

# ORIGINAL

Kevin Bannon

Project Management for the Implementation of a Voting System and Vote Centers

## AGREEMENT FOR SERVICES #4037

**THIS AGREEMENT**, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Kevin Bannon, a sole proprietor duly qualified to conduct business in the State of California, whose principal place of business is 9232 S. Poplar St. Tempe, AZ 85284 (hereinafter referred to as "Consultant");

### RECITALS

**WHEREAS**, County has determined that it is necessary to obtain a consultant to assist its County Registrar of Voters to implement a new voting system and vote centers for County;

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder, and County has determined to rely upon such representations;

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state, and local laws;

**WHEREAS**, County has determined that the provision of such services provided by Consultant are in the public's best interest and that these services are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

#### ARTICLE I

**Scope of Services:** Consultant agrees to furnish services necessary to assist County's Registrar of Voters with the project management necessary to implement a new Voting System and Vote Centers adhering to Senate Bill 450 – Voter's Choice Act.

Consultant shall assist County in successfully meeting the following objectives:

#### A. Voting System:

1. Receive, test, and implement the new system, including overseeing and managing the logistical and security challenges of a new system.
2. Take full advantage of all Federal and State grant opportunities to reduce the direct project cost to El Dorado County.
3. Develop new and update existing County processes to align with the new electronic voting system.

4. Prepare for, and successfully conduct, an election using the new electronic voting system and processes.

**B. Senate Bill 450 – Vote Centers:**

1. Implement Vote Centers, including overseeing and managing the logistical and security challenges of Vote Centers.
2. Take full advantage of all Federal and State grant opportunities to reduce the direct project cost to El Dorado County.
3. Develop new and update existing County processes to align with the new Vote Center Model.
4. Prepare for and successfully conduct, an election using the new Vote Center processes.
5. Help identify and procure all necessary equipment for use with the Vote Centers.

**C. Procurement Management:**

The Registrar of Voters, the Chief Administrative Office, and County Manager of Procurement and Contracts will provide oversight and approval of the Vote Center equipment. The services shall include, but not be limited to, the following:

1. Work with County Procurement and Contracts Division to ensure the acquisition of all vote center equipment is timely and meets all County procurement requirements.
2. Work with County Procurement and Contracts Division to develop any Request For Proposals (RFP) required to purchase necessary equipment and services.
3. Review proposal responses and prepare a shortlist of successful proposers to conduct presentations and/or participate in interviews.
4. Develop and maintain all documentation to support selections.
5. Prepare and deliver presentations to County staff, key stakeholders, Board of Supervisors, and others as requested by County.

**D. Project Management:**

1. Work with the Office of the Secretary of State (S.O.S) and Voting Modernization Board (VMB) to ensure full support and cooperation through all phases of the Voting System project.
2. Work with S.O.S. and VMB to ensure the project is in compliance with all S.O.S. and VMB standards and regulations.
3. Work with Elections staff to build the project plan including (the complexity and level of detail in this plan will vary depending on time and duty constraints):
  - Charter
  - Communication Plan
  - Issue and Risk tracking and management plan
  - Subcontractor management plan
  - Baseline Schedule
  - Stakeholder list



- Testing schedule and criteria
  - Acceptance schedule and Criteria
  - Change Management Plan
  - Identify success criteria
4. Monitor schedule, deliverables, and milestones
  5. Monitor/mitigate issues and risks
  6. Facilitate communication/meetings with vendors, staff, and facilities
  7. Maintain meeting minutes/notes
  8. Provide support for communication/meetings with County staff
  9. Build a re-usable comprehensive schedule which combines the standard election calendar and new electronic voting system calendar
  10. Work with Information Technologies staff to identify and assist with vote center task
  11. Identify/fill gaps in resources, as requested by County
  12. Provide support for training
  13. Facilitate user acceptance testing
  14. Maintain project documentation
  15. Provide support as needed throughout the election process

Before proceeding with any work under this Agreement, the parties shall identify the specific services to be provided for each assignment. Consultant shall submit the work in a written letter format for approval by County's Contract Administrator. County's Contract Administrator will then issue a written Work Order assigned to Consultant where the not-to-exceed cost itemization does not exceed the allocated amount referenced in Article III, marked "Compensation for Services," incorporated herein and made by reference a part hereof.

The period of performance for Work Orders shall be in accordance with dates specified in each Work Order. No payment will be made for any work performed before or after the period of performance in the Work Order, unless County's Contract Administrator and Consultant amend the Work Order in writing. No Work Order will be written which exceeds the cumulative total of the not-to-exceed dollar amount of this Agreement.

No payment will be made for any work performed prior to approval and full execution of the Work Order, as applicable, and no payment will be made for amounts in excess of the not-to-exceed amount of the Work Order.

If a submittal or deliverable is required to be an electronic file, Consultant shall produce the file using Microsoft (MS) Office 2010 applications (specifically, MS Word, MS Project, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All deliverables shall be submitted in language, format, and design that are compatible with and completely transferable to County's computer and that are acceptable to County's Contract Administrator. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator. Consultant shall submit all deliverables to County's Contract Administrator. Failure to submit the required deliverables in the format

required shall be grounds for termination of the Agreement, as provided in ARTICLE XIV, Default, Termination, and Cancellation, herein.

**ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire one (1) year thereafter.

**ARTICLE III**

**Compensation for Services:** For services provided herein, including any deliverables that may be identified herein or in the individual Work Orders issued in accordance with the Agreement, County agrees to pay Consultant upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered. Consultant shall submit monthly Activity Reports with the invoices.

For the purposes hereof, the hourly billing rate is \$100 per an hour.

The total amount of this Agreement shall not exceed \$69,000, inclusive of all Work Orders, costs, and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Elections Department  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Linda Webster  
Assistant Registrar of Voters

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the deliverables required by this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required are received, or proceed as set forth below in ARTICLE XIII, Default, Termination, and Cancellation, herein.

**ARTICLE IV**

**Taxes:** Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.



## **ARTICLE V**

**Ownership of Data:** Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with this Agreement and/or any Work Orders issued pursuant to this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Consultant's records, but shall not be furnished to others without written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Consultant shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

## **ARTICLE VI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

## **ARTICLE VII**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during the term hereof.

## **ARTICLE VIII**

**Confidentiality:** Consultant shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Consultant, and all Consultant's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Elections Department for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

## **ARTICLE IX**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

## **ARTICLE X**

**Independent Contractor/Liability:** Consultant is, and shall be at all times, deemed



independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

## **ARTICLE XI**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement and any Work Orders issued pursuant to this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE XII**

**Audit by California State Auditor:** Consultant acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by any duly authorized representative of the Federal Government and the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Consultant shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.



Records shall be maintained for three (3) years after termination of this Agreement and for at least one (1) year following any audit or final disposition of any disputed audit finding.

### **ARTICLE XIII**

#### **Default, Termination, and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired. In the event of termination, County reserves the right to take over and complete the work by contract or by any other means.

- B. **Bankruptcy:** This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. **Ceasing Performance:** County may terminate this Agreement immediately in the event Consultant ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement or any Work Order issued pursuant to this Agreement, in whole or in part upon seven (7) calendar days' written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Consultant, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the not-to-exceed amount of the Word Order or the total amount of the Agreement, as applicable. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

### **ARTICLE XIV**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return

receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado  
Elections Department  
2850 Fairlane Court  
Placerville, California 95667

With a copy to:

County of El Dorado  
Chief Administrative Office  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Bill O'Neill  
Registrar of Voters

Attn.: Michele Weimer  
Procurement and Contracts Manager

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Kevin Bannon  
9232 S. Poplar Street  
Tempe, AZ 85284

or to such other location as Consultant directs.

#### **ARTICLE XV**

**Change of Address:** In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing as provided in ARTICLE XVI, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XVI**

**Indemnity:** Consultant shall defend, indemnify, and hold County and its officers, agents, employees, and representatives harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to, or death of, any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to, or in any way arise out of, or are connected with Consultant's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of County, Consultant, subcontractor(s), and employee(s) of any of these, except for the sole or active negligence of County, its officers, agents, employees, and representatives, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

#### **ARTICLE XVII**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Consultant maintains insurance that meets the following requirements:



- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Consultant in performance of the Agreement.
- D. In the event Consultant is a licensed professional or professional consultant and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Consultant shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Consultant agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without prior written notice to County; and
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement,

but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.

- I. Consultant's insurance coverage shall be primary insurance in respect to County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to County, its officers, officials, employees, and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

#### **ARTICLE XVIII**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.



## **ARTICLE XIX**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

## **ARTICLE XX**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XIII, Default, Termination, and Cancellation, herein.

## **ARTICLE XXI**

### **Nondiscrimination:**

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Consultant shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Consultant and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Consultant shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.



- C. Consultant's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and 8355 and Title 2, California Code of Regulations, Section 8103.

## **ARTICLE XXII**

**Compliance with Federal, State, and COUNTY Requirements:** County is relying on federal assistance or grants, state funds, and local agency or other grant funds for all or a portion of the funding for the services to be provided herein. As a requirement of County's use of federal, state, and local agency grant funds, County is required to comply with certain contracting requirements and to extend those requirements to all third party contracts. Consultant shall comply with all applicable provisions of federal, state, and local agency regulations, including regulations and related executive orders regarding the use, expenditure, control, reporting, allowable costs, and management of such funds. The following Office of Management and Budget (OMB) Circulars, as applicable, and as implemented by various parts of the Code of Federal Regulations (C.F.R.), are incorporated by reference and made a part of this Agreement:

2 C.F.R. § 225, "Cost Principles for State, Local, and Indian Tribal Governments (formerly OMB Circular A-87)"

*Circular A-133*, revised June 26, 2007, "Audits of States, Local Governments, and Non-Profit Organizations"

Copies of the OMB Circulars are available on the Internet at:

<https://www.whitehouse.gov/omb/information-for-agencies>

Failure of Consultant to comply with any federal, state, or local agency provision may be the basis for withholding payments for charges made by Consultant and for such other remedies as may be appropriate including termination of this Agreement. Consultant shall further comply with any flow-down or third-party contracting provisions which may be required under the federal, state, or local agency regulations and which may apply to Consultant's subcontracts, if any, associated with this Agreement.

## **ARTICLE XXIII**

**Covenant Against Contingent Fees:** By executing this Agreement, Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.



## **ARTICLE XXIV**

### **Debarment and Suspension Certification:**

Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has complied with the federal Debarment and Suspension, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to County.

## **ARTICLE XXV**

### **Impartiality of the Secretary of State's Office**

No portion of any federal grant funds shall be used for partisan political purposes. All consultants providing services are required to sign an agreement to abide by the Secretary of States' policy to refrain from engaging in political activities that call into question the impartiality of the Secretary of State's Office. Attached hereto and made a part of this Agreement is Exhibit A, marked "Standard Agreement," incorporated herein and made by reference a part hereof.

## **ARTICLE XXVI**

**California Residency (Form 590):** If Consultant is a California resident, Consultant must file a State of California Form 590, certifying its California residency or, in the case of a limited liability company or corporation, certifying that it has a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Consultant during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

## **ARTICLE XXVII**

**County Payee Data Record Form:** All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

## **ARTICLE XXVIII**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Consultant warrants and represents that it shall comply with all of the requirements of County's Business License

Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXIX**

**Licenses:** Consultant hereby represents and warrants that Consultant and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Consultant and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant and its subconsultants shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

#### **ARTICLE XXX**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE XXXI**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Bill O'Neill, Registrar of Voters, Elections Department, or successor.

#### **ARTICLE XXXII**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

#### **ARTICLE XXXIII**

**Partial Invalidity:** If any provision, sentence, or phrase of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

#### **ARTICLE XXXIV**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

#### **ARTICLE XXXV**

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

#### **ARTICLE XXXVI**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto



are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

**Requesting Contract Administrator and Department Concurrence:**

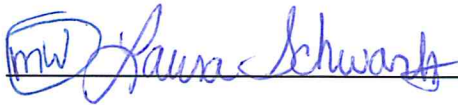
By:  \_\_\_\_\_

Bill O'Neill  
Registrar of Voters  
Elections Department

Dated: 6/6/19 \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

By: 

Dated: 6-13-19

Purchasing Agent  
"County"

--KEVIN BANNON--

By:   
Kevin Bannon  
"Consultant"

Dated: June 4, 2019