any purported assignment or delegation in violation of this section shall be null and void.
- 13.3. Entire Agreement. This Agreement, together with all Exhibits attached hereto and other agreements expressly referred to herein, constitute the entire agreement between the parties with respect to the subject matter contained herein. All prior or contemporaneous agreements, understandings, representations, warranties, and statements, oral or written, including any proposals from Contractor and requests for proposals from County, are superseded.
- 13.4. Remedies Not Exclusive. The rights and remedies of County provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law, equity, or under resulting order.
- 13.5. Sections and Exhibits. All recitals, sections, and exhibits referred to in this Agreement are incorporated herein by reference.
- 13.6. Further Assurances. Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the parties.

- 13.7. Governing Law. This Agreement shall be governed, interpreted, construed, and enforced in accordance with the laws of the State of California.
- 13.8. Headings. The article and section headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit, or affect the construction or interpretation of any term or provision hereof.
- 13.9. Neither Party Considered Drafter. Despite the possibility that one party may have prepared the initial draft of this Agreement or played the greater role in the physical preparation of subsequent drafts, neither party shall be deemed the drafter of this Agreement and that, in construing this Agreement in case of any claim that any provision hereof may be ambiguous, no such provision shall be construed in favor of one party on the ground that such provision was drafted by the other.
- 13.10. No Other Inducement. The making, execution, and delivery of this Agreement by the parties hereto has been induced by no representations, statements, warranties, or agreements other than those expressed herein.
- 13.11. Notices. Notice to either party shall be in writing and personally delivered; sent by certified mail, postage prepaid, return receipt requested; or emailed to the County's or Contractor's designated representative (or such party's authorized representative). Any such notice shall be deemed received by the party (or such party's authorized representative) on the earliest of the date of personal delivery, three (3) business days after deposit in the U.S. Mail, or upon sending of an email from which an acknowledgement of receipt has been received other than an out of office, unavailable, or undeliverable reply.
- 13.12. Severability. If any term, provision, covenant, or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, covenant, or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 13.13. Successors. Subject to the limitations set forth in sections 13.1 and 13.2 above, all terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, legal representatives, successors, and assigns.
- 13.14. Time. Time is of the essence for each provision of this Agreement.
- 13.15. Time Period Computation. All periods of time referred to in this Agreement shall be calendar days, unless the period of time specifies business days. Calendar days shall include all days of the week, including holidays. Business days shall be Monday through Friday, excluding County observed holidays.
- 13.16. Waiver. The waiver by one party of the performance of any term, provision, covenant, or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by such party of any other term, provision, covenant, or condition. Delay by any party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant, or condition shall not prevent such party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.
- 13.17. Third Party Beneficiaries Excluded. This Agreement is intended solely for the benefit of the County and its Contractor. Any benefit to any third party is incidental and does not confer on any third party to this Agreement any rights whatsoever regarding the performance of this Agreement. Any attempt to enforce provisions of this Agreement by third parties is specifically prohibited.
- 13.18. Publicity Announcements and Materials. All public announcements, including those issued on Contractor letterhead, and materials distributed to the community shall identify the County as the funding source for contracted programs identified in this Agreement. Copies of publicity materials related to contracted programs identified in this Agreement shall be filed with the County. County shall be advised at least twenty-four (24) hours in advance of all locally generated press releases and media events regarding contracted services identified in this Agreement. Alcohol and Drug Prevention Services Contractors shall notify County or designee at least five (5) business days in advance of all Contractor generated media releases and media events regarding contracted services identified in this Agreement.

- 13.19. Critical Incidents. Contractor shall have written plans or protocols and provide employee training for handling critical incidents involving external or internal instances of violence or threat of violence directed toward staff or clients; loss, theft or unlawful accessing of confidential client, patient or facility resident Personal Information (PI), Personally Identifiable Information (PII) and/or Personal Health Information (PHI); fraud, waste and/or abuse of Agreement funds or unethical conduct. Contractor shall report all such incidents to the «jName» within one business day of their occurrence.
- 13.20. Responsiveness to Community Concerns. Contractor shall notify County within one business day of receipt of any material complaints submitted to Contractor orally or in writing related to Contractor's performance of work under this Agreement ("Complaints"), unless prohibited by applicable State, federal, or local law. Complaints include, but are not limited to, issues of abuse or quality of care, or issues regarding a program or facility applicable to this Agreement. Contractor shall take appropriate steps to acknowledge receipt of Complaint(s) from individuals or organizations and to address or resolve all Complaints. Contractor shall promptly notify the County of the status and disposition of all complaints and provide additional information or documentation upon request. Nothing in this provision shall be interpreted to preclude Contractor from engaging in any legally authorized use of its facility, property, or business as approved, permitted or licensed by the applicable authority.
- 13.21. Criminal Background Check Requirements. Contractor shall ensure that criminal background checks are required and completed prior to employment or placement of any employee, director, officer, agent, subcontractor, consultant, or volunteer who will be providing any services, accessing County or client data, or receiving compensation under this Agreement. Background checks shall be in compliance with any licensing, certification, funding, or Agreement requirements, including the Statement of Work, which may be higher than the minimum standards described herein. Furthermore, for any individuals identified above who will be assigned to sensitive positions funded by this Agreement. Sensitive positions are those that: (1) physically supervise minors or vulnerable adults; (2) have unsupervised physical contact with minors or vulnerable adults; and/or (3) have a fiduciary responsibility to any County client, or direct access to, or control over, bank accounts or accounts with financial institutions of any client.

Contractor shall have a documented process for reviewing the information and determine if criminal history demonstrates behavior that could create an increased risk of harm to clients or risk to services to be performed under Agreement. Contractor shall document review of criminal background findings and consideration of criminal history in the selection of such persons listed above in this section.

13.22. Definitions

13.22.1. **Minor**: Individuals under the age of eighteen (18) years old.

13.22.2. **Vulnerable Adult**: (1) Individuals age eighteen (18) years or older, who require assistance with activities of daily living and who may be put at risk of abuse during service provision; (2) Individuals age eighteen (18) years or older who have a permanent or temporary limited physical and/or mental capacity that may put them at risk of abuse during service provision because it renders them: unable to make decisions for themselves, unable to physically defend themselves, or unaware of physical abuse or other harm that could be perpetrated against them. Activities of daily living are defined as the basic tasks of everyday life, such as eating, bathing, dressing, toileting, and transferring.

13.22.3. **Volunteer**: A person who performs a service willingly and without pay.


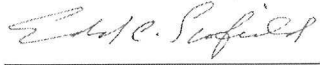
13.23. Survival. The provisions of this Agreement necessary to carry out the intention of the parties as expressed herein shall survive the termination or expiration of this Agreement. Without limiting the foregoing, the following sections and articles of this Agreement shall survive the expiration or earlier termination of this Agreement: sections 7.1, 9.1, 13.4, 13.7, and Articles 3, 4, 6, and 10.

13.24. Compensation. Pursuant to Exhibit B, Article 4, and other applicable provisions of this Agreement, County agrees to pay Contractor a sum not to exceed two hundred fifty-one thousand five hundred twenty-two dollars and five cents (\$251,522.05) ("Maximum Agreement Amount").

Initial Term*	(Year 1)	07/01/2023 - 06/30/2023	\$81,375.00
Option Year 1*	(Year 2)	07/01/2024 - 06/30/2025	\$83,816.28
Option Year 2*	(Year 3)	07/01/2025 - 06/30/2026	\$86,330.77

* subject to reasonable adjustment of pricing of 3% and/or terms based on existing market conditions

IN WITNESS WHEREOF, County and Contractor execute this Agreement effective as of the date of the last signature below. The person(s) signing this Agreement for Contractor represent(s) and warrant(s) that they are duly authorized to bind Contractor and have the legal capacity to execute and deliver this Agreement.

	Runbeck Election Services, Inc.	Nevada County, California
Signed by:		
Printed Name:	<u>Rizwan Fidai</u>	<u>Ed Scofield</u>
Title:	<u>Vice President of Sales</u>	<u>Board Chair</u>
Date:	<u>08/21/2023</u>	<u>08/24/2023</u>

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Exhibits to follow

EXHIBIT A
STATEMENT OF WORK

1. **DESCRIPTION**

Nevada County (County) has a requirement for the provision of remote support and maintenance services for the current Election Management System (DIMS.net) which will allow Registrar of Voter (ROV) staff to update voter records, record voting history, configure election structure, produce election specific reporting statistics, maintain voter records (including voter signatures to validate vote by mail comparisons), and interface with the California Secretary of State's VoteCal system to pass voter records and vital information from system to system.

2. **GENERAL REQUIREMENTS**

- 2.1. The Contractor shall provide Election Management System (DIMS.net, or System) Software, interfaces and related support and maintenance services to accomplish all the Tasks and subtasks set forth in the Contract and in this SOW.
- 2.2. The system shall be available for public/County access and use twenty-four hours a day, seven days a week (24/7).
- 2.3. The Contractor shall provide the County with a dedicated customer relationship manager immediately after execution and throughout the term of the Contract.
- 2.4. The Contractor and the County shall both comply with VoteCal legal requirements.
- 2.5. Services performed shall meet all requirements of federal and California's law and regulations, including but not limited to:
 - 2.5.1. The Help America Vote Act (HAVA) of 2002
 - 2.5.2. The Federal Rehabilitation Act
 - 2.5.3. The Voting Rights Act (VRA) of 1965
 - 2.5.4. State of California Election Code
 - 2.5.5. California Secretary of State's Administrative Regulations
- 2.6. The Contractor shall provide professional consulting on technical subjects including, but not limited to, scripts, queries, application code, or technical infrastructure related to the DIMS.net Software. Additional charges may be incurred after initial review, according to the schedule in Exhibit B.
- 2.7. The Contractor shall conduct standard system review of functionality with County end user and provide guidance on use. Should additional training be necessary, training will be conducted remotely at a mutually agreed upon date and time for database administration staff and end user whenever the County requests such training at an additional cost as described in Exhibit B.
 - 2.7.1. The Contractor shall develop, where appropriate, both database-administration and end-user documentation whenever a new feature or function is implemented.
- 2.8. The Contractor shall provide updates to the Software as they become available.
 - 2.8.1. Contractor will test and validate new items in the release software. Software update will be tested and validated prior to being released to the county for install. Updates to DIMS.net are mandatory. Support will be limited to work stoppage if the county is not on the most recent version available.
- 2.9. Upon Contract acceptance, The Contractor will provide the County with the assigned Relationship Service Manager's (RSM's) Name and phone number that may be used to obtain assistance with the Software during the term of this Agreement.
- 2.10. The Contractor shall provide maintenance services only with respect to the Software.
- 2.11. The obligation to provide Support Services shall extend to the current mandatory software release per State of California requirements that is installed at the County.
- 2.12. The Contractor shall provide to the County:
 - 2.12.1. All services required to ensure that the Software operates, in conformity with the specifications

and capabilities set forth by California's Secretary of State; and

- 2.12.2. All Updates developed by Runbeck for the Software and related Documentation during the Term of this Agreement. Covered Maintenance Services do not include the costs of accessories and expendable supplies necessary to operate the Software, such as magnetic tape cards, optical disks, disk packs, paper, and similar items.
- 2.12.3. Runbeck shall provide periodic updates or revisions to Software. These updates or revisions may be the result of State or federal election code requirements. In addition, the County may also require changes to System to meet internal needs.
- 2.12.4. Runbeck represents and warrants that all services provided by Runbeck to County will be performed in a timely, competent, and skillful manner. Runbeck further represents and warrants that it has a sufficient number of competent, qualified employees to provide the Services to support the Software.

3. SPECIFIC REQUIREMENTS

- 3.1. The System shall have critical election timeframes and severity levels defining support, remote contractor support with system access to run scripts and/or view existing problems/issues for resolution and provide system patching for security compliance and/or CA SOS requirements with VoteCal.
- 3.2. Updates and/or Upgrades Requirements
 - 3.2.1. The customer relationship manager or backup point of contact will be available twenty-four (24) hours a day, seven (7) days a week during Critical Countywide Election Periods* upon request. At any other time, a resource will be available during standard business hours of 8:00 am-5:00 pm Pacific Local Time. Additional support will be provided to the County at established costs listed in this agreement. *Critical Countywide Election Period is defined as E-30 to E+20.
 - 3.2.2. System updates and upgrades
 - 3.2.2.1. Contractor will provide System Updates resulting from mandated California Election Code requirement changes introduced by the CA SOS.
 - 3.2.2.2. For each DIMS.net System Core Application Software upgrade, where mutually agreeable by the County and the Contractor, the Contractor shall provide training on all functional changes to the DIMS.net System screens, data flows, workflows, and exception processing where applicable.
 - 3.2.2.3. For each DIMS.net System Core Application Software upgrade, Contractor shall thoroughly evaluate the readiness of all new and existing impacted system screens, data flows, workflows, and exception processing, where applicable.
 - 3.2.2.4. For each System upgrade, in addition to the Release Notes Report the Contractor shall provide a report that contains a complete list of all data flow and process logic diagrams, where available, and material to Contractor impacted, modified, deleted, or added in the upgrade no later than twenty-four (24) hours after the update is available to the County.
 - 3.2.2.5. For each DIMS.net System Core Application Software upgrade, Contractor shall provide the Release Notes.
- 3.3. Core Application Software Upgrades
 - 3.3.1. Contractor shall distribute a Release Notes Report for all System upgrades. The Release Notes Report shall contain:
 - 3.3.1.1. The Contractor Internal Tracking Number.
 - 3.3.1.2. The name of the module(s) impacted by the change.
 - 3.3.1.3. A description of the functionality included in the release.
 - 3.3.1.4. For each DIMS.net System Core Application Software upgrade release, Contractor shall provide remote support for installation of the DIMS.net System into County's test and production environments.

4. CUSTOMER SUPPORT SERVICE REQUIREMENTS

- 4.1. The Contractor shall establish a Help Desk and an Issue Management tracking process to manage and track any technical problems, issues, failures, deficiencies, complaints, systems software bugs reported by County.
- 4.2. Within twenty-four hours (24 hrs.) after execution of the Contract, the Contractor shall provide the COR with a telephone number to its assigned RSM, to be staffed 8:00 a.m. to 5:00 p.m., Monday through Friday, Pacific Time. During Critical Countywide Election Period*, and upon request, to be available twenty-four hours a day, seven days a week (24/7). *Critical Countywide Election Period is defined as E-30 to E+20.
 - 4.2.1. After Hours and Weekend Support Services
 - 4.2.1.1. All after hours and weekend support services will require prior COR approval regarding both total hours and services to be performed.
- 4.3. Non-Critical Support Requirements
 - 4.3.1. The contractor's non-critical support hours will at least be from 8:00 a.m.– 5:00 p.m., Monday through Friday, Pacific Time.
 - 4.3.2. During non-critical support hours, problems reported to the Help Desk and/or the Issue Management tracking process shall be categorized into the following Severity Levels:
 - 4.3.2.1. Severity Level 1 – Critical: Widespread System unavailability – Production System is down; System is completely or functionally inoperable. Operations are severely impacted.
 - 4.3.2.2. Severity Level 2 - Major: Problem that substantially degrades performance of any Application Software component or materially restricts business; restricts use of one or more modules or features of Application Software to perform necessary business functions, but not entire Application Software. Users can use Application Software; but an important function of it is not available; operations are significantly impacted.
 - 4.3.2.3. Severity Level 3 - Minor: A problem that causes only a minor impact on the use of the Application Software. The problem can be easily circumvented. The problem can cause some functional restrictions, but it does not have a critical or severe impact on operations.
 - 4.3.3. The County shall make the determination of what Severity Level to assign to each problem reported to the Help Desk based on severity level definitions above.
 - 4.3.4. The contractor's response to any specific Severity Level event shall be in accordance with the following Response Levels:
 - 4.3.4.1. Severity Level 1: During Critical Election Periods, Runbeck will respond within one (1) hour, and will work together with the County to determine a mutually agreed upon resolution date. In the meantime, between the Severity level 1 incident and the mutually agreed upon resolution, excluding network, infrastructure and/or hardware controlled by the County, Runbeck shall provide a workaround solution or agreed resolution within forty-eight (48) hours. Runbeck and the County will jointly monitor and discuss the effectiveness of the workaround.
 - 4.3.4.1.1. During other periods, Runbeck will respond within four (4) hours, and will work together with the county to determine a mutually agreed upon resolution date.
 - 4.3.4.1.2. In the meantime, between the Severity level 1 incident and the mutually agreed upon resolution, excluding network, infrastructure and/or hardware controlled by the County, Runbeck shall provide a workaround solution or agreed resolution within three (3) days. Runbeck and the County will jointly monitor and discuss the effectiveness of the workaround.

- 4.3.4.2. Severity Level 2: During Critical Election Periods, Runbeck will respond within four (4) hours, and will work together with the county to determine a mutually agreed upon resolution date.
 - 4.3.4.2.1. During other periods, Runbeck will respond within eight (8) hours, and will work together with the county to determine a mutually agreed upon resolution date.
 - 4.3.4.2.2. In the meantime, between the Severity level 2 incident and the mutually agreed upon resolution, excluding network, infrastructure and/or hardware controlled by the County, Runbeck shall provide a workaround solution or agreed resolution within five (5) days. Runbeck and the County will jointly monitor and discuss the effectiveness of the workaround.
- 4.3.4.3. Severity Level 3: During all periods, Runbeck will respond within five (5) days, and will work together with the county to determine a mutually agreed upon resolution date.
 - 4.3.4.3.1. In the meantime, between the Severity level 3 incident and the mutually agreed upon resolution, within Runbeck's control, Runbeck shall provide a workaround solution or agreed resolution in a future release. Runbeck and the County will jointly monitor and discuss the effectiveness of the workaround.
- 4.3.5. Problems reported to the Contractor shall be updated to the Issue Management tracking process based on the response times defined by the Severity and Response Level of the incident.
- 4.4. Critical Election Period Support Requirements
 - 4.4.1. The Critical Countywide Election Period is defined as E-30 to E+20
 - 4.4.2. The system (DIMS.net Software) will be available twenty-four (24) hours a day, seven (7) days a week during Critical Election Periods.
 - 4.4.3. During the critical election period once service has been requested all problems reported to the Contractor Help Desk and/or the Issue Management tracking process shall be categorized by Severity.
 - 4.4.3.1. Severity Level 1 – Critical: Widespread System unavailability – Production System is down; System is completely or functionally inoperable. Operations are severely impacted.
 - 4.4.4. The contractor's response to any Severity Level event shall be in accordance with the following Response Level:
 - 4.4.4.1. Severity Level 1: During Critical Countywide Election Periods, Runbeck will respond within one (1) hour, and will work together with the County to determine a mutually agreed upon resolution timeframe . In the meantime, between the Severity level 1 incident and the mutually agreed upon resolution, excluding network, infrastructure and/or hardware controlled by the County, Runbeck shall provide a workaround solution or agreed resolution within forty-eight (48) hours. Runbeck will pursue all available means by which they have access to for resolution as Runbeck does not currently have access to the County's environment for technical assistance and support. Should Runbeck be granted access to the County's environment for technical assistance, Runbeck and the County will jointly monitor and discuss the effectiveness of the workaround.
 - 4.4.4.1.1. During other periods, Runbeck will respond within four (4) hours, and will work together with the county to determine a mutually agreed upon resolution timeframe.



4.4.4.1.2. In the meantime, between the Severity level 1 incident and the mutually agreed upon resolution, excluding network, infrastructure and/or hardware controlled by the County, Runbeck shall provide a workaround solution or agreed resolution within three (3) days. Runbeck will pursue all available means by which they have access to for resolution as Runbeck does not currently have access to the County's environment for technical assistance and support. Should Runbeck be granted access to the County's environment for technical assistance. Runbeck and the County will jointly monitor and discuss the effectiveness of the workaround.

4.5. On-Site Support Services

4.5.1. All on-site services will require prior COR approval regarding both services to be performed and allowable reimbursable expenses.

5. REPORTING REQUIREMENTS

5.1. Status Reports: Each problem reported to the Contractor's Help Desk shall be documented and tracked by Runbeck until it has been resolved. Runbeck shall open a ticket within four (4) hours, unless

5.1.1. Runbeck is asked to address higher priority items. Help Desk Status Reports will contain the following information after it becomes available:

5.1.1.1. The date problem was reported

5.1.1.2. A description of the problem

5.1.1.3. Severity level

5.1.1.4. Status

5.1.1.5. Staff person assigned to resolve problem

5.1.1.6. Date problem resolved

6. TRACKING REQUIREMENTS

6.1. Issue Management Tracking: Each Problem reported to Help Desk and/or Account Manager shall be documented and tracked with date, time, problem submitted, by whom it was submitted, contractor owner, severity level, notes, and resolution comments by the Contractor via an Issue Management Tracking process. The process shall include all Change Orders and bugs reported and/or modifications planned by the contractor related to DIMS changes. These issues/bugs must be tracked with the current status of the issue/bug and must be provided to County for review. Upon request, Contractor shall provide a list of tickets for the County to verify ticket status and additional updates.

7. NOTICE REQUIREMENTS

7.1. All written notices required under this Agreement can be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid as follows:

By Runbeck to County:

Nevada County
950 Maidu Ave. Ste 210
Nevada City, CA 95959
Attention: Suzanne Hardin

By County to Runbeck:

Runbeck Election Services, Inc.
Attn: Rizwan Fidai
Vice President of Sales
2800 S. 36th Street
Phoenix, Az 85034

and

Steven H. Williams, Esq.
2323 North Central Avenue, Unit 1905
Phoenix, Az 85004

7.2. Notices hand delivered or sent by overnight courier are effective upon delivery; notices sent by certified mail are effective upon receipt; and notices sent by U.S. mail are effective upon the expiration of five (5) mail delivery days from deposit (postmarked) with the U.S. Postal Service.



Runbeck

Exhibit B

SOFTWARE LICENSE, MAINTENANCE, AND SUPPORT

Acct # 521475

ITEM NO.	SOFTWARE LICENSE, MAINTENANCE AND SUPPORT	UNIT OF MEASURE	PRICE	QUANTITY	EXTENDED PRICE
1	Initial Term* (7/01/2023 - 6/30/2024)	Month	\$6,781.25	12	\$81,375.00
2	Option Year 1 (7/01/2024 - 6/30/2025)	Month	\$6,984.69	12	\$83,816.28
3	Option Year 2 (7/01/2025 - 6/30/2026)	Month	\$7,194.23	12	\$86,330.77
GRAND TOTAL: (Sum of Extended Price for Initial Term and all Option Periods)			\$251,522.05		

* subject to reasonable adjustment of pricing of 3% and/or terms based on existing market conditions

AS - NEEDED SERVICES RATES FOR INITIAL TERM AND ALL OPTION YEARS

CHANGE REQUEST RESOURCES	UNIT OF MEASURE	HOURLY RATE	AFTER HOURS/ WEEKEND RATE
- Senior Application Developer	Hour	\$175.00	\$262.50
- Senior Database Management	Hour	\$175.00	\$262.50
Account Manager and/or Subject Matter Expert			
- Testing Specialist	Hour	\$150.00	\$225.00
- Applications Programmer	Hour	\$175.00	\$262.50
- Senior Network Technician	Hour	\$175.00	\$262.50
- Senior Software Engineer	Hour	\$175.00	\$262.50
- Administration and/or End User Training**	Hour	\$175.00	\$262.50

DESCRIPTION	UNIT	RATE
ON-SITE SERVICE	PER DAY / PER PERSON	\$1,820

** Administration and/or End User Training – supplemental to initial standard system overview

Version updates, policy changes, basic upgrades and/or questions will not be charged at the as needed hourly rates unless County requires customizations which are determined to be out of scope and will require additional dedicated resources. The Contractor will notify the County in such a case and provide a formal quote.