

File No. 161694

Committee Item No. 14
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date December 7, 2016

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Linda Wong Date December 2, 2016
Completed by: Linda Wong Date _____

1 [Contract Amendment - Dominion Voting Systems, Inc. - Voting System - Not to Exceed
2 \$21,980,691.25]

3 **Ordinance authorizing the Department of Elections to enter into the Fourth Amendment**
4 **to an agreement with Dominion Voting Systems, Inc., to extend the term of the**
5 **agreement through December 31, 2018, and increase the total not-to-exceed amount by**
6 **\$2,289,758 from \$19,690,933.25 to \$21,980,691.25.**

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8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 **Section 1. Findings.** The Board of Supervisors of the City and County of San
17 Francisco hereby finds that:

18 (a) In March 31, 2005, the Department of Elections issued a Request for Proposal
19 (RFP) for new voting equipment and voting equipment services. The RFP, pursuant to San
20 Francisco Administrative Code 21.9(a)(2), stated the contract would be for an initial term of
21 four years, with two options to renew for one year each. Sequoia Voting Systems, Inc.
22 (Sequoia) was the highest ranked proposer.

23 (b) In December 2007, the City entered into a contract with Sequoia for the
24 purchase of new voting equipment and voting services (Agreement), as approved by the
25 Board of Supervisors under Resolution No. 654-07. As set out in the RFP, the initial term of
the Agreement was four years, from December 11, 2007, to December 11, 2011, with two
options for the City to renew for one year each. Dominion Voting Systems, Inc. (Dominion)

1 acquired substantially all of the assets of Sequoia on June 4, 2010, and assumed Sequoia's
2 Agreement with the City.

3 (c) In November 2011, the City exercised its two one-year options and extended the
4 Contract through December 11, 2013, at a cost not-to-exceed \$3,645,900, as approved by the
5 Board of Supervisors under Resolution No. 494-11. Under these extensions, Dominion
6 continued to provide voting services at the rates in effect for 2007-2011 and City was not
7 required to purchase new voting machines.

8 (d) In November 2013, the Board of Supervisors approved an ordinance extending
9 the term of the contract through December 10, 2016 under File No. 130797. Under that
10 extension, Dominion continued to provide voting services at the rates in effect for 2007-2011
11 and City was not required to purchase new voting machines.

12 (e) The Department of Elections now desires to extend the Agreement through
13 December 31, 2018, at a cost not-to-exceed of \$2,289,758 for the Fourth Amendment. Under
14 this extension, Dominion would continue to provide voting services at the rates in effect for
15 2007-2016, and City would not be required to purchase new voting machines.

16 (f) This extension is necessary for five reasons. First, the last time the Department
17 of Elections issued an RFP for a new voting system, the RFP process took over two and a
18 half years to complete given the complicated nature of the purchase. Second, the
19 Department of Elections does not anticipate having additional funds to secure new voting
20 equipment in the current fiscal year, and thus will continue to use the current system. Third,
21 there are no new voting systems currently available that have been certified by the Secretary
22 of State and can accommodate elections using Ranked Choice Voting. Fourth, only one
23 contractor offers Ranked Choice Voting options, which is the City's current contractor,
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1 Dominion. Finally, the City has begun the process of developing an open source voting
2 system, but that system will not be ready for at least two years.

3 **Section 2. Approval of Fourth Amendment**

4 (a) The Fourth Amendment to the Agreement is on file with the Clerk of the Board of
5 Supervisors in File No. 161094, substantially in final form, with all material terms and
6 conditions included, and only remains to be executed by the parties upon approval of this
7 Ordinance. The Board of Supervisors hereby approves the Fourth Amendment to the
8 Agreement in substantially the form contained in File No. 161094.

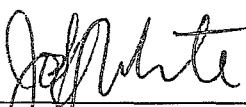
9 (b) The Board of Supervisors authorizes the Department of Elections to enter into
10 any modifications that, prior to final execution of the amendment by all parties, the
11 Department of Elections determines, in consultation with the City Attorney, are in the best
12 interest of the City, do not otherwise materially increase the obligations or liabilities of the City,
13 are necessary or advisable to effectuate the purposes of the Agreement, and are in
14 compliance with all applicable laws, including City's Charter.

15 (c) In approving this Fourth Amendment, the Board of Supervisors finds that it is
16 reasonable and in the public interest to waive, and does hereby waive, the requirement of
17 Administrative Code Section 21.9 that all City contracts for commodities and/or services be
18 limited to the initial terms and period of extensions included in the solicitation.

19 (d) Within 30 days of the parties executing the Fourth Amendment to the
20 Agreement, the Department of Elections shall submit to the Clerk of the Board of Supervisors
21 a completely executed copy for inclusion in File No. 161094. This requirement and obligation
22 resides with the Department of Elections, and is for purposes of having a complete file only,
23 and in no manner affects the validity of the approved Fourth Amendment to the Agreement.
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1 **Section 3. Effective Date.** This ordinance shall become effective immediately upon
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

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7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9
10 By: 
11 JOSHUA S. WHITE
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Contract Amendment - Dominion Voting Systems, Inc. - Voting System - Not to Exceed \$21,980,691.25]

Ordinance authorizing the Department of Elections to enter into the Fourth Amendment to an agreement with Dominion Voting Systems, Inc., to extend the term of the agreement through December 31, 2018, and increase the total not-to-exceed amount by \$2,289,758 from \$19,690,933.25 to \$21,980,691.25.

Existing Law

In December 2007, following a Request for Proposal, the City entered into a contract with Sequoia Voting Systems, Inc. (Sequoia) for the purchase of new voting equipment and voting services. Dominion Voting Systems, Inc. (Dominion) has assumed Sequoia's agreement with the City.

The initial term of the agreement was four years, with two options for the City to renew for one year each. The City exercised those options. In November 2013, the Board approved an ordinance extending the term of the contract through December 10, 2016. Under that extension, Dominion continued to provide voting services at the rates in effect for 2007-2011.

Amendments to Current Law

This Ordinance would authorize the Department of Elections to extend the contract with Dominion through December 31, 2018, increasing the total not-to-exceed amount of the Agreement by \$2,289,758. These are the same rates that have been in effect since the Agreement began in 2007. The ordinance would allow the Department of Elections to enter this amendment without a competitive process.

Item 14 File 16-1094	Department: Department of Elections (DOE)
EXECUTIVE SUMMARY	
Legislative Objectives	
<ul style="list-style-type: none"> • The proposed ordinance would authorize the Department of Elections to enter into a fourth amendment to the existing agreement with Dominion Voting Systems to (a) extend the term of the agreement for two years through December 31, 2018, (b) increase the agreement by \$2,289,758, for a total not-to-exceed \$21,980,691, and (c) waive the requirement of Administrative Code Section 21.9 that all City contracts for commodities or services be limited to the initial terms and period of extensions in the solicitation. 	
Key Points	
<ul style="list-style-type: none"> • In November 2013, the Board of Supervisors approved a third amendment to the agreement with Dominion for an additional \$3,645,900, or a total not-to-exceed \$19,690,933, and to extend the term for three years through December 10, 2016. 	
Fiscal Impact	
<ul style="list-style-type: none"> • The proposed costs would increase from \$497,400 to \$662,004 for election services for each election and from \$386,300 to \$482,875 for annual license and maintenance fees. 	
Policy Considerations	
<ul style="list-style-type: none"> • The proposed ordinance to approve the extension of the existing agreement for an additional two years or through December 31, 2018 would be beyond the terms of the original RFP, such that the proposed ordinance requires the Board of Supervisors to waive the Administrative Code Section 21.9 requirement. 	
Recommendations	
<ul style="list-style-type: none"> • Amend the proposed ordinance to request the Director of Elections to provide a written update and presentation to the Board of Supervisors during the FY 2017-18 and FY 2018-19 budget process on the status of implementing the open source voting system and alternatives if the open source voting system is not completed by December 2018. • Amend the proposed ordinance to revise the language on page 2, lines 13-15 from “Under this extension, Dominion would continue to provide voting services at the rates in effect for 2007-2016, and City would not be required to purchase new voting machines” to “Under this extension, Dominion would continue to provide voting services at increased rates in effect for 2017-2018, and City would not be required to purchase new voting machines.” • Approve the proposed resolution, as amended. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

The Board of Supervisors approved an agreement between the Department of Elections and Sequoia Voting Systems, Inc. (Sequoia) in December 2007, following a competitive Request for Proposals (RFP) process, for the purchase of a new voting system and the provision of associated voting services. The agreement was for an amount not-to-exceed \$12,650,233 for the four-year period from December 11, 2007 through December 10, 2011, with two one-year options to extend the agreement, through December 10, 2013 (File 07-0040).

As part of the \$12,650,233 agreement with Sequoia the City was to receive a \$1,130,000 credit by trading in the City's previous voting equipment. However, the Board of Supervisors approved a settlement of a lawsuit in February 2008 (File 08-0123) between the City and Election Systems and Software, Inc. (ES&S), the City's previous voting equipment contractor prior to Sequoia, for ES&S to pay the City a net amount of \$3,457,865, in exchange for the City returning all of the previous voting equipment to ES&S.

As a result of that settlement, the Board of Supervisors approved a first amendment to the agreement with Sequoia in January 2008 to pay Sequoia an additional \$1,130,000 from the lawsuit settlement proceeds received from ES&S, instead of transferring the City's old voting machines to Sequoia (Resolution No. 65-08). This additional \$1,130,000 together with the original not to exceed \$12,650,233 resulted in a total four-year agreement with Sequoia for a not to exceed \$13,780,233.

Sequoia was acquired by Dominion Voting Systems, Inc. (Dominion) in June 2010. Dominion assumed the existing agreement with the Department of Elections and has continued to provide voting services for the City.

The Board of Supervisors approved a second amendment to the agreement with Dominion in December 2011 (File 11-1153) to exercise the two one-year options to extend the term of the agreement through December 10, 2013 for an additional \$2,264,800, or a total not to exceed \$16,045,033.

The Board of Supervisors approved a third amendment to the agreement with Dominion in November 2013 (File 13-0797) to (a) extend the term of the agreement for three years through December 10, 2016, (b) increase the agreement by \$3,645,900 for a total not-to-exceed \$19,690,933, and (c) waive the requirement of Administration Code Section 21.9 that all City contracts for commodities or services be limited to the initial terms and period of extensions included in the solicitation.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would approve a fourth amendment to the existing agreement between the Department of Elections and Dominion, for Dominion to continue to provide elections services. This fourth amendment would (a) extend the term of the existing agreement for two years, from December 11, 2016 through December 31, 2018 for a total term of eleven years, (b) increase the agreement by \$2,289,758, from \$19,690,033 to a total not-to-exceed \$21,980,691, and (c) waive the requirement of Administrative Code Section 21.9 that all City contracts for commodities or services be limited to the initial terms and period of extensions included in the solicitation (see Policy Considerations section below).

FISCAL IMPACT

Mr. John Arntz, the Director of the Department of Elections advises that under the proposed fourth amendment term from December 11, 2016 through December 31, 2018, the following elections are currently scheduled to occur:

- Consolidated Statewide Primary Election on June 5, 2018; and
- Consolidated General Election on November 6, 2018.

Based on the above-noted two elections in 2018 or a total of two scheduled elections over the next two years, the following costs are anticipated to be incurred by the Department of Elections.

Table 1: Expenditures to be Incurred by the Department of Elections Under the Proposed Fourth Amendment to the Dominion Voting Systems Agreement

	2017 (no elections)	2018 (two elections)	Total
June 5, 2018 Election Services		\$662,004	\$662,004
November 6, 2018 Election Services		<u>662,004</u>	<u>662,004</u>
Subtotal, Election Services		1,324,008	1,324,008
Maintenance and License Fees	482,875	482,875	965,750
Total	\$482,875	\$1,806,883	\$2,289,758

Increased Costs and Services

Under the existing agreement with Dominion, the City pays Dominion \$497,400 for election services for each election. Under the proposed fourth amendment, the City will pay Dominion \$662,004 for election services for each election, as shown in Table 1 above, an increase of \$164,604 or 33 percent. Also, under the existing agreement with Dominion, the City pays Dominion \$386,300 for annual license and maintenance fees, and under the proposed fourth

amendment, the City will pay Dominion \$482,875 for annual license and maintenance fees, an increase of \$96,575 or 25 percent.

According to Mr. Arntz, the increase is a result of a number of factors including, but not limited to, staffing and personnel costs that have risen since 2008. This includes tasks such as staging technical support in the field on Election Day, repairing and maintaining voting equipment, as well as delivery and retrieval of equipment. Additional support requirements have also resulted in higher operating costs, such as the addition of Tagalog as the fourth language utilized in San Francisco.

Election services include equipment testing, ballot layouts, system configuration with election-specific information, logistical support such as delivery and retrieval of the voting equipment to and from polling places, project management fees and election-day technical support. Maintenance and license fees include annual comprehensive reviews, repairs and replacement of equipment and parts and annual licensing fees for the Ranked Choice Voting and other system software. Over the two-year extended period, as shown in Table 1 above, the total costs would be \$2,289,758.

According to Mr. Arntz, the extension is limited to two years because the system is becoming obsolete, and Dominion does not want to extend past this timeframe. All of the costs under the proposed two-year extension period would be paid with General Fund revenues, subject to appropriation approval by the Board of Supervisors in the Department of Elections FY 2017-18 and 2018-19 budgets.

Proposed Amendment

The proposed ordinance states on page 2, lines 13-15 that "Under this extension, Dominion would continue to provide voting services at the rates in effect for 2007-2016, and City would not be required to purchase new voting machines". However, as discussed above, the costs to the City will increase under the proposed two year extension with Dominion. Therefore, the proposed ordinance should be amended on page 2, lines 13-15 to state "Under this extension, Dominion would continue to provide voting services at increased rates in effect for 2017-2018, and City would not be required to purchase new voting machines."

POLICY CONSIDERATION

Contract Extension without a Competitive Process

The Board of Supervisors previously approved the extension of the agreement between the Department of Elections and Dominion under the third amendment for a three-year term from December 2013 to December 2016 without a new competitive process, as noted above. The proposed ordinance would extend the existing agreement by an additional two years, or through December 31, 2018, for an additional cost of \$2,289,758, or a total not-to-exceed amount of \$21,980,691. This additional two-year term would be beyond the terms of the original RFP, without undergoing a new competitive RFP process. Therefore, approval of the proposed fourth amendment is being requested with an ordinance, rather than a resolution, because the proposed ordinance also requires that the Board of Supervisors find that it is reasonable and in the public interest to waive, and therefore do waive, the requirement in the

City's Administrative Code Section 21.9 that all City contracts for commodities and/or services be limited to the initial terms and period of extensions included in the previous solicitation.

Mr. Arntz advises that he is requesting approval of the proposed amendment to extend this agreement with Dominion for two years, without undergoing a new competitive RFP process, because Dominion is currently the only contractor that has been certified by the California Secretary of State that can accommodate elections using Ranked-Choice Voting. Furthermore, Mr. Arntz states that Dominion Voting Systems has provided satisfactory services to the Department of Elections.

Open Source Voting System

In the FY2016-17 Department of Elections budget, the Board of Supervisors approved \$300,000 to develop specifications for a new open source voting system for San Francisco. According to Mr. Arntz, this system will not be ready for at least two years given the complexity of the project, as well as the time needed to receive approval by the California Secretary of State. In terms of the current status of the project, Mr. Arntz states that the Department of Technology is currently preparing specifications for hiring a consultant, who will scope out the project requirements and plan for developing an open source voting system.

If the new open source voting system is not ready in two years, Mr. Arntz advises that the Department of Elections plans to conduct a competitive process to lease a new voting system, removing the need for a large expenditure to purchase voting equipment. The lease will be structured so that the City could adopt newer technologies and software that the vendor makes available. In addition, the term of the lease will reflect the time needed to implement the open source voting system that the City is developing.

The Budget and Legislative Analyst recommends that the Department of Elections provide a written update and presentation to the Board of Supervisors during the FY 2017-18 and FY 2018-19 budget process on the status of implementing the open source voting system and alternatives if the open source voting system is not completed by December 2018.

Types of Voting Equipment

According to Mr. Arntz, three types of equipment are used for voting in San Francisco. High-speed tabulators are used at City Hall for counting votes cast on vote-by-mail ballots. At polling places, two types of equipment are used: (1) an optical scan tabulator that optically scans the marks made on paper ballots and counts the votes electronically when the ballot is inserted, and (2) a touch screen unit that presents a digital interface for voters to use to cast ballots. Mr. Arntz states that the Dominion system – or any voting system in California – is never connected to an open network or the internet, thus removing the opportunity for accessing the system from off-site.

RECOMMENDATIONS

1. Amend the proposed ordinance to request the Director of Elections to provide a written update and presentation to the Board of Supervisors during the FY 2017-18 and FY 2018-19 budget process on the status of implementing the open source voting system and alternatives if the open source voting system is not completed by December 2018.
2. Amend the proposed ordinance to revise the language on page 2, lines 13-15 from "Under this extension, Dominion would continue to provide voting services at the rates in effect for 2007-2016, and City would not be required to purchase new voting machines" to "Under this extension, Dominion would continue to provide voting services at increased rates in effect for 2017-2018, and City would not be required to purchase new voting machines."
3. Approve the proposed resolution, as amended.

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

Fourth Amendment

THIS AMENDMENT (this "Amendment") is made as of [insert date], in San Francisco, California, by and between **Dominion Voting Systems** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below);
and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and payment schedule, increase the contract amount, and update standard contractual clauses;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated [insert date of Agreement] between Contractor and City, as amended by the:

First amendment,	dated January 18, 2008, and
Second amendment,	dated December 11, 2011, and
Third amendment	dated May 17, 2013

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division ("CMD"). Wherever "Human Rights Commission" or "HRC" appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean "Contract Monitoring Division" or "CMD" respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 3, entitled "Term of the Agreement," currently reads as follows:

The term of this Agreement shall be nine (9) years, from December 11, 2007 to December 10, 2016.

Such section is hereby amended in its entirety to read as follows:

The term of this Agreement shall be eleven (11) years, from December 11, 2007 to December 31, 2018.

2b. Section 2.b. "Section 10(A)" entitled "'Fixed Price' of the Agreement" currently reads as follows:

In consideration for the services rendered under this Agreement and for the rights in the Hardware and System Software granted hereunder, the City shall pay to Contractor the amount set forth in Appendices C-1 and C-2 in accordance with the Payment Schedule attached hereto and fully incorporated herein as Appendix F-2 (Payment Schedule). In no event shall the amount of this Agreement exceed Nineteen Million Six Hundred Ninety Thousand Nine Hundred Thirty Three and 25/100 Dollars (\$19,690,933.25). Compensation shall be due and payable within thirty days of the date of Contractor's invoice. All payments from City to Contractor shall be made via wire transfer in accordance with written wire instructions provided by the Contractor.

Such section is hereby amended in its entirety to read as follows:

In consideration for the services rendered under this Agreement and for the rights in the Hardware and System Software granted hereunder, the City shall pay to Contractor the amount set forth in Appendices C – 1 (Election Services) and C – 2 (Annual Maintenance & License Fees) in accordance with the Payment Schedule attached hereto and fully incorporated herein as Appendix F - (Payment Schedule). In no event, in accordance with no scheduled election in 2017 and two scheduled elections in 2018, shall the amount of this Agreement exceed Twenty-One Million Nine Hundred Eighty Thousand Six Hundred Ninety One and 25/100 Dollars (\$21,980,691.25). Additional costs beyond this amount from conducting special elections will not exceed Six Hundred, Sixty-Two, and Four Dollars (\$662,004). Compensation shall be due and payable within thirty days of the date of Contractor's invoice. All payments from City to Contractor shall be made via wire transfer in accordance with written wire instructions provided by the Contractor.

c. Section 24-1(a)(iv). Section 24-1(a)(iv) of the Agreement, under "Surety Bonds," currently reads as follows:

During the period of January 1, 2014 to January 1, 2017, the sum of Five Hundred Thousand and 00/100 (\$500,000.00) dollars, which Bond shall be surrendered to Contractor by City upon the expiration date of January 1, 2017.

Such section is hereby amended in its entirety to read as follows:

During the period of January 1, 2017 to December 31, 2018, the sum of Two Hundred Fifty Thousand and 00/100 (\$250,000.00) dollars, which Bond shall be surrendered to Contractor by City upon the expiration date of January 1, 2019.

2c. Sugar-Sweetened Beverage Prohibition. Section 2c is hereby added to the Agreement, as follows:

Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

2d. Insurance. Section 23 is hereby replaced in its entirety to read as follows:

23. Insurance.

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

3) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with the Services.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in the Section entitled "Notices to the Parties."

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the

lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

f. Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

g. The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

h. If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as additional insureds.

2e. "Consideration of Criminal History in Hiring and Employment Decisions"

24. Consideration of Criminal History in Hiring and Employment Decisions.

a. Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at www.sfgov.org/olse/fco. A partial listing of some of Contractor's obligations under Chapter 12T is set forth in this Section. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

b. The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

c. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

d. Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received, base an Adverse Action on an applicant's or potential applicant for

employment's, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

e. Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, or unresolved arrest. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

f. Contractor or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Contractor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

g. Contractor and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Contractor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

h. Contractor understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

i. Subcontracts.

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

2h. Limitations on Contributions. Section 44 is hereby added to the Agreement, as follows:

44. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies, or equipment, for the sale or lease

of any land or building, or for a grant, loan, or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer, and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity, or committee described above.

2i. Cooperative Drafting. Section 60 is hereby included to the Agreement, as follows:

60. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

Recommended by:

Dominion Voting Systems

John Arntz
Director
Department of Elections

John Poulos
CEO

City vendor number: 83370

Approved as to Form:

Dennis J. Herrera
City Attorney

By:

Joshua White
Deputy City Attorney

Approved:

Jaci Fong
Director of the Office of Contract
Administration, and Purchaser

**APPENDIX C - 1
ELECTION SERVICES**

Elections Services	Quantity	Total
Service Oversight		
Service Management	1	\$65,000
Pre LAT - Plan, Test and Coordinate testing operations	1	\$84,500
Elections Preparation and Operation		
Ballot Layout and Production Management	1	\$55,000
DRE WinEDS Layout	1	\$39,000
Logistical Support		
Staffing - 10 Temps for 15 days per Election	1	\$79,800
Drayage - Delivery to and collection from polling stations	1	\$145,000
Transportation	1	\$15,000
Elections Day Support		
Elections Day Field Service Team: 33 Temp Field Personnel	1	\$38,304
On-Site Technical Support Response Team: 2 Technical Support	1	\$38,500
Central Processing Network Support: 6 Personnel	1	\$73,000
Elections Troubleshooting - On-Site Response Team: 7 Personnel	1	\$24,500
Consumables	1	\$4,400
Total Cost of Services (per election fee):		\$662,004

**APPENDIX C-2
ANNUAL MAINTENANCE & LICENSES FEES**

Annual License and Maintenance Fees	Quantity	2017	2018	Total
Sequoia Voting System				
Edge 2 Parts & Repairs	610	\$76,250	\$76,250	
VVPAT Parts and Repair	710	\$26,625	\$26,625	
HAAT Parts and Repairs	610	\$38,125	\$38,125	
400-C Parts and Repairs	5	\$37,500	\$37,500	
Insight Parts and Repair	610	\$76,250	\$76,250	
WinEDS Application Annual License Fee	1	\$140,625	\$140,625	
RCV Application Annual License Fee	1	\$87,500	\$87,500	
Total:		\$482,875	\$482,875	\$965,750

**APPENDIX C-2
ANNUAL MAINTENANCE & LICENSES FEES**

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Insight Parts and Repair	610	\$76,250	\$76,250	
WinEDS Application Annual License Fee	1	\$140,625	\$140,625	
RCV Application Annual License Fee	1	\$87,500	\$87,500	
Total:		\$482,875	\$482,875	\$965,750

**APPENDIX F
PAYMENT SCHEDULE**

Payment Schedule (Dominion Voting Systems)

Summary Payment Schedule	2017	2018	Totals
Annual License and Warranty	\$482,875	\$482,875	\$965,750
Elections Services for Scheduled Elections*	\$0	\$1,324,008	\$1,324,008
Totals (Per Scheduled Election)	\$482,875	\$1,806,883	\$2,289,758

Election Services for each special election: \$662,004

*Election Service for years 2017 and 2018 are based on per election service charges detailed in Appendix C-1 Election Services. If the City conducts additional elections during these years in addition to the number of elections included in that year's aggregate total, an additional per election charge of \$662,004 for election services shall apply. The following elections are included the pricing shown above.

2017 – No scheduled elections

2018 – Statewide Gubernatorial Primary and General Elections

Election Services are payable based on completion of tasks defined in table below.

Election Services Payables

	Amount	Description
First Payment	\$225,000	Due 30 days from completion of Optech Ballot Layout (submission to printer)
Second Payment	\$260,000	Due 30 days from completion of Pre-Logic and Accuracy testing of voting equipment.
Final Payment	\$177,004	Due 30 days after the certification of the election
Total	\$662,004	



City and County of San Francisco
Department of Elections

John Arntz, Director

October 20, 2016

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102-4689
angela.calvillo@sfgov.org

Sent via E-Mail

Subject: Extension of Contract with Dominion Voting Systems

Dear Ms. Calvillo:

Attached to this letter are contract documents representing the Fourth Amendment to the City's contract with Dominion Voting Systems that extends this contract for two years, through December 31, 2018, and which will increase the contract amount by \$2,289,758. The agreement is for services and support provided by Dominion that are associated with the City's voting system.

This contract amendment requires approval by the Board of Supervisors by ordinance. The initial term of the agreement was four years, with two options for the City to renew for one year each. The City exercised those options. In November 2013, the Board approved an ordinance extending the term of the contract through December 10, 2016.

The following is a list of accompanying documents for this ordinance.

1. Proposed Fourth Amendment
2. Appendix C-1: Costs for Elections Services
3. Appendix C-2: Costs for Annual Maintenance and License Fees
4. Appendix F: Payment Schedule

Please contact me if you have questions or require additional information.

Respectfully,

A handwritten signature in black ink, appearing to read "John Arntz".

John Arntz, Director

**FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL**
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Dominion Voting Systems, Inc.	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i> Sole Board Director: John Poulos CEO: John Poulos CFO: Ian Macvicar COO: N/A Dominion Voting Systems, Inc. is a wholly owned subsidiary of Dominion Voting Systems Corporation	
Contractor address: 1201 18 th St, Suite 210, Denver CO 80202	
Date that contract was approved:	Amount of contract: \$2,289,758
Describe the nature of the contract that was approved: Election system licensing, warranty and support services	
Comments:	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form
- a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board
- the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Relocation Appeals Board, and Local Workforce Investment Board) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl, San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

